

## TOLERATION, FREEDOM AND FANATICISM

### F. Ocariz

Around 1750 there lived in Toulouse a man named Jean Calas. There is a sad story behind him. A Protestant himself, he was falsely accused of murdering one of his own children who wished to become a Catholic. What actually happened was that Calas' son committed suicide and had no desire to convert to Catholicism. However, the accusation formulated against him by an anonymous person from among a crowd of curious onlookers brought him before the court of justice. He was found guilty and hanged. Another of his children was exiled.

A short while afterwards, in 1763, this event gave rise to Voltaire's *Treatise on tolerance*. The work would today be simply a museum piece of anti-Catholicism were it not for the fact that it is the fruit and expression of one of the ideas most effectively passed on from that century to ours, namely that tolerance is indifferentism and intolerance fanaticism.

#### **Toleration: to put up with what is illicit without approving it**

'Toleration', according to the Oxford English Dictionary is 'the action of tolerating what is not actually approved.' Sometimes it will be lawful and even necessary to tolerate an evil, to put up with it without approving of it, in order to avoid still greater evils. At other times toleration of that sort would involve complicity in the evil itself and would be, as a consequence, morally reprehensible.

Our ability to judge rightly in the moral sphere, especially if enlightened by faith, can in many instances easily discern between what is tolerable and what is not. Often a mother or father distinguishes almost spontaneously between what can be tolerated in one of their children and what cannot. At other times, however, especially in what are called *questions of fact* such discernment is not easy. It becomes even more difficult to discern properly in an environment in which the clear boundary lines of toleration have become blurred.

History is witness to the different mistakes made in all this matter. For the sake of simplicity we could put them in the following ways: toleration is weakness, intolerance is strength; toleration is respect for freedom, intolerance is fanaticism; tolerance is democracy, intolerance is fascism, and so on. Such a way of seeing things is clearly erroneous for it does not respond to the real meaning of the terms.

History shows us instances where intolerance has been and is fanaticism. However, since the publication of Locke's *Letter on tolerance* and Voltaire's above-mentioned treatise, Western civilisation has come to accept as genuine the identification of intolerance with fanaticism, above all in questions of a moral and religious nature. In our times to be intolerant is almost equated with

being closedminded, despotic, fanatic, anti-democratic etc.

And yet, toleration in itself is not considered an absolute value; inevitably limits must be assigned it. If everything could or ought to be tolerated and endured, complete chaos would ensue; one would have to permit every infringement of law, from robbery to murder; human authority would be totally meaningless, and so would all positive law. Not even marxists think toleration an absolute value: Bakunin, for example, affirmed that certain things could not be tolerated, e.g. religion and property.

#### **Does error have rights?**

The principle of toleration can be enunciated as follows: in some circumstances, it is morally lawful not to hinder an evil, when one could do so, for the sake of a higher good or in order to avoid greater evils.

The basis of the principle, whose validity can be seen by right human reason and which has been taught always in a more or less explicit way by the Church's Magisterium, has been expressed in precise terms by Pope Leo XIII and then by Pope Pius XII: 'The duty to repress moral or religious deviations cannot be an ultimate guideline for action. It must be subordinated to higher and more general norms, which in some circumstances, permit or, even more, perhaps present as best, that an error be not hindered in order to promote a greater good.'<sup>1</sup>

That is to say, what justifies toleration is the more general and primary duty to do good and avoid evil. And so, when to repress an evil would result in a greater evil, toleration would be justified and in many cases would even be morally obligatory. Clearly this has nothing to do with Machiavellianism: doing evil to produce good. Such action is always unlawful and immoral. Not to prevent evil is not the same thing as doing it. Sometimes not to prevent evil entails becoming an accomplice in it; sometimes it does not.

To sum up: the basis for toleration is simply the duty to seek and promote what is good.

Nevertheless, toleration is often presented as a strict duty, co-relative with a supposed absolute right of others to act according to their spontaneous criteria. As a consequence one hears propaganda slogans such as: 'a Catholic who considers divorce, abortion, etc. illicit, ought not practise them. But he or she has no right to impose their own convictions, through legislation, on those who do not share such beliefs in such matters. To act otherwise is to fall into a fanatical intolerance'.

It is easy to see that here we are faced with questions which effect the very essence of law. Man's condition as a creature makes us see that the ultimate foundation of all law is God and that consequently the natural law is immutable and binding on all men. Often the foundation of law is thought to be the authority of the State *only*. The end result of such

a view, of course, is that a juridical positivism, sometimes a theoretical one, sometimes a practical one, is imposed. Justice and injustice are defined, and are such, simply because of a human law. But, one might well ask: where does this human law get its normative value from? From itself? If so, every juridical order would be just even if it emanated from a tyrant and was directed towards the oppression of others. From the consensus of the majority and once approved and promulgated? If so, a corrupt society could establish as just any and every aberration pleasing to the majority. In other words, if we deny that God is the ultimate foundation of law, or try to legislate 'as if God did not exist' we would — if we were to be logically consistent — have to conclude with Marx that 'law is only the decorative apparatus of power'.

When human freedom wants to be absolute, shedding its dependence on God, freedom has become an end and object in itself, since 'it lacks a transcendental foundation. It has become an empty freedom, a freedom from freedom, a law unto itself, because it is a freedom whose only law is the explosion of instincts or the tyranny of absolute reason which soon turns into the caprice of the tyrant'.<sup>2</sup> Human freedom is not absolute, but relative to a truth and a good which are independent of it and to which freedom ought to be directed, even though it can and may not be so directed. This limitation of freedom is not really a restriction but a condition for the very existence and perfection of freedom itself. So the right, which actually exists, to act freely according to one's own beliefs is not an absolute right, for the simple reason that freedom is not absolute.

Those considerations just expressed, which are so necessary for understanding the principle of toleration, were gathered up with exactitude by Pius XII: 'What does not respond to truth and the moral norm has objectively no right to existence, to diffusion, or to action'.<sup>3</sup>

#### Toleration and positive authorisation

The distinction between these two concepts is another point of reference for understanding the principle of toleration. Pius XII taught that 'no human authority, no State, no community of States, no matter what its religious character be, can give a positive mandate or positive authorisation to teach or do what is contrary to religious truth or moral good'.

Therefore, it could be lawful to approve a penal code which did not consider as crimes a series of acts which are contrary to natural law. But what is unlawful is to authorise such acts positively. For example, in a given set of circumstances and for the sake of a greater good the State might not repress concubinage but it will never be lawful to expressly authorise it.

In a word, it is one thing to tolerate evil, but quite another and essentially different thing to positively

authorise it. This latter way of acting always is, and always will be immoral, for it implies a positive cooperation in error.

In some cases it may seem that this distinction is merely theoretical, with hardly any practical consequences. Perhaps the social results of toleration seem to be the same as those of positive authorisation. Indeed it could be thought better to *legalise* a certain social evil with an authorisation limiting it to certain special cases than simply to tolerate it, because tolerance might lead to more widespread abuses.

In actual fact, toleration need not lead to such widespread abuses, because toleration does not necessarily mean that the moral action in question is not considered a crime. There can be, and there are in fact, different grades of practical toleration in the application of non-tolerating laws. Besides, the laws themselves can be limited to punishing an immoral action only in certain cases, without this implying an express authorisation in other cases. Indeed it would be possible to tolerate immoral behaviour, when it is impossible to avoid it using just means. Nevertheless, in such cases, juridical formulae are hard to come by.

Experience always shows the lamentable results which go beyond the limits of toleration. On authorising publicly a moral error the error or evil is presented as a *right* of the person, not as something dishonourable. The social effects of this kind of legislation are easy to imagine and pinpoint. A few months ago a group of gynaecologists in France published an in-depth study of the law permitting abortion in that country, just two years after its promulgation. The data and information are terrifying. Not only because of the number of 'legal' and semi-clandestine abortions but also because it was found that many of these crimes would not have been committed if the law did not exist. On the other hand, it must be said that abortion is one of those crimes which can never be tolerated because in doing so civil authority would omit one of its primary obligations, namely, to defend innocent life.

But over and above a consideration of the results, the distinction between toleration and positive authorisation is a necessary one if we are to recognise effectively the transcendental nature of law. To eliminate this distinction is to destroy the connexion between law and morality, and in that case the juridical ordering of society loses all stable foundation and is in grave danger of progressive deterioration. Does one find there one of the reasons for the moral breakup of so many societies? If civil law authorises abortion i.e. the murder of an innocent person who in a special way is without defence, on what basis does that same society prohibit armed robbery, or assault and battery? Because that is what, from a purely logical point of view, it ought to do. Law would effectively be reduced to a decorative apparatus of the power of the majority, subject

to their whims and egoisms.

In practice when toleration is not simply the absence of criminal proceedings, the boundary line between toleration and positive authorisation is not easily discerned. In this case a very special prudence is required not only in weighing up circumstances to discern the lawfulness of toleration but also to establish and set out its legal formulation, for on it depends whether or not law loses its objective foundation, whether or not it conforms to moral law.

#### Responsibility of those in authority

After affirming that 'what does not respond to truth and the moral norm has no right to existence, to diffusion or to action' Pius XII went on to say that 'not to impede it by means of State legislation and coercive measures can be justified in the interests of a higher and broader mood. If this condition is satisfied in a particular case, — if it is a *question of fact* — it is the Catholic statesman who ought first to weigh up the pros and cons. In his decision he will allow himself to be guided by the harmful consequences which come from toleration, compared with those which a community could be spared if the principle of toleration were applied.'

This evaluation of the circumstances ought not be guided by simple political expediency, but rather attending to the common good of society, with an upright conscience, for it is only the common good which validates the principle of toleration. As Leo XIII said: 'If for the sake of the common good and only for it, human law can and ought to tolerate evil, it cannot, nevertheless, approve or want such evil. Since evil is, in its very essence, a privation of good it militates against the common good which the lawmaker ought to seek and defend to the extent of his capabilities'.<sup>4</sup>

At times discernment is not easy and the responsibility falls on the shoulders of the politician, on every citizen in one way or another, who must seek the common good, which is not only or principally economic well-being, forming his conscience according to the teaching of the Church's Magisterium, which is the only and infallible interpreter of natural law.

#### A specific instance

There are moments in life when the temptation comes to do evil in order to avoid greater evils. Even though, through weakness, one may succumb to the temptation an upright conscience discovers of its own accord that to accept theoretically such behaviour leads to very serious aberration indeed.

But other times the temptation is more subtle, especially where it would have us not *do* evil but simply authorise it positively on the assumption that in this way still greater wrongs will be avoided, rather than through simple toleration of it.

This is what is happening with those people who think that by taking a lead in promoting legislation

which allows divorce or abortion in limited, or so-called hard cases, they will avoid future legislation which would be still more opposed to the natural law. If the question were posed in terms of doing evil to avoid a greater evil, the immorality of such behaviour would be evident. But what happens is that the action is presented as one having two effects: an evil one (the passing of an unjust law) and a good one (avoiding a still worse law in the future).

Nonetheless, an action of this type is not always morally good. To will indirectly an evil when directly willing a good is only lawful if, in the first instance, the action which produces the two effects is in itself either good or at least indifferent. The case we are considering, that of voting in favour of an unjust law, does not fit into either of these two categories, that is, is neither good nor indifferent.

And at the same time, for double effect actions to be lawful the good effect must be *immediate* and again in the case we are considering this is not so, because the good effect mediately depends on the evil effect: a worse law in the future is avoided (possibly) because a bad law is passed. The net result is that evil is being done to avoid a worse evil.

The case would be different in taking a lead, where actual circumstances warrant it, in promoting a law which merely tolerates some evil, in order to forestall others who might wish for a law which positively authorised an evil.

To sum up, toleration can be justified, and sometimes even demanded, by proportionately grave circumstances. But positive authorisation, at any level, of error and evil is always a sin.

#### Charity and the defence of truth

Freedom is what gives, in large measure, a basis to the dignity of the human person; and we must always defend this dignity. As Vatican II says: 'Man's freedom should be given the fullest possible recognition and should not be curtailed except when and in so far as is necessary'.<sup>5</sup> The need to limit the exercise of external freedom — internal freedom cannot in fact be so restricted — can only be based on the common good, and protected according to norms which conform to the objective moral order.

The behaviour and activity of Catholics in private and public life has to be directed towards achieving a position which is based on the immutable principles of this objective moral order, in the knowledge that this is an indispensable requisite for the good of society. At the same time, they know, because they are Christians, that their behaviour must always be imbued with charity.

Often, in these times, toleration can be what is best for the common good. But we ought not forget what Pope St Pius X taught: 'Catholic doctrine teaches us that the first duty of charity is not toleration of erroneous opinion, no matter how sincerely held, not a theoretical or practical

indifference in the face of error or vice into which we see our fellowmen fall, but in zeal for their intellectual and moral betterment, no less than in zeal for their material well-being'.<sup>6</sup>

## References

- (1) Discourse, *Ci riesce*, 6 December 1953 (2) C. Fabro, *Un maestro de liberta cristiana*, in *Ossevatore Romano*, 2 July 1977 (3) *Op. cit.* (4) Encyclical Letter, *Libertus praestantissimum*, 20 June 1888 (5) Declaration on human freedom, *Dignitatis humanae*, n. 7 (6) Letter, *Notre charge apostolique*, 25 August 1910.

*Fernando Ocariz, lecturer in the faculty of theology in the University of Navarre, Pamplona, Spain is a specialist on Marxism and has published many books and articles on the subject.*

Nihil obstat: Stephen J. Greene, censor deputatus. Imprimi potest: Dermot, Archbishop of Dublin. 31 December 1977 (The Nihil obstat and the imprimi protest are a declaration that a book or publication is considered to be free from doctrinal or moral error. This declaration does not imply approval of, or agreements with, the contents, opinions or statements expressed).

POSITION PAPERS aim to give answers to two questions:

1. What is the teaching, the Position of the Church?
2. How might this teaching be applied in the lives of individuals and therefore of groups?

For this reason the main sources for the PAPERS are official Church statements, directed either to the Church at large or to particular communities.

Readers should expect to find in these pages a straightforward loyalty to the tradition of the Church and to its contemporary Magisterium; encouragement to put the Faith into practice (as distinct from arguing fine doctrinal points); and a variety of responsible opinion.

To enable the material contained in POSITION PAPERS to reach a wider audience (through priests, parents and teachers especially) a short question and answer supplement is normally included in each issue.

POSITION PAPERS are published by the Editors, Michael Adams and Fr Charles Connolly at

POSITION PAPERS, 26 Dartry Road, Dublin 6, Ireland

THIS ISSUE: MAY 1978