Tolerance, Rights, and the Law

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Tolerance cannot *not* be concerned with the law, once it takes up in its concept the relationship between truth and justice. And there are several reasons for this. To begin with, the word *right* enters into many definitions of tolerance: the right to difference, to liberty, to those fundamental public freedoms that constitute human rights. Moreover, law, as opposed to morality, is the public instance where obligation is coupled with legitimate coercion. Finally, juridical institutions offer an excellent vantage point from which to observe the transformations of the idea of tolerance and scan the history of the struggles carried out in its name.

It was thus appropriate to begin with an historical review of the formulation of the 1789 Declaration of the Rights of Man and Citizen, and to reconstruct the arguments touching on the relationship between tolerance and liberty. As the author of the first article sees it, the crucial historical fact of the modern history of tolerance was the inclusion of restrictive legislative within the confines of a constitution. Following this line of reasoning, it becomes necessary to investigate, on an international scale, the historical dialectic between simple declarations of intention and the adoption of restrictive legislation. If we take the right to apostasy as the touchstone of tolerance, then it must be admitted that even to this day the canonical texts of the world's international organizations have failed to sanction such a major concession, in the sense of moving from declarations to acts. Returning to the domestic law of democratic countries, one is surprised by the gap existing between recent developments and the actual historical state of affairs on a planetary scale, in which the freedom to choose one's religion – including the right to change it – remains the major challenge.

According to the author of the second article, the West is now facing new challenges. The biggest among them is less the existence of beliefs deemed heretical by dominant spiritual authorities than in forms of individual behavior that endanger these individuals themselves. At the same time, the public's sense about what constitutes unacceptable behavior has also changed; in the absence of institutions embodying ultimate truth, judges are seen as the only available legitimate arbiter; equally, the law-based State can no longer declare itself judge but rather can act only as tutor, replacing its symbolic function.

With the author of the third article we return to the question of new international challenges, in particular those resulting from the acknowledgment of a right to humanitarian intervention that includes the use of compulsory measures. In this case, resistance is based not on religious beliefs or convictions but on the long-standing political principle of state sovereignty: from this point of view, the right to humanitarian intervention constitutes an actual violation of the principle of non-interference in the internal affairs of a state. How does this consensual limitation on the principle of sovereignty relate to our problem of tolerance? It relates to it in the sense that the cry of victims calling out for help constitutes the ultimate legitimation of this still gestating right. For if tolerance means more than merely enduring, if it actually implies helping, then coming to the aid of persons in danger is indeed a new stage in the progress of tolerance, one stamped not only in vague declarations but in ratified agreements that compel and constrain.