Reflexive Toleration

– A Critical Inquiry into Rainer Forst's Theory of Toleration

Abstract

This master's thesis provides a critical inquiry into Rainer Forst's theory of toleration, including a descriptive section and a normative critical stance of said theory. Being placed in the tradition of critical theory, also applied as the theoretical framework, and using a hermeneutics methodology when approaching the material, the aim is to provide a close reading of Forst's texts. The research question of the thesis is *What are the possibilities and limits of Forst's theory of toleration when applied to a democratic political community?* The descriptive section of Forst's theory of toleration includes sections comprising of what constitutes the domain of toleration, the components and foundation of toleration, and toleration in relation to virtue and politics. In essence, Forst proposes a principle of justification as the foundation of toleration, mainly derived from his political theory of justification, practiced in a reciprocal and universal manner of the participants in a system combined with a reflexive component. The critique includes components of toleration in relation to the need of tradition, ambivalence in relation to the claims of the intolerants, and how spontaneity is needed in contrast to the mechanistic view mainly proposed by Forst. Other sections of the critique include the relation of toleration and whom can participate in the domain of it, inter- and intra-group deviances regarding power and perspective, but also a discussion of toleration and religious minorities – mainly focused on bodily integrity. The critique includes the suggestion that one should approach the question of toleration from a discursive virtue ethics position, a stance that should be developed further during future research. The discussion at the end of the thesis includes a section of the future of toleration and a self-reflexive discussion of theory in relation to the thesis.

Keywords: *Rainer Forst, toleration, ethics, politics, critical theory, religious studies*

Acknowledgements

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Chapter 1. Introduction

Critical theory is a critique of domination and exploitation: Critical theory questions all thought and practices that justify or uphold domination and exploitation.

– Christopher Fuchs[1]

1.1. Background

Toleration is a concept of interest in the world of today. The scope of the concept is seen from everyday life in the most immanent setting available, to the most abstract constructions of political theory. For many, the concept of *toleration* is viewed upon as a core part of a democratic and pluralistic society. Even when one does not like what practices the *others* are keen to perform, one must tolerate these behaviors if coexistence is to prevail. Given the notion that the political reach is perhaps greater than ever in the hyper-globalized setting we are living in, the concepts and theories relating to the subject of toleration must reflect this. Different political subjects are intertwined in a discursive setting where conflicts of interest do arise. These subjects include several levels of interaction, consisting of states, non-governmental organizations, political movements, ethnic groups, religious groups as well as individuals. Apart from this, still many groups and individuals are restrained from being actual political subjects. In a world of migration, where the locus of power is not consistent, toleration could very well be one of the key components to the improvement of democracy. Toleration relates both to ethics as well as politics, making it a subject of interest since a dialectic perspective could be added. By making toleration political in a non-discriminatory sense should, therefore, be a priority in the field of ethics since it will enhance whom can constitute a political subject.

Rainer Forst is perhaps one of the most prominent scholars who has written extensively on the concept of toleration for over a decade now. His contribution to the field should not be underestimated. Another tribute towards Forst's academic presence was when he in 2012 was

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[1] Fuchs, 2015, p.7

awarded the prestigious Gottfried Willhelm Leibnitz Prize by the Deutsche Forschungsgemeinschaft.[2] The reasoning here is quite clear concerning the impact his writing have here. Not only is his writing, but the impact spans further: among this is the many texts where he goes into dialogue with other scholars in a way which plays well with the critical tradition in which one can place him. Another note showing his importance is the fact that he has written the article entry of *toleration* in the Stanford Encyclopedia of Philosophy.[3] Given this status, the choice to engage with Forst's theory should be seen as a natural choice – especially regarding the historical tradition from which it stems. Forst has declared himself a *Frankfurter*, placing himself in this tradition.

1.2. Aims and purpose

The primary objective of this thesis is to make a critical reading of Rainer Forst's theory of toleration, including a normative critical analysis. This provides a well-defined and limited amount of texts, making the time constraints reasonable. Using a critical theory perspective, the reading does not only describe the position of Forst on the subject at hand but also provides a critical perspective on the concept at hand. Possible flaws or deviances from the perspective of the author of the thesis are provided. In line with the theoretical perspective employed, critical contributions are made.

1.3. Research question

This thesis has one primary research question which in no way is comprehensive. The research question of this thesis is as the following: *What are the possibilities and limits of Forst's theory of toleration when applied to a democratic political community?* As seen, this question can be perceived to have a broad scope and is thus operationalized through a number of different areas to make it more tangible. These are not the only areas which can be of interest, but in relation

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[2] They describe the prize in the following way for 2012: "The winners of Germany's most prestigious research prize have been officially announced. At its meeting in Bonn today, the Joint Committee of the Deutsche Forschungsgemeinschaft (DFG, German Research Foundation) named eleven researchers, two women, and nine men, as the winners of the 2012 Leibniz Prize. The award winners were selected by the Nominations Committee from among 131 nominees, and will each receive € 2.5 million in prize money. Of the eleven Leibniz Prizes awarded this year, five were awarded in the life sciences, three in the natural sciences, one in the engineering sciences, and two in the humanities and social sciences." Retrieved from http://www.dfg.de/en/funded_projects/prizewinners/leibniz_prize/2012/ on 2017-04-22.

[3] Forst, 2012

to the limits and demarcations of the thesis, the focus is placed here. I will present previous research regarding Forst's theory of toleration. Several others have engaged with him regarding this topic, and a select few is presented. Regarding toleration as a concept, there are of course other views present, and some short remarks regarding alternative views are presented. Forst's theory of toleration, with special emphasis on the limits of said theory, will be presented by me. This descriptive stance will be commented along, and my critique of it appears all along. The more elaborative critique follows later, where I provide several normative stances where my understanding deviates from Forst's. One area that I focus on is the applicability of said theory when the practicalities of real life might not provide the grounds which he wishes. When approaching the research question and the sub-areas, I include remarks regarding coherency and consistency, the reach of the political, who could constitute a political subject, whom will be excluded, and questions regarding if it is too demanding of application.

1.4. Material and demarcations

The material for this thesis includes a set of primary as well as secondary resources. The primary material consists of texts by Forst on the topic of toleration, or adjacent writings when applicable. Forst has an extensive array of writing regarding the subject at hand, where some of the more prominent works are the following: *Toleration in Conflict: Past and present.*[4] This is a very ambitious work – well over 600 pages – outlining the history of tolerance as well as presenting a theory of toleration, being one of the main texts used in this thesis. The article *The Limits of Toleration*[5] is one of the earlier texts but clearly produces what the name implies: a discussion of the limits of said concept, also being used extensively here. Among other texts read and used adjacent include, but is not limited to, the following: *"'To Tolerate Means to Insult': Toleration, Recognition, and Emancipation".*[6] This is a very concise text on some of the conceptual problems Forst sees in a more general, non-reflective approach to the concept of toleration. *'Toleration and Democracy'.*[7] A shorter journal article on the relation between the concept of toleration and the importance of it for democracy. *The power of tolerance: A debate.*[8] This is a book where Forst and Wendy Brown, who is also a scholar who has done

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[4] Forst, 2013b
[5] Forst, 2004
[6] Forst, 2007a
[7] Forst, 2014b
[8] Brown & Forst, 2014

extensive work in the field concept of toleration, debate different nuances of tolerance. The following texts are not primarily focused on the concept of toleration but are used with the above texts when needed to situate the perspectives by Forst. *Justification and Critique: Towards a critical theory of politics.*[9] This is a book where Forst outlines a theory of politics. *Justice, democracy and the right to justification: Rainer Forst in dialogue.*[10] This is an elaborative work where Forst goes into dialogue with several other scholars on the concept of justifications as a foundation of democracy. Other literature is also used and referenced.

A short remark regarding some terminology can be made here. Forst, and I as well, distinguish between the view of toleration as a practice, and the attitude or virtue of it, which is called tolerance. This is elaborated further in Section 3.2.[11] Another is how Forst uses ethics and morals, which deviate from my understanding – explained further in Section 2.1. For Forst, ethics comprise an overarching system of what is just and good, while moral is a set of more immanent principles as mediated through a belief system.[12] I see no need to challenge Forst for the sake of it and uses his terminology throughout Chapter 3. and Chapter 4.

Due to the scope of this thesis, several demarcations must be made. The restraints consist of both limited time as well as space, which are related to each other. I will focus only on the most important sections of Forst's theory of toleration and provide a very limited situational setting for this discussion. Due to Forst's extensive writing regarding this topic, as well as adjacent areas – mainly regarding political theory and justification – only select works will be brought into use here. In this sense, a focused approach is employed, removing all that is not crucial.

1.5. Previous research

In the domain of toleration, research and writing have been practiced for a vast amount of time. The views of toleration and tolerance have been produced and mediated in and from different perspectives, almost always in relation to a political context – as in the case of Forst as well. I will just provide a few examples of this wide area, and it should in no way be seen as exhaustive.

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[9] Forst, 2013a
[10] Forst, 2014a
[11] Forst, 2004, p.315
[12] Forst, 2013b, p.461

One work of interest is Michael Walzer's book *On Toleration* where he describes his view of toleration and what it encompasses.[13] The outlook if grounded on the idea that coexistence and toleration are principal foundations of democratic citizens. Providing five historical contexts in relation to their different modes of though in relation to said concept, including empires (like the USSR/Soviet) to nation-states and equivalent. Focusing mainly on group identity, Walzer understands toleration in a virtue ethics sense, where it is both a theory and practice at the same time, combining a wide array of attitudes and beliefs in the life of the citizens for toleration to be present. He provides theory in relation to the contemporary and the future US, where the dynamic interplay between individual and group identity provide a challenging notion, transcending the current harmonizing taking place in relation to social equality, but still haunted by current and future economic inequalities. The formation of identity in a society is inherently linked to positions of power, who can mediate the concepts of toleration – both within and without – in relation to others. Central to Walzer's understanding is the virtuous character by citizens, as mediated through historical concepts, that shape the current and future mode of toleration – both in the abstract and immanent sense.

Regarding what is written in direct relation to Forst, there are various sources available, both in the form of articles in combined volumes where Forst himself writes, as well as other texts. One text of interest is the review essay *Respect and toleration reconsidered*[14] by Heinz Paetzold, where he examines the original German version of Forst's *Toleration in Conflict*. The aim and scope of the essay are different than this thesis, but considerable similarities can also be found since both go into dialogue with the same text (even though this thesis uses other ones as well). Paetzold uses the theory by Forst since it is the "the most advanced theory on toleration today"[15], but also because he understands it to have ill-fated consequences. I will not present the descriptive components since that will be provided in Chapter 3. of this thesis. Paetzold relates Forst's theory to the foundations of it and encompasses the core of toleration as:

> Roughly speaking, the virtue of toleration consists in integrating divergent and conflicting attitudes, such as acceptance and rejection, ambivalence and distinctness, into one fragile whole. The virtue of toleration is, in short, a complex structure that squares different, nay even contradictory, components.[16]

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[13] Walzer, 1997
[14] Paetzold, 2008
[15] Paetzold, 2008, p.941
[16] Paetzold, 2008, p.943

Objections include the virtuous character of Christian theology as understood by St Augustine in the concept of "two kingdoms" mediated via Pierre Bayle's (1647–1706) theorizing of toleration. This relates to the idea that Forst does not want a theory of toleration to be based upon a principle drawn from religion, but Paetzold states that Bayle does not view this as a necessity since he proposes that there is no true religion. Thus, it makes no problem. Another objection is related to the foundation of toleration as proposed by Forst, which in essence relates to it being of *reciprocal justifiable* and *universally verifiable* character. He relates this to Forst's understanding of the division between morality and ethics, providing a philosophical account in relation to the context of practiced toleration. According to Paetzold, the ethical pluralism, as proposed by Forst ending in an incommensurability of values, is not a reasonable end-point since:

> Reflecting on toleration carefully leads us to the point that toleration requires the acceptance of the finitude of human reason. This, however, has already been the main drift of Bayle's thought. Epistemological finitude does not automatically end in relativism or skepticism. Relativism tends to assume that there is no arguing about values. Skepticism, for its part, advises one to refrain from judging. Toleration, it has to be said again, implies the insight that my values are reasonable and legitimate and that the values of the others are rational and well founded as well.[17]

Paetzold further asses the view where Forst, according to his understanding, tries to combine strands from both Aristotelian and Kantian notions of virtue, basing his thought in the Kantian sense of ethics and morality as separate domains, while the ability (*arete*) in relation to what structures the thinking of the moral subject in the Aristotelian sense of *readiness*. Forst thus suggests that the virtuous character is one who can navigate different ethical contexts, and maintain a readiness in relation to the moral demand of reciprocal justification and universal verifiable claims. Paetzold presents three areas of critique in relation to Forst's theory of toleration. The first objection is derived from Forst's view of historicity and the notion that morality can have the coercive function, making the ethics of plurality only temporal and not enduring. Instead, Paetzold suggests that in an immigrant setting, like the US, identities are more complex where not only one conception of history is possible, as he reads Forst to suggest, but manifold; and this conception itself leads to conflicts of toleration – therefore making the point for him. The second objection relates to how Paetzold views Forst's understanding of politics, which in essence can be reduced to law, a position not feasible at all. Exemplified by

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[17] Paetzold, 2008, p.948

homosexuality during certain parts of the 20ᵗʰ century, the interplay of social dynamics and law transcend the limited notion of politics as law. The third objection relates to the process of individualization taking place in a political society, where the former endures a reciprocal process, thus should the outcome not be one of either dominant individuality or collectivism. This view is substantially different in relation to what should form the foundation of toleration, where Forst perceives it to be morality, Paetzold instead suggests that morality *and* ethics should interact when forming the concept.

One interesting dialogue text is the transcription of a seminar on the topic of toleration and power, held in Berlin 2008,[18] where Forst and the theorist Wendy Brown discuss the topic at hand, later published in a book as *The power of tolerance: A debate*.[19] Forst is based in the Frankfurt School of thought and critical theory, while Brown is grounded in the works of Foucault and mainly interested in how the normative production of power is mediated. In the first instance, regarding the scope and complexities of toleration, they both share the same conceptions, while some deviances show later on. Brown proposes that in current modes of thought, power is inherently linked to the production of power, subjugating instead of freeing participants. This view stems from the notion that power per se is coercive, while still linked to the concept of toleration in that it can – through a paradoxical character – be both emancipating, subjugating, or both at once; the latter view also shared by Forst. Brown is mainly focused on the modes of power in relation to the identities it produces, relating the understanding not only to abstract strands of thought but also providing generous accounts of examples from the West where the domination in relation to the discourse is embedded in the very understanding of toleration itself. This is often structured through the repressive mode of thought that hides the real power dynamics at play, providing a compelling story while at the same time enforcing even further modes of repression. In essence, Brown is negative to what she believes is the dominant discourse of toleration in the West today, a view also shared by Forst, even though he grounds his analysis on other principles. Forst, as it shows later, have created a positive account in relation to the theory of toleration, sometimes described in a mechanistic fashion, that seeks to transcend the current repressive mode. This view is not shared by Brown, since

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[18] The setting was the Berlin Institute for Cultural Inquiry (ICI), as part of an ongoing series of discussions labeled as *Spannungsübung* ("tension exercise"). Video of the discussion is available at https://legacy.ici-berlin.org/videos/spannungsuebung-3/part/0/

[19] Brown & Forst, 2014. The presentation here focuses mainly on Brown's arguments, omitting considerable perspectives by Forst since these perspectives are presented in Chapter 3.

power per se has the negative character of coercion, and must thus in a sense be part of a smaller domain; namely a (more) private sphere. In the open political discourse though, her negative understanding is related to the power of identity production, mainly through the public sphere. Brown can thus be said to have the negative account of toleration exuberated, where it cannot – at least in current political climate – produce real freedom since the power of it is always repressive when operationalized.

1.6. Disposition

As stated, the critical inquiry into Rainer Forst's theory of toleration includes both descriptive and normative elements, emerging from a certain theoretical perspective. In Chapter 2., the theoretical framework of critical theory is outlined, including a brief historical overview (2.1.). This is followed by a presentation of the methodology employed, including the method used throughout the thesis. The method used is based on Hans-Georg Gadamer's theory of hermeneutics. This section also includes the perspectives used for producing the critique later (2.2.). In Chapter 3., Forst's theory of toleration is presented, mainly focusing on a descriptive stance, but also including normative comments throughout. This reconstructive presentation includes the components deemed most needed for the critique presented later. The presentation of Forst's theory of toleration is sectioned into several areas by me to make clear the different components it exists of. These includes the domain of toleration (3.1.), the components of toleration (3.2.), the foundation of toleration (3.3.), toleration and civic virtue (3.4.) and toleration and politics (3.5). The chapter is finished by some remarks to bring forward into the next chapter (3.6). In Chapter 4., the normative critical stance is presented in several sections. These are areas that Forst discuss, as well as areas I believe he has omitted. The critique includes the following sections: toleration and tradition (4.1.), toleration and the intolerants' claims (4.2.), pressing needs and material goods (4.3.), spontaneity and toleration (4.4.), toleration and exclusion (4.5.), toleration and multi-level coercion (4.6.) and toleration, religion, and bodily integrity (4.7.). In Chapter 5., a discussion following the results of the critique is presented, including a short discussion of the future of toleration (5.1.), a discussion of self-reflexion and theory where the theory is revisited in light of the critique (5.2.), the research question is also revisited summarizing some points in relation to the critique (5.3.). Some suggestions for future research is presented (5.4.) and then followed by some concluding remarks (5.5.)

Chapter 2. Theoretical and methodological approach

Theory speaks for what is not narrow-minded. Despite all of its unfreedom, theory is the guarantor of freedom in the midst of unfreedom.

– Theodor Adorno[20]

2.1. Theoretical framework

In this thesis, I place myself in the tradition of critical theory, or to some perhaps critical studies. By doing so, several conceptions are thought to be present, and I discuss them briefly here. The first question might relate to the overarching conception of critical theory itself.

Critical theory is best thought of regarding modality. There are shared conceptions and theoretical foundations employed by scholars of critical theory, but when practiced it endorses a wide variety of methods. In essence, critical theory has a political aim where one wishes to transform society. As Christian Fuchs introductory article regarding the topic begins:

> Critical theory is an approach that studies society in a dialectical way by analyzing political economy, domination, exploitation, and ideologies. It is a normative approach that is based on the judgment that domination is a problem, that a domination-free society is needed. It wants to inform political struggles that want to establish such a society.[21]

The tradition is widely regarded as being based in the thinkers who belonged to The Frankfurt School. They included, amongst other concepts; Hegelian dialectics and psychoanalysis, that both could explain why the social and economic world had been shaped in the way that it existed, but also produce a critique of it so that it could take another route further on. At the heart of this lied the notion that mass capitalism did – and still do – not make humans free. Instead, it enslaved them. This ranged from a broad set of practices, from economic exploitation

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[20] Adorno, 1998, p.263
[21] Fuchs, 2015, p.1

to how consumerism veiled the minds of populations, making them deviate from political questions of *actual* liberation. The latter made not only political economy an arena of interest for the scholars of The Frankfurt School, but also sought to study how cultural projects was shaped by ideology.[22]

> Critical theory is a critique of ideology: Ideologies are practices and modes of thought that present aspects of human existence that are historical and changeable as eternal and unchangeable. Ideology critique wants to remind that everything that exists in society is created by humans in social relationships and that social relationships can be changed.[23]

What makes critical theory different, is the way in which the Hegelian dialectics could be turned upside down, making a shift from the retrospect perspective mainly employed by Hegel himself – to instead turn on itself. This self-reflexive understanding of the process not only undermines the status quo of the present, but it also gives the critical stance the ability to re-negotiate the inner concepts of theory itself. From a historical standpoint, this brought the rejection of orthodox Marxism – instead, taking upon epistemological conceptualizations from that strand.

A note on my placement in this should, of course, be present as well. One central understanding is that there can never be any *objective* knowledge in a sense that it is extracted from the human experience. It is my firm understanding that the world is socially constructed, where a constant interplay of different actions shapes the very reality.[24] In an epistemological sense, this relates to not only the production of knowledge but also the concept of knowledge itself. This relates to all forms of scientific inquiries, but should for the sake of this thesis here be seen concerning the field of ethics. This understanding is directly related to both theory and method, which in this case are two sides of the same conception; namely hermeneutics. No man is an island, and the historicity in which one always finds oneself is constructed that certain presuppositions and prejudices always are present. There is no possibility of de-situating oneself since there is no "objective" logical space where one can be placed. The very idea of understanding any phenomena at all, without any relation to it, is to me absurd. As Hans-Georg Gadamer writes on hermeneutics:

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[22] A suitable introduction here might be the essay *The Culture Industry: Enlightenment as Mass Deception* by Adorno & Horkheimer, 1944.
[23] Fuchs, 2015, p.7
[24] Berger & Luckmann, 1991

The mode of being of tradition is, of course, not sensible immediacy. It is language, and in interpreting its texts, the hearer who understands it relates its truth to his linguistic orientation to the world. This linguistic communication between present and tradition is, as we have shown, the event that takes place in all understanding. Hermeneutical experience must take everything that becomes present to it as a genuine experience. It does not have prior freedom to select and reject. Nor can it maintain an absolute freedom by leaving undecided matters specific to what one is trying to understand. It cannot unmake the event that it is itself. [25]

Understanding can thus only come from within when one engages in the practice of reading and re-reading. Since this thesis focuses on the textual productions of the matter at hand, lots of theoretical presuppositions of spoken language can be left behind. This thought also restricts the practice of engagements with the content, since it is in a way fixed – and questions I will ask can only be answered through the texts at hand. As Gadamer writes:

A text is not to be understood as an expression of life but with respect to what it says. Writing is the abstract ideality of language. Hence the meaning of something written is fundamentally identifiable and repeatable. What is identical in the repetition is only what was actually deposited in the written record. This indicates that "repetition" cannot be meant here in its strict sense. It does not mean referring back to the original source where something is said or written. The understanding of something written is not a repetition of something past but the sharing of a present meaning. [26]

Thus, even when the text being fixed, the understanding of it is never fixed – free from the historicity of the reader. The above understanding is of course related very much to my understanding of how I am submerged in an actual historical setting, not at all free from biases of preconceptions – or prejudices as well for that matter. In line with the understanding of critical theory, using hermeneutics, the process of making a critical inquiry raises questions regarding research ethics. Part of this is addressed by me in this and the next chapter, where I – to a reasonably well extent I hope – will provide a visible foundation for the reader to try to minimize the number of hidden biases or presuppositions which are in play – whether presented clearly or not. As Max Horkheimer writes:

The facts which our senses present to us are socially performed in two ways: through the historical character of the object perceived and through the historical character of the perceiving organ. Both

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[25] Gadamer, 2004, p.459
[26] Gadamer, 2004, p.394

are not simply natural; they are shaped by human activity, and yet the individual perceives himself as receptive and passive in the act of perception.[27]

In relation to this, I briefly wish to touch upon the subject of compatibility between critical theory and hermeneutics. This topic has been the subject of a quarrel between Gadamer and Jürgen Habermas.[28] In short, the dispute relates to the historicity and situational baggage that Habermas meant Gadamer brought into critical theory with his hermeneutics. Habermas meant that a theory that was not free from itself in relation to history could never have the power to change the political. It would by itself not be able to measure the validity of the claims made by the very theory of hermeneutics always refers to itself.[29] Habermas thought that this did not leave ample room for *rationality*, the concept which he later heavily relies on for his further work. As Nicholas H. Smith writes:

> In brief, the situation of the interpreter, according to Gadamer, is that of an agent oriented to reaching an understanding about a subject-matter, by way of anticipations and pre-conceptions which Gadamer chose to call 'prejudices' (Vorurteil), of which the agent is never fully aware. When the interpretation goes well – that is, when understanding is reached – the tradition in which the interpreter and the interpreted text stand broadens and corrects itself, in an 'event' which the agent participates in but is not wholly in command of or responsible for. The interpretation carries authority only in the context of a tradition, and it is only by acknowledging such authority that the interpreter both acquires and maintains her competence and status as an interpreter.[30]

As presented earlier, this is in line with my understanding of hermeneutics and the historicity in which it is always situated. To broaden this understanding, it does not only relate to the domain of the material world as modeled here, but also to the understanding of the relation with it. The latter is perhaps a deviation here, and will not be discussed further. The objections raised by Habermas are mainly two-fold, as Smith again writes:

> There are several strands to Habermas's worry that this renders the rationality inherent in processes of reaching an understanding unintelligible, and that it effectively robs the process of reaching an understanding of its properly rational form. One of these strands has to do with Gadamer's apparent reluctance to open up the process of reaching an understanding to scientific reflection, as if the 'truth-event' that characterizes the hermeneutic situation was in principle, and therefore irrationally,

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[27] Horkheimer, 1976, p.213
[28] Smith, 2015, p.600ff
[29] Smith, 2015, p.601f
[30] Smith, 2015, p.602

opposed to the methodologically rigorous standpoint of 'science'. […] A second strand concerns the role attributed to the concepts of tradition, authority, and prejudice. One can acknowledge the ever-presence of preformed opinions, background assumptions, presumptions of authority, and so forth in attempts at reaching understanding, but the capacity to reflect on the validity of any pre-verbalized claim to authority is an essential feature of genuine acts of understanding, so Habermas argues. The capacity to interrupt the transmission of a tradition with a 'no' or a 'why?' regarding the presumption of its validity, Habermas continues, points unmistakeably to the conclusion that tradition and authority are never self-authenticating. Tradition and authority are thus accountable to standards that lie beyond them; namely, rational standards. Furthermore, the concept of a rational standard, Habermas continues, is bound up with the idea of the individual subject taking ownership and responsibility for his or her thought.[31]

To my understanding, the limits of mind, in cognitive terms, is not on par with the *rationality* that Habermas suggests here. The situational account of the mind cannot transcend the setting in which it is placed. Perhaps the Kantian strands of thought in Habermas theory prevails of historicity here. The idea that *rationality* could take the form of tangible entity borders well on a form of moral realism, far from the non-cognitivist stance to which I account here. The precise point of the how the hermeneutics is situated relates to the concept of historicity where there is no *objective judge* outside the system.[32] This also related to the second objection above made by Habermas. Of course, the system is self-authenticating in that sense that the position of power is presented as real. Once again it is as if Habermas sees *rationality* as an objective validator free from the constraints of thought as employed in an actual historical setting. I reject this proposition in line with the last claim. Systems are upheld, and contingent in themselves, and thus has a form or rationality to them. Relating this to the sphere of power, where it is a practice. There is no "power" or "rationality" that is not created and upheld by participants of a certain system. To strive for a conception of absolute rationality can, of course, be an aim of humans, but the actual practice is best left to the thought model of Archangels.[33]

I understand the discipline of ethics as the theoretical reflection on the moral. The latter is understood to comprise the praxis and perspectives of individuals and groups, as well as their

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[31] Smith, 2015, p.602

[32] I will not go into a lengthy theological discussion if (a) God can exist, and if so, how it would relate to the epistemological understanding of man – this lies outside the scope of this thesis.

[33] In reference to how Hare uses the same thought model, where he proponed that an ideal being (i.e. an *archangel*) with cognitive and moral capacity far beyond that of any human being. This maneuver allows him to produce a vision of an ideal setting, but suppositions the position of God with this entity instead. For further elaboration, see Hare, 1981.

understanding of what is good and sound.[34] Ethics, with the theoretical perspective, must for it to have real value also be critical and self-reflexive. This stems from the understanding that without a constantly critical, and both reflexive and self-reflexive, stance the subject would lose all appeal. Human life, and the world active in relation to it, is in constant change. To not change with it, would mean to wither and fade away. Viewing this in relation to a position of power makes this even more pressing since the privileged often dwell on the status quo of inequality. To be critical is thus not only a moral necessity but a necessity for progression in itself.

Another note of importance to me is the field of ethics in the academia as a political practice. A misconception held by some, or perhaps many, outside the field is that it is mere a form of mental exercise with no *real* grasp outside the walls of the universities. Relating again to critical theory, the objective of inquiry is not mere for the sake of furthering knowledge by some, but to actively engage in the political practice. The arena for this might be an academic setting, but the scope should not be limited to this. Of course, I am not naïve in that the reach of this thesis will impact the current realpolitik of today, but the purpose of why this work is performed is a direct result of this understanding. This approach has been debated by scholars in many fields. A notable example is a dispute between Theodor Adorno and Herbert Marcuse, where the latter in the late 1960's proposed for a more "actionable" approach while Adorno dived even further into theory.[35] As Adorno writes "Whoever thinks, offers resistance; it is more comfortable to swim with the current, even when one declares oneself to be against the current."[36] Being active in this regard, in line with the proposed modality of critical theory has very much to offer, especially in times when people who declare themselves to swim against the current, are just as engaged in the same political practice − or praxis − like the ones surrounding them. The interdependent quality of theory and praxis can also conceptually be linked with the hermeneutic theory presented above. What Habermas was afraid of as irrationality, Gadamer understood to be a necessary component, verging different perspectives. Returning to Adorno, this *missing link* is thought of as "the spontaneous moment":

> If theory and praxis are neither immediately one nor absolutely different, then their relation is one of discontinuity. No continuous path leads from praxis to theory—what has to be added is what is called the spontaneous moment. But theory is part of the nexus of society and at the same time is

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[34] Bexell & Grenholm, 1997, p.19
[35] Jeffries, 2016, p.19ff
[36] Adorno, 1998, p.263

autonomous. Nevertheless praxis does not proceed independently of theory, nor theory independently of praxis.[37]

These different theoretical areas and applications thus also share the same spontaneity, where the process of the practices the theorist combines with the discursive setting in which he or she is placed. In the academic space, this holds a special position since theory in a sense brought from above. The modality of critical theory, reflexes back through praxis, to reveal the ideological positions and their contradictions – making the theorist a proponent for change.

2.2. Methodology and method

To some extent, my understanding of epistemology is already showing in the section above but I will clarity a few points here before outlining the methods I use in this thesis.

Since hermeneutics is both a theory and a method, these two section converges here, making this section shorter than it should otherwise be. The theoretical part regarding epistemology above is directly linked to my understanding of how knowledge is produced. In the words of Gadamer, regarding when a reader *understands* a text through interpretation, he calls it the "fusion of horizons".[38] This is when the understanding of the reader converges with the meaning of the text through language.

> The guiding idea of the following discussion is *that the fusion of horizons that takes place in understanding is actually the achievement of language*.[39]

When moving on the textuality at hand, the same follows:

> Everything written is, in fact, the paradigmatic object of hermeneutics. What we found in the extreme case of a foreign language and in the problems of translation is confirmed here by the autonomy of reading: understanding is not a psychic transposition. The horizon of understanding cannot be limited either by what the writer originally had in mind or by the horizon of the person to whom the text was originally addressed.[40]

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[37] Adorno, 1998, p.276
[38] Gadamer, 2004, p.305
[39] Gadamer, 2004, p.370
[40] Gadamer, 2004, p.396

Understanding and the production of knowledge is a situational practice, where the outcome is never given from the start. This also shapes my understanding regarding the type of inquiry I produce within this thesis. Basing my understanding on the above perspective, the dialectic reading and writing by me is done in close collaboration with the text. During my critical reading of Forst, I go into dialogue with his texts. This produces a close relationship that yields new insights, especially when done more than once. This not only relates to the hermeneutical methodology but also places special emphasis on the co-dependent process between the texts of Forst's and my writing in relation to them. I also understand this to be a method in line with the critical theory branch, making it relatable for Forst himself. This creates a closeness not only of reading, but also regarding praxis, making a theoretical connection not only in the immanent level of text production but as well regarding a meta-level. This practice is nevertheless still not full in an absolute sense, which of course would be absurd to assume, but rather the modality of reading and re-reading in conjunction with writing and re-writing that forms a shared conception here. The possibilities for the horizons to meet should increase here. This closeness, of course, has both positive and negative accounts, but is in a sense for the most part already in place. The situational factors from which both the texts by Forst are produced, as well as my position in engaging with them, is not dependent on the conscious modality of my perception at the moment. Preconceptions, as presented above, already produced a large part of this. The self-reflexive stance works in collaboration with this, but are only separated in part, since the inception of this notion is also to be understood in relation to the position I am already placed in. This reminds me of a perspective by the renowned art critic John Berger:

> A historical materialist cannot do without the notion of a present which is not a transition, but in which time stands still and has come to a stop. For this notion defines the present in which he himself is writing history.[41]

Understanding this, in relation to the hermeneutics by Gadamer, should produce am ample exemplification of the situational awareness present. Not claiming to be writing history here, although the difference is of little importance since history and historicity can only be gazed upon from the current position. Thus, when presenting Forst's theory, I will do so in a reconstructive manner which is inherently linked to my understanding of Gadamer above. Being present in the tradition of critical theory, I adhere to the branch thereof that understands

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[41] Berger, J., 2016, p.154

discursive mediation as one of the most fruitful paths to produce critique. Stemming from this notion, I deviate from some philosophical traditions that propose a mechanistic view of how the production of knowledge, as well as critique, is produced. To some extent already presented in the section of the research question (1.3.), the critique is founded on showing when the proponed theory deviates from the goals of it, but to some extent must also outline incoherence and inconsistency. The former, from the critical theory standpoint, should have precedence – especially since this is where the ability to see through masking of power lies, the aim of it;[42] and this is indeed the power of theory.[43] Being true to the method or hermeneutics and critical theory alike, the critique must in a sense be open-ended at its heart, where a sense of justice propels it, but cannot per se reveal the injustice of texts beforehand but only from dialogue with it. The critique here is thus to be seen as part of this discursive understanding, and not producing a set of criteria from which to judge the theory, instead, uncovering un-thought modes of power and discourse in relation to this notion.

In line with good academic practice, I will make a generous reading of the texts used here, often referred to as *The Principe of Charity.*[44] This is part of the method in that I will try not to "force" anything upon the text itself, but instead employ a mix of inductive as well as deductive reasoning thorough this thesis. This practice fits well with the scope of the critical theory and hermeneutic method used. Considering this, my view on the practice of criticism is perhaps of the more classical academic notion: criticism as a positive practice – where the reading and contributions hopefully will add to the subject at hand.

The form of the thesis fits into a certain template, but as the avid reader will see, in many ways takes the essayistic form, adjoining perspectives throughout the text. The reasoning is threefold; (1) It fits the subject since the concept of toleration is not separated from other spheres. (2) The theoretical perspective presented above from Gadamer, which I very much adhere to, proposes that no-one is *outside* the discourse presented – therefore the idea of analyzing this (or most other tangible concepts) is impossible since the discourse is already present. (3) The essayistic form has a clear history in the tradition of critical theory,[45] making from (2) not only an inside perspective but a double inside perspective.

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[42] Fuchs, 2015, p.7

[43] Adorno, 1998, p.263

[44] Grenholm, 2006, p.239f

[45] *The Essay as Form** by Adorno, 1984, is a great example of an essay on the form of essays in this tradition.

Chapter 3. Rainer Forst's theory of toleration

I knew a "philosopher" to be a mind that was unafraid to be against everything. Against everything, if it was corrupt, dubious, enervating, untrue to us, false to happiness.

– Mark Greif[46]

Forst's theory of toleration combines several aspects, and he has written on this topic for well over a decade now. The concept of toleration is inevitably linked to other concepts present, perhaps most notably democracy – which for Forst – plays a central role in relation to it. The area where Forst is most famous is for his theory of reciprocal justification as the foundation for a sound and just democracy of tomorrow.[47] He limits himself to a pluralistic democratic society, where different religious and ethnic groups coexist.[48] This is to my view a sound starts since this to the most extent resembles the setting in which he is situated; Germany. Regarding my inquiry, this also fits me well since Sweden, where I reside, in many ways produce a similar discursive setting.

3.1. The domain of toleration

A general note on the concept of toleration must be made. The subject is at first to establish what the area of toleration does – and thus as well do not – include. Forst gives the general suggestion that for toleration to an apt subject at hand, one must first acknowledge that there is a negative notion present which is directed towards another subject (i.e. an individual, a group, or whatever).[49] If one approves of or support the practice of interest, there is no matter of tolerance. The same is present if one wishes to outlaw or abolish a practice, in this case, there is apparently no toleration at hand. Of course, some practices are not of interest; perhaps one is genuinely indifferent to them, this also falls outside the concept of toleration. What falls in the

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[46] Grief, 2016, p.19
[47] Forst, 2007b & Forst, 2013a
[48] Forst, 2013b, p.18
[49] Forst, 2013b, p.18

category of toleration is thus practices one view in a negative aspect, but which still may be practiced by another subject.[50] It is in a sense perhaps seen as immoral, wrongful, or in other similar fashion – but not to the extent that it should not be allowed at all.[51] I adhere to the above, and in this fashion also acknowledges the space which must be an area of inquiry; the aspects of toleration where it both begin and ends.

To start off, and to capture what lies outside the domain of toleration is how prejudice, racism and other forms of discriminatory behavior essentially are what one might wish to include here. Forst gives an example, and I must admit I from time to time hear the same, that one should be tolerant towards people who think and looks different from us.[52] Here it is easy to fall into the trap where one wishes to be tolerant, but instead give possible legitimating space to these prejudices. It is therefore not the domain of toleration that might be best here. Instead these views should be challenged for what they are; racist prejudices. If one makes a claim regarding, for example, other "races" part of the discourse of toleration, this limits the scope of the critique to be presented in a dangerous way. The reasoning here is once the negative view of other "races" is affirmed as having a legitimate position, the other parties involved in the discourse have prepared the context for these views to be persisted. Acceptance should not be an option at all, since the unchallenged position of the racist will be normalized in the public discourse, producing a case of what has been called "the tolerant racist",[53] a position, of course, absurd since racists per se are *not* tolerant in their views. Forst suggests that this paradox results in a situation where the claims regarding the basis for objection components (detailed below) must have a rationale to them, they cannot be constituent upon whatever. According to Forst toleration is not to be seen as the contrasting concept of prejudice, since prejudices do not constitute reasonable foundations for objections towards others.

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[50] Forst, 2007a
[51] Forst, 2004, p.316
[52] Forst, 2004, p.322
[53] Forst, 2013b, p.19

3.2. The components of toleration

The following area is taken mainly from the *Toleration in Conflict: Past and present*[54] and the article *The Limits of Toleration.*[55] Through a step of stipulations, a reciprocal aspect of toleration is produced, elegantly ending in a position where the groups – as this is the level of subject proposed here – only may appeal to be included in the system of toleration if they are open to apply the same non-discriminatory rules under which they wish to be included. Forst exemplifies the importance of toleration by contemporary examples from Germany given a ruling from the Federal Constitutional Court on the placement of crucifixes in public classrooms, but also on the subject where the government wanted to outlaw a far-right party – the National Democratic Party (NPD) – by filing a claim before the Constitutional Court. Pressing examples indeed, Forst ends the first section by saying:

> Such examples show the high political use value of the concept of toleration: one always tries to construct one's own position as tolerant and that of the others as intolerant, lying beyond the proper limits of toleration. So given how contested these limits are, in the following I want to address the question of what criteria should be the basis for drawing them.[56]

Following this, he stipulates the straightforward claim that the limits of toleration are quite simple:

> I have already hinted at a seemingly simple answer to that question. It holds that the limits of toleration are to be drawn where intolerance begins. Toleration can only be called for towards those who are tolerant; it is a matter of simple reciprocity.[57]

Relating to the above, he presents six areas one must take into considerations when discussing the limits of toleration. All in all, I find these six areas well thought of and designed to encompass the matter at hand.[58] The six areas include 1. The context of toleration, to whom does it relate? This includes individuals, groups, states and so forth but may also be other relations, like family, parents, teacher, etc. 2. The concepts or beliefs handled by toleration must be seen upon as negative: as being unwished for and objectionable by the one tolerating them.

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[54] Forst, 2013b
[55] Forst, 2004
[56] Forst, 2004, p.312f
[57] Forst, 2004, p.313
[58] Forst, 2013b, p.18

3. The *objection component* from the point above must be accompanied by an *acceptance component*, which makes it bearable to tolerate – even when negative. As Forst states it "The said practices or beliefs are wrong, but not intolerably wrong."[59] 4. *The limits of toleration* which according to Forst is constituted of three normative areas: a. the space one finds positive, b. the tolerable practices or beliefs which are seen upon as negative but not rejecting, and c. the practices or beliefs which are outside what is deemed tolerable and must be expelled. 5. The concept of toleration must be practices freely and voluntary since some practices one much endure or just suffer through, but which upon one is not in power to challenge. 6. "Sixth, one can distinguish between toleration as a practice (of a state, for example) and as an attitude or even a virtue, which we call tolerance. The former can be present in a society without the latter."[60]

3.3. The foundation of toleration

In conjunction with the understanding of what might constitute an objection component, one must see this as limited to the domain of the moral, since there might be demands made by others that are presented on, for example, aesthetic grounds.[61] Forst presents this separate from the notion of what should not be thought of as part of the discourse of toleration; namely the proposed idea to include how "others look and think". This spearhead the discussion in a way regarding aesthetics, and to what extent this domain relates to not morality but other social aspects, but is for the moment left. For Forst, one pressing paradox of toleration that must be resolved revolves around *"how it can be morally right or even obligatory to tolerate what is morally wrong or bad"* [italics in original],[62] what he calls *the paradox of moral toleration*. The reasoning here is how higher-level values, such as perhaps freedom or autonomy, trumps the function of toleration in some cases – if they do not produce contradictions themselves. For Forst this highest-level value is (reciprocal) *justification*:

> Accordingly, if the norms which are supposed to legitimise such spaces of freedom and their limits are to claim validity for all of those affected, and if it is to be possible for the latter to demand these norms of each other, they must also be generally and reciprocally justifiable; a good justification which is worthy of recognition in particular social contexts must then be able to withstand scrutiny

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[59] Forst, 2004, p.315
[60] Forst, 2004, p.315
[61] Forst, 2013b, p.19
[62] Forst, 2013b, p.21

in terms of the criteria of generality and reciprocity. Thus, recursive reflection on the structure of justification of the question of toleration and its criteria entails that the superior justification of toleration must be based on the principle of reciprocal and general justification. [63]

Relating his conception of toleration to the concept of justification makes a coherent strategy since they share a common platform for how to interact. The reciprocal justification serves as the basis, making claims by different groups filtered through the mutual process of providing reasonable arguments, resulting in a shared conception of the political. This is a bi-directional process where both a grounded perspective from the praxis of toleration shapes the processes occurring in a state, while they from above need to be situated in a legitimate process of authority that develops its own rationality; the two modes of character present is one of power and one of emancipation. Making a bold claim, Forst states that:

> Finally, only this justification can constitute the kernel of a 'tolerant' theory of toleration. This is not only because it avoids as far as possible placing too narrow limits on toleration in practice, but especially because the recursively grounded principle of justification is independent of and compatible with the alternative justifications of toleration, provided that they do not overstep the toleration threshold implied by this principle.[64]

This notion is founded on the belief that the moral character of the principle has precedence over other views, something elaborated further in Chapter 4.

The next step is to view toleration from two perspectives: the first which Forst calls *permission conception*. This is where a majority permits a minority to practice their beliefs as long as they are not perceived to occupy the public space in such a way that the majority feel the need to fully recognize the group. This is seen in a negative fashion since there is not a reciprocal power dynamic present. The second perspective, which is the one Forst prefer, he names *respect conception* – which through mutually respected practices allows *all* groups to interact freely and not hinder practices by other groups as long as they themselves do not hinder anyone else. This relates to the aspect presented earlier where the line between toleration and intolerance is marked by the intolerant. To frame this, there must be institutions in place that can guarantee the freedom and law for all citizens. The practices of *institutional justice* must not favor only some ethnic, religious or another form of group but instead, make use of general principles not

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[63] Forst, 2013b, p.450
[64] Forst, 2013b, p.452

only founded upon specific perceptions not generally acceptable but the other groups. Generativity is thus part of the foundation.

Following that Forst places his theory of toleration adjacent to his political theory of reciprocal justification, that concept is an integral part here. Deriving from the notion that reflexive democracy is favorable, he places the *right to justification* central and supportive here.[65] To summarize this concept; the central aspects – according to Forst – is that all groups as a basic practice give reciprocal and universally justifiable norms inter-group in a society.[66]

> Reciprocity in this context of justification means that one does not make any claim to certain rights or resources one denies to others, and that one does not project one's own reasons (values, interests, needs) onto others in arguing for one's claims.[67]

This is indeed a very drastic claim, resulting in a high order fashion where the basic norms and conceptions need to be sharable by *all* citizens in a state or equivalent entity. Is rejected, no communality can emerge. A note should be made here since this, as already has become evident to the reader, Forst is primarily concerned with groups who are believed to have an identity based on homogeneity. Without furthering the critique to this whole concept here, this stands in stark contrast to the idea of many current liberal western democracies who understand themselves to have the individual as the primary political subject. Returning to the right for justification, Forst understands intolerance as a special form of injustice since it deprives groups of their right to general principles of justification since the reciprocal component is not present. Toleration is thus viewed upon as demand for justice since it makes the case for groups to claim validity for their norms by other groups – if not ethically but at least as shared acceptance.

> The limits of toleration hence are reached when one party tries to dominate others by making its rejectable views the general norm. Such a denial of the right to justification is a form of intolerance that cannot be tolerated. Not tolerating this, however, is not simply another form of intolerance, for it is justified by the principle of justification itself and does not absolutize one controversial ethical view. The determination of the limits of toleration itself is reflexive and can always be questioned

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[65] Forst, 2007b & Forst, 2013a

[66] The same concept is required intra-group as well in a smaller community, but the level to which he adheres this in relation to toleration he primarily moves on the concept of nation states.

[67] Forst, 2004, p.317

by those who see themselves excluded. As opposed to this, the way the permission conception draws the limits of toleration is partial and potentially repressive towards minorities.[68]

As presented above, the intertwined perspectives of justification and toleration present an appealing view that covers a broad spectrum of attributes. Regarding the morality of subjects, following the need for justification: "persons have a duty to ensure that they can account for their actions in terms of normative reasons which *cannot be reciprocally and generally rejected*."[69] This is later followed by a reason stating that:

> Here the universalisation of a maxim of action is not required, as in Kant's reflexive procedure in which the agent asks himself whether his action can be universally willed without contradiction, or whether he can will that any person should make the same decision as he does in the given situation. Justification is understood instead as a *discursive* process whose immediate addressees are those who are morally affected. In contrast to a pure consensus theory of moral justification, however, the criteria of reciprocity and generality permit substantive judgements concerning the justifiability of normative claims even in cases of (expectable) *disagreements*, a feature which is especially important in the context of the problem of toleration.[70]

This understanding resides well with me since the discursive power not only of toleration must be positioned in the self-reflexive mode, but the situational character of justificatory claims as well. However, this does not mean that I adhere to all parts of Forst's claims, just that *if* you accept them, this would be a reasonable position to take. Regarding the rejection of universalization as a principle is well worth a short note regarding how power is negotiated under certain circumstances. To my understanding the modality of processes, in the domain of the moral, is best to be understood as a virtuous character. This empathizes *how* the subject should structure and react, not that procedural structures per se should have precedence regarding this matter. Forst also understands one mode of toleration in this virtuous character, a position I also share. Further, the moral foundation of justification does not postulate any acceptance for truth claims made:

> The fact that other people's objections are reasonable does not entail that one's own convictions are false or unreasonable, only that the claim to universal validity of these convictions is thwarted by the plurality of ethical perspectives. Tolerant persons need not regard these other perspectives as

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[68] Forst, 2004, p.318
[69] Forst, 2013b, p.453
[70] Forst, 2013b, p.453

equivalent in truth to their own or as true in part; they need not esteem them as ethically good or even regard the existence of a plurality of such perspectives as a good thing; they need only recognise that these perspectives are reasonable and not immoral.[71]

Adjacent to the above perspective, Forst also distinguishes between the ethical and the moral domain, whereas they are linked but still constitute separate entities which must not necessarily share the same goal.

> For, although being moral may appear to some to be part of being ethically good, this is not necessarily so; the moral life and the good life may be two different things. The 'ethical' domain represents a complex, independent context of the justification of subjective and intersubjective normative answers, also by appeal to objective truths, a context which no more necessarily includes the moral domain than the converse.[72]

The example of "objective" truth claims comes mainly from the religious practitioners, and although the claim might be internally valid one must still when practicing them make the case related to justification above. Not only moral norms need to fulfill this requirement, but ethics as well, since Forst – as stated – views the principle of justification the highest-level principle.[73] The content of an ethical system must thus also be open to revision since the free will of the persons must not be coerced in life choices regarding what they deem desirable. The sources for this is of less importance if they follow the above principle according to Forst.[74] The principle must thus supersede other ethical considerations, in that the other – lower levels – can be reflexively negotiated in an epistemological sense, but cannot be relativized since that would produce a too narrow or too broad scope for the area of toleration to be mutually applicable. This stress the need for separating the domain of the ethical process from other truths present, providing a center of gravity that only can accept a self-regulated thought model of for example faith.

> More inclusive philosophical doctrines of toleration can supplement the proposed justification, but cannot replace it. It remains the criterion for a non-reciprocally rejectable conception of toleration; the other justifications, by contrast, are reciprocally rejectable, though they are also acceptable, and therefore they have their own, limited legitimacy. The higher-level theory of toleration remains the

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[71] Forst, 2013b, p.460
[72] Forst, 2013b, p.461
[73] Forst, 2013a
[74] Forst, 2013b, p.462ff

primary one – an additional meaning of the primacy of practical reason.[75]

I discuss this further on, but can already now state that this position demands very high strands of regulation regarding the acceptability of different metaphysical explanations that would be possible to coexist given these premises. It can surely be argued that this is *not* how many religious groups understand themselves or their faith. This might not be a valid reason if there is no wish to include many groups, but is any way deviant from many current practices regarding inter-group rationale.

3.4. Toleration and civic virtue

True to the notion of both personal autonomy and self-reflection, Forst makes the case that toleration of this mode implies a virtuous stance to be present. Virtues can range from moral to ethical, as well as political domains. The general notion regards their context-specific variations, in that they demand different affections from the constituents' present. Ethical reflection might be understood in the classic Aristotelian sense of *excellence*, where the aim is to better oneself in the practice of judgments. The political domain, according to Forst, can serve as an intermediator between ethical and moral domains of virtues. These demands are closely related to the juridical nature of the political sphere, where the status of coexistence is jointly negotiated. Moral duties come in two modes: 1. perfect duties and 2. imperfect duties. The former is what Kant would deem necessary in that one reciprocally adhere to certain responsibilities where the receiving part is seen as an end in him or herself. The latter might be positive, but not out of necessity regarding the possible actions.[76] When practicing these virtues, there are placed high demands on the practitioners' and thus "Hence, it is a complex virtue and is 'hard work' (to quote Aristotle)."[77] This not only relates to the ability to separate the three domains just proposed, but interdependent adjust the ability to reason regarding them without losing the foundation regarding especially the ethical domain, from which Forst gives precedence due to the regulatory function it has as part of the higher-level justificatory process.[78] The moral level, often or at least sometimes, reflects back and relies upon religious sources, which thus bring certain metaphysical aspects along. These must not in themselves be

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[75] Forst, 2013b, p.497
[76] Forst, 2013b, p.504
[77] Forst, 2013b, p.506
[78] Forst, 2013a

mixed, but still, shares the foundation in the identity of the person at hand. The situational character is once again stressed since the person at hand must know:

> What is required is a reflexive awareness of the competition between different practical standpoints – of objection, of acceptance and of rejection – which calls for the ability to impose an order on the contexts of justification.[79]

Here a state is created where one should not only understand the process of internalizing the norms or political needs un-reflected since a mechanistic process understanding is neither enough or desirable. Instead, the complex perspective must emerge, verging the different domains both from the inside and the outside.[80]

> The tolerant person accepts the threshold of reciprocity and generality and recognises that a well-grounded ethical objection is not yet a sufficient reason for a moral rejection. This central insight of practical reason is supplemented by the insight into the finitude of (theoretical and practical) reason exhibited by the reasonable person. This is why reasonable differences over the good or true life or about the constitution of normative reality are possible in ethical questions and why this, in virtue of the differences between contexts of justification, is an objection neither against an ethical truth nor against the possibility of moral justification.[81]

Once again, the emphasis is placed upon the understanding of the basic principle provided by Forst. When applied to moral reasoning by individuals, this can lead to conflicts regarding not only the principle itself but more so the validity of the justification for the principle. Although already discussed, Forst seems to feel the need to elaborate this view further.

> Here the autonomy of the person exercising tolerance should be seen as being 'in conflict' in a twofold sense. It is involved, on the one hand, in the conflict between one's own ethical convictions and those of others and, on the other, in the conflict with oneself, for the ethical objection against the others involves the tendency to make this negative evaluation the basis of action or general norms as well. The virtue of tolerance presupposes that this impulse is thwarted by moral insight.[82]

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[79] Forst, 2013b, p.507
[80] Forst, 2013b, p.507
[81] Forst, 2013b, p.510. This view is different from my understanding of ethics and moral, as presented earlier. Forst seems to understand ethics, not as a rational critique of the moral, but instead to be a coherent set of beliefs and propositions forming a meaning-making system. Ethics, in this view, has more "substance" to it. I will use this view when presenting the theory of Forst and make clear when my own view (from Bexell & Grenholm, 1997, p.19) is used instead.
[82] Forst, 2013b, p.510f

This is a problematic view, in so far that it might deviate from the other insights produced by for example a religious tradition or certain culture. Again, this might not be ample reasons to reject the proponed theory of toleration, but from the lived experience the imposed praxis might be hard for many to accept. Regarding the individuation, the context of toleration demands certain aspects, namely:

> However, the corresponding self-confidence requires not only an inner freedom from fear that must be acquired through socialisation – this is generally the starting point for large-scale studies of socialisation – but also freedom from external threats; in other words, it calls for a certain social trust.[83]

This might, of course, be part of a produced discourse that emerges from within, but I have a hard time seeing this as not a result of what I discuss below in section 4.1. as *sittlichkeit.* Socialization is a dynamic process that is inevitable dynamic but still firmly rooted in certain practices and value propositions where it is positioned. Discourse, as much as historicity, plays a crucial part here where my understanding is that Forst due to his wish to move away from current notions misses the situation at hand, namely the slow-moving structures of society as seen by a historical materialist conception.

3.5. Toleration and politics

When discussing the democratic political society, where toleration is a present virtue, in fashion as so far that it positions itself in certain contexts, the ambivalence once again appears. During the theoretical approach presented, other areas of toleration – different from the ones discussed earlier – emerge.[84]

> This shows that talk of a 'tolerant society' is ambiguous. For this can mean (a) the tolerance of the citizens as individuals, (b) the space of toleration resulting from social norms and understandings concerning what is tolerable in social interactions, where the norms and understandings in question are not subject to legal regulation, (c) the 'tolerance' of the legal norms themselves, i.e. the level of freedom they bestow, (d) the tolerance of the political system and its institutions, i.e. its openness to the diverse voices of citizens and communities, and (e) the 'tolerance of the state', arguably the most

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[83] Forst, 2013b, p.515
[84] Forst, 2014b

problematic usage.[85]

This highlights the case for how the different levels need to be present and mediated. Forst suggests that the state should not take sides regarding groups, often thought of in the form of the permission conception. This skew the function of what is supposed to be an impartial entity not favoring certain groups. This makes the case for citizens to be "imperative of toleration", whereas the state should be "imperative of neutrality".[86]

> Finally, this neutrality should be understood not in such a way that the state in all of its decisions should strive for 'neutrality of effects' on all possibly affected individuals and groups, which would be impossible, but such that a 'neutrality of justification' is required in the sense that only reciprocally and generally acceptable reasons, and not controversial ethical valuations, can be the foundation of general norms.[87]

Justification is this present on all levels, but the reasoning from the different actors for the implementation may vary. For the state, this means that no sides should be taken regarding practices of the citizens if they only conform to the overarching principle of justification. Following this would then lead to toleration as well, in the manner outlined above. Democracy is though not only conformity under the law and the civic virtues of the citizens must reflect this understanding, where they wish to continue to engage in the political sphere.[88] Reciprocal demands from all levels are implemented, where the dialectic relationship between citizens and state move together to form the unity that can produce toleration. The neutral character of toleration is best perceived when applied to the state, not citizens. The claims made by citizens are in themselves rarely "neutral", insofar that they reside with equal moral distance from other citizens in relation to their own claims. Forst thus returns to the *criteria of reciprocity and generality*, also making the claim that the term "neutral" might provide a false conception of the claims; that they would be void of any moral character – something he denies.[89]

Relating to the above notion, the concept of pluralism arises, since the concept is as earlier stated – placed in the pluralistic democratic setting. This might comprise of different types of

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[85] Forst, 2013b, p.519
[86] Forst, 2013b, p.520
[87] Forst, 2013b, p.520
[88] Forst, 2014b
[89] Forst, 2013b, p.521

cultures, not only religious or ethnic ones. Instead, the idea is based on ethically pluralistic societies.[90] Ethics and moral practices – often mediated through culture – are linked, providing a fusion of culture and ethic pluralism. This might relate to the term *multiculturalism*, depending on how that conception is to be understood. Apart from certain fringe examples, like indigenous people living in closed off reserves – there are not closed off quarters between the different ethical system present in society. This secures a space for groups having ethical systems not founded on ethnicity or religion, for example, sexual orientations, different attributes, or interests might provide the common dominator. In this *political community of ethical communities*, it is not reasonable to assume the different communities would be closed off, but cannot all be the same since the foundations for identity likely vary over a large spectrum. The person must thus understand the self both in the moral sense, as understood through the ethical culture, and ethical sense due to the general conception of detachment from their moral principles to accept the general principle of justification. Adding to this is also the political sense, from which the person must see all other citizens in a legalistic matter, conforming to the overtly prescribed laws of the society as a whole. Being submerged in a certain ethical system, more often perhaps if it is tightly interwoven with an ethnic identity, one must not let this hinder the detachment presented above.

Regarding a multicultural society, Forst writes that he cannot extend his current theory to *also* include a whole theory of multiculturalism. He reaches out to the theory produced by Seyla Benhabib instead. Regarding reciprocity and generality, the claims of his theory need to be contextualized. Presenting some areas where there might not be a need for these to concept to be present, but still make it a valid claim regarding *moral-political* requirements of the theory. By making the theory not favoring a certain ethical view, Forst suggests that discrimination toward groups that are not in a position of power thus can be avoided.

> To that extent the law is 'colour-blind' and constitutes a *protective cover* for ethical identities precisely because it excludes the domination of specific ethical viewpoints. However, when generally valid law constitutes not a fair protection for particular ethical communities but instead an inadmissible burden because it places them at a disadvantage towards others, the law degenerates into an ethical straitjacket and must be altered – likewise with the aid of the criteria of reciprocity and generality, because in such a case a community must be able to show to what extent applicable law flouts their *justified* concerns *by comparison with the other communities*. Then it must be

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[90] Forst, 2013b, p.522

apparent that strict *equal treatment* has to be altered in favour of a qualified treatment *as equals*. In that case, a specific recognition of ethical difference within the law is not an ethical but a *moral-political* requirement in the sense of justice. The issue remains one of avoiding injustices, which in this case means avoiding disadvantages for particular individuals or groups which cannot be justified in reciprocal terms.[91]

This highlight a very interesting notion, not only because it moves on the level of groups – which per se might not be of the same size – and since it places the theory of justice not in the center; but rather as a mean. By doing so, Forst essentially sidesteps the very foundation from which he has built his entire theory. The modalities of justice are thus what need to be concerned following this. Forst has made a list containing different areas where the need for reciprocity must not be present. The list is not conclusive and may be appended further.

> Very different demands for recognition are made on this basis:
>
> (a) Members of groups who suffer discrimination, to an extent in the legal but even more so in the social domain, in ways that are concealed rather than revealed by 'neutral' law, can demand legal regulations which pre-vent this and actively transform social inequalities on account of manifest or concealed discrimination – for example, in the form of quota systems.
>
> (b) Members of historically disadvantaged groups who continue to suffer under the structural effects of discrimination even after this has been legally abolished can likewise claim legal means which help them to escape a socially underprivileged position.
>
> (c) Members of particular groups who previously counted as merely 'tolerated' minorities without special status can, in cases in which a legal community confers a special legal status on certain religious communities, for instance, also demand this for themselves.
>
> (d) Members of cultural-ethical communities can call for special means to promote their culture by appealing to the means publicly made available to other communities, even if there is no established right to such means.
>
> (e) Members of cultural communities can point out that applicable law pre-vents them from enjoying general rights (for example, the free exercise of religion) or a form of equal respect because their cultural practices are incompatible with the conventional assumptions on which the law was based up to that point. Members of certain religious communities, in particular, have demanded exceptions from laws governing trading hours, from the duty to wear a helmet or uniform and from the duty to attend particular forms of instruction at school or to attend school at all. Sometimes such cases reach the point where not only exceptions from valid legal norms are demanded but fundamental revisions of these norms.
>
> (f) Certain groups who are particularly affected by political decisions or are in danger of being ignored claim special rights of political representation, extending even to qualified veto rights.

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[91] Forst, 2014b, p.525

(g) Groups with a high degree of cultural cohesion, also geographically, can claim rights to cultural-political autonomy within a federal system by citing the disadvantage they suffer within the larger society and possibly a special history of discrimination. In certain cases – indigenous cultures, for example – this autonomy can be very extensive.

(h) Finally, groups that regard themselves as nations and enjoy a large degree of institutional independence can demand their independence, though only on the grounds that this is strongly desired by their members, that it would not give rise to any new injustices and, most importantly, that it is required by justice in order to overcome an existing condition of heteronomy and domination.[92]

Continuing the above topic, it clearly shows that this list produces an extensive mediated deviation from the previous understanding by Forst. Not bringing in the practice of discourse ethics, my understanding here is that this as an area relates to that type of theory. Whether this exemption view is part of the core of the theory or rather an attribute is still an open question. When mediating different variances between groups it is clear that Forst should be emphasizing the virtue-ethic part of his theory to a larger extent, since this modality of mind and practice, if not as opposite to the core conceptions above – if that term may be used – apparently plays a significant role when contextualizing the theory at hand. This is followed by a discussion of how cultural minorities who not enforce internal principles of "western liberalism" in relation to internal restrictions, and how this must be seen in another light.[93] Forst also suggests that groups should not have inner restrictions, but that this should not be grounded in "a liberal way", instead he returns to the concept of justification.

> Then placing 'liberal' limits on toleration does not mean imposing a specific way of life but instead means calling for a basic form of moral respect which is absolutely binding and is itself claimed by the groups who demand special rights. Reflexively speaking, the basis on which respect for a group is called for must also hold within such a group. Insofar as practices exist within a group which, for example, expose underage children to extremely painful procedures, deny them medical treatment, marry them off without their consent, or structure their education in such a way that they have a markedly worse starting position by comparison with other citizens in a society, the limits of toleration are reached – *not*, to reiterate, because this would violate necessary preconditions of the *good life* but because this violates the *dignity* of morally autonomous beings who have a right to justification. And given this right, mutilations, endangerments of health, gross restrictions on liberty and being consigned to an inferior social position cannot be justified. The goal of preserving a special culture can never over rule basic claims and rights of this kind. The problem, therefore, is not

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[92] Forst, 2014b, p.525ff
[93] Forst, 2014b, p.530ff

advocating or *practising* a non-liberal way of life but imposing such a way of life – though also, conversely, imposing a liberal way of life.[94]

This position positions the claim regarding the basic form of *dignity* as the basic proposition for understanding when to coerce for example minorities or other groups. The theory of justification is inherently linked to the idea of the autonomous subject. Still, it is hard not to understand this moral objection, imposing restrictions on the above areas, as inherently linked to the *good life* in Forst's own terms. Even if the mediation of ethics is free from morale, which they, of course, are not, this presupposition still skews the theory of a negated free will perspective on the domain of ethics (again, in Forst's view of them). Another note is how this discursive theory practice, where both Forst's theory of toleration and theory of justification, is not to be seen as part of a Western thought system. He, and rightly so, is very critical of many modes of thought emerging in the West-liberal sphere, but not to see his own placement in this tradition is rather weird. There is no "break" to be made with the position of the self, something not presented clearly here. This deviate from the hermeneutics perspective by Gadamer presented in the section on methodology, which I still adhere to. The same can be said from for example Hegel and how he uses the term *aufheben*.[95] Both of these understandings produce a more situated view regarding the perspective from where the outlook emerges, not because the context in which it is formed per se has any inherent moral value dominion, rather because that is simply where the action takes place. This view is not in defense for a traditionalist view of society and what can constitute a political sphere, rather that the "situatedness" is already informing the view of the subject in a dialectical process, where self-reflexive criticism and theory is the way onwards; towards political change.

In the matter of reciprocity and the domain of equality, foremost regarding bi-directional claims in relation to different groups – where Forst also understand one mode of the "private" sphere to be located – he suggests that justification transgresses the view that ethnic-cultural identities must be preserved.

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[94] Forst, 2014b, p.532

[95] Hegel, 2009, p.55. The term *aurheben* or *aufhebung* is often translated as "sublimation", where something is both added and removed at the same time, therefor, creating an ambivalent concept. A popular example is if one picks up a coin from the ground since it is both picked *up* from the ground, therefore; both removing it from the ground as well as adding it to your inventory.

> Therefore, the respect conception of toleration does not imply a model of 'formal equality' (see above §2.3) which proceeds from a strict separation between the private and the public and seeks to 'privatise' ethical differences and exclude them entirely from the public domain and from valid law. Based on the principle of justification, its counterpart is a model of 'qualitative equality' according to which the citizens recognise one another as persons endowed with equal rights in the legal and political sense, who nevertheless are ethically different; moreover, they recognise that ethical differences can give rise to particular legal forms of recognition – provided that this can be justified in reciprocal and general terms with reference to equal chances to form or to preserve ethical-cultural identities. No specific form of identity is prescribed in this way.[96]

This understanding produces a broad variety of cases where one could, to a large extent, deviate from the foundation of reciprocity. Still being grounded in the theory of justification, the modality of possible behaviors in line with the culture sensitivity proposed, creates a larger space for making local variations possible. Sensitivity to cultural variations is to be understood as a profound part of the multicultural society, where *equality* is not measured on a "hard" scale, but instead, serves a mediating function constructing dynamic power relations through negotiation. This additional component of a theory of toleration modeled more in the sense of virtue ethics than only a mechanistic procedural structure, might not be visible at first, but should make it appeal to individuals leaning towards discursive ethics for example. A note that should be added here is regarding the construction of identity by groups, which is always a dynamic process. Depending on the perspective, positive creation in one area can also lead towards a negative creation in another area – as I state in the introductory chapter regarding all speech acts having a prescriptive function. Forst does not, most likely due to limited space, elaborate in depth on this topic, but it should still be noted that the transformative character of identity creation does, and in a sense therefor also must, contain the negative aspect of abandonment. These concepts can be elaborated on further, as some postcolonial thinkers[97] have mainly during the second part of the 20th century, where there sometimes is the notion that i.e. ingenious ethic groups should be preserved regarding cultural aspects *by default*, as modeled from the "outside" majority population in terms of *exotification*. This does not make Forst's theory invalid but is a perspective that is often neglected in this type of discourse.

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[96] Forst, 2014b, p.535

[97] For one example see Loomba, 2005, p.111ff, where the construction of postcolonial identities is discussed.

Back on the section regarding the virtue of justice, Forst writes:

> If tolerance is a basic virtue of justice, then it has its foundation and limits in the latter – in which case an attitude that does not sufficiently recognise ethical-cultural groups is as unjust as it is insufficiently tolerant. But this holds only as long as the resolve to treat such a group justly continues to be allied with an objection to their convictions and practices; should this component fall away because one has come to value this group, then it is no longer a question of toleration, though it remains one of justice. Hence, the virtue of justice is more inclusive and fundamental than that of tolerance.[98]

As seen, the view is clear insofar that the basic structure which one aims for, is justice – where toleration is mere a mean to an end. Combining this with the public a discourse of internalized toleration by the citizens, the process of justifying claims regarding particular arguments for resources must be open, both concerning positive and negative aspects.[99] Essential as part of this discourse, which, of course, is implied in the terminology itself, is also the form of the process and how the claims are made – i.e. the language. This includes translation processes in a broad sense, where there are a mutual need and interest for understanding.[100]

3.6. Moving forward

As already stated in the section on demarcations and limitations, this presentation is not to be considered exhaustive, but rather select parts of Forst's theory of toleration that I find suitable to go into dialogue with. The above selection concerns mainly toleration regarding different groups *within* a state. This is not to be confused with the area of toleration *between* states,[101] an area not explored further in this thesis. In the next chapter I discuss some areas, mainly concerned with tradition and how the setting of the praxis might relate to it, how the practical difference between the permission and the respect conception of toleration might collapse in certain cases, how there might be other need more pressing than justification from time to time, just to name a few. This should be seen as a more elaborate view in relation to the many remarks already made by me in this section.

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[98] Forst, 2014b, p.536
[99] Forst, 2014b, p.538
[100] Forst, 2014b, p.539ff
[101] Forst, 2014b, p.571f

Chapter 4. Critique

"But enough about me, let's talk about you … how do you really feel about me?" is a New York joke that is wearing thin. Blandford, p. 43

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– Kenneth Goldsmith[102]

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This chapter is closely related to the previous, in that no clear distinction can be drawn between them. The outline above expands further here, while some remarks by me have already been made earlier. The chapters should not be read without the other.

4.1. Toleration and tradition

One of the few points of objection Forst recognizes, but almost immediately discards is founded on the notion that a liberal democratic nation-state cannot only be founded upon abstracts principles such as a theory of reciprocal justification. Forst phrases the objection in the following manner:

> Liberal-democratic states need "inner regulatory forces of liberty" that secure its "homogeneity," as legal theorist and former Constitutional Court Judge Böckenförde says – a concrete form of *Sittlichkeit*, to use Hegel's term. Böckenförde concludes with the important remark that "the liberal, secularized state is nourished by presuppositions that it cannot itself guarantee." And he raises the question of "whether the secularized, temporal state must not also, in the final analysis, live by the inner impulses and bonding forces imparted by the religious faith of its citizens."[103]

Moving this thought forward, the homogeneity of the nation state would need to regulate opposing perspectives of toleration, since they would otherwise challenge the foundation upon which it is founded. Draining the moral substance of the majority would thus, through a

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[102] Goldsmith, 2015, p.2293

[103] Forst, 2004, p.320. The exact point Böckenförde refers to here is of some interest in the grand scheme Forst makes, but of less importance to this thesis.

dialectic perspective of toleration, result in the very opposite – intolerance. One way to reduce this possibility is to enforce the concept of the permission conception – one Forst does not favor. Even when enforcing the respect conception, a similar problem arises, since if the above objection is true – the foundational principles would still lie outside the abstract principles. Even though he does not state this clearly, the underpinnings of democratic bureaucracy would still favor legislative action that could include prejudices against minorities – even more so when they deviate from the majority regarding ethnicity and religion. So, Forst acknowledges that a special civic virtue must exist for a liberal nation-state to exist, where the mutual respect grows not from one-sided nourishing aimed towards only the majority of a population. Instead, these virtues must emerge reciprocally. Forst here sees the danger that the ones who understand themselves to be of the *right kind* of ethnic-cultural identity might not trust others – especially minorities. Therefor the underlying understanding of justice for all – based solely on the conception that one is human – is what is needed. There might be inner tensions and troubles, but in essence, the lessons need to be learned and implemented into the identity of every citizen according to Forst. This is of course also a part of a special historical and cultural setting, not freestanding from certain particularities. My objection here is less regarded as the ambitious prospect Forst presents, but with the transition towards it in relation to historical and cultural conflicts. Making the case that the above is desirable, and some groups – but perhaps not all at the same time – understands this and would like to implement this virtuous behavior as a form of "democratic *Sittlichkeit*"[104]; how is the negotiation to take place? If it is implemented from above, would it still not be a form of permission conception, since there are no mutual affection present? To my understanding, this would in practice collapse the permission conception as well as the respect conception since they would in practice be the same – even though the latter might form the majority internally believe themselves to have a higher justificatory essence present. In this case, the majority would still only between themselves negotiate the terms of tolerance in relation to *the others* – still a form of the permission conception. When factoring in the idea of the "democratic *Sittlichkeit*", this does not make a difference in practice either, since the majority effectively still is the ones producing the space in which other groups are allowed to express themselves. The sittlichkeit present is still the constituting basis from which the idea of toleration can emerge, without the right form of majority values present no toleration – permission or respect conception – would be possible at all. In a case in which the majority would not want to support further increases or variances in a concept of toleration, whey would

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[104] Forst, 2004, p.321

simply vote against it, or even in extreme cases revolt against it. This must not per se take the form of physical violence – although that is sadly, of course, a possibility – but examples can also range from how bureaucrats selectively or arbitrarily would enforce policies in place. To reduce the risk of the latter, a strong self-regulating force would have to be presently made through strong institutions – something Forst also seems strive for, even for the same reasons as stated by me above – although expressed from other perspectives but with the same conclusion.

Another important note is that Forst perceives the state at hand to sometimes not be as repressive as possible regarding how to outlaw certain groups and/or practices, even when deemed negative and to be part of the discursive space which should not be present in public debate. The example he makes regards mainly right-wing extremism, but in thought do also include other forms of unwished groups. Here he defends the notion that out of pragmatic principles, the best case might be to leave groups alone, even when – as said above – they should not be tolerated. In practice, here he makes a move not clearly declared, since many of these groups do not fall within the space of toleration, but instead outside it since they simply cannot be tolerated due to their inherent intolerant stance themselves. One aspect Forst always want to be outlawed right away is the use of physical violence,[105] a stance that, of course, is most reasonable. Anyway, if we move forward and still include them in the space of toleration, unwished for but not so that they should be directly outlawed, another important aspect presents itself: the pragmatic negotiation of public spheres and space. The civic virtue of toleration is something that always needs to be negotiated, and is something that will never "end", due to the dynamic nature of human life and interaction. This negotiation presents itself on all levels, from the individual life, through group identities, and into the state institutions. Once again, the question of sittlichkeit should be brought up, since Forst dismisses this need but at the same time wish to have it brought forward from below when the population, comprising of different groups, through mutual understanding produces tolerance as a civic virtue. To me, this seems far-fetched in opposition to the previous remark and does not answer any of my above objections.

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[105] Forst, 2004, p.321

4.2. Toleration and the intolerants' claims

One of the most elegant aspects of Forst's theory of toleration in relation to the limit of it can be found in the following paragraph:

> At this point one could object that this shows the "return of the repressed" within the respect conception, i.e., the return of the permission conception we thought we had overcome. For it seems that in the case just discussed the tolerant allow the intolerable to enjoy certain liberties that the permission-giving authority can arbitrarily revoke, which is exactly what the permission conception implies. In a sense this is true: those groups are tolerated to a certain degree because the costs of interference are too high, under the condition that they do not trespass certain limits. But the important difference between this and the classic permission conception is the role played by the principle of justice based upon the criterion of reciprocity; hence those who complain about unfair treatment will not be able to reject this principle as arbitrary because they will have to appeal to it themselves. They would find themselves in the paradoxical situation of rejecting a principle they at the same time invoke.[106]

Elegant indeed, but also provides ample space for conflicts when practiced. The first part is of less importance here since it has already been discussed, the latter part is what should be in focus here. It is true that this criterion when invoked marks the invoking entity or group as susceptible to what Forst describes above as the paradox for the group. One aspect that I believe Forst has foreseen here is, no matter how elegant this principle is presented, it misses the practical aspects of it in relation to the difference between permission and respect conception. My main objection to this has already been presented above, so no need to repeat myself. Another aspect one might want to consider here is if a group wishes to be tolerated (or really, just present in the public discourse with their ideology overtly practiced) is if they are indeed allowed to practice, they might still try to invoke their view of how the public negotiated discourse should be seen – or really, it would be rather strange if they *did not*, since that is what all groups do.[107] This might skew the practice of the public discourse in favor to them, which,

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[106] Forst, 2004, p.322

[107] I should make a short remark here regarding my view of communication in general, and speech acts in particular. To my understanding, all speech acts have a prescriptive function in that what is said is related to intentions of the speaker. Not only the act itself but also the setting and modality of it is of importance in that it, through the concept of social construction (please see Berger & Luckmann, 1991 for an introduction) shapes the very reality we are part of. This also relates as much to what is said, as well what is *not* said, since omissions also shape what is deemed acceptable (please see Foucault, 1978 for examples of what is not always said still can be present discursively).

of course, will see reactions from other groups, but still – if the practice of the intolerant was to be abolished this remains the case. Forst is also very aware that toleration remains an ambivalent concept, and indeed it will, through the negotiation of power – but that cannot be separated from the practices of groups in conjunction with each other. When given the ability to practice what should not be tolerated, there is an inherent risk according to me that they will not practice the principle of reciprocity since the ideology (or equivalent meaning system in place) is itself skewed from what the majority or other groups find reasonable. There might thus be well-grounded reason to believe this will continue. I see no easy way out of this, just as Forst does not either, but one should take this into account when making public discourse available to intolerant groups.

4.3. Pressing needs and material goods

Forst presents his theory of toleration through the means of justification first, where the overarching goal is justice, which will then, in essence, produce a fair society.[108] This perspective is theory driven, insofar that the above sequential procedure is intact. For the most part, in a setting – which Forst is also clear of, is a liberal multicultural state – could be an apt way of moving forward. My objection regards the premise of the argument, namely that the context is not already prepared for this move, namely in relation to socioeconomic factors where the current lived experiences might not be most concerned with the thought of justification. From time to time, there might be the need to invert the perspective, instead of making the theory-driven procedure take another turn – which in a sense is also theory-driven but deviates from the perspective of justification first – instead attributing the distribution of both immaterial claims as well as basic goods. The latter should precede the former since justification can hardly be eaten. Making a historical materialism present, to "just" distribute goods more equal might produce a better setting to then be able to negotiate regarding justice and toleration.[109] To my understanding this is a component Forst could have emphasized more since even in the type of state he thinks of (and to some extent mention, like Germany), not all inhabitants have the basic material goods standard provided for them.[110] Materialism first might, at least in some cases,

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[108] Forst, 2014b, p.536ff

[109] An empirical example from the US is the concept of *Housing First*, see Larimer, M. E., Malone, D. K. & Garner, M. D. et al. (2009).

[110] This perspective relates to the *Capabilities Approach* discussed by Martha Nussbaum, but is too vast to present here, see Nussbaum, 2000.

provide a better foundation for toleration than justification. I understand this can be seen as part of Forst's *permission conception*, in that it is distributed from above, but am willing to adhere to it anyway. In a sense this perspective, how dire it may sound, is also related to the subjugation of certain individuals or groups, where the ability to speak is not only limited but impossible. I believe Forst understand this as a pre-justification principle problem, but in reality, the ambivalence of toleration and justice cannot produce any quick fixes regarding this topic – that would indeed be a naïve position. Thus, the permission conception, when applied to certain material needs, can indeed precede the respect conception in producing a less unjust context, even though it stems from an "above" perspective where the formation from "below" is unfortunately limited. Not making a claim that this is a definite answer in all cases, rather that severe subjugation and depravation have a limiting factor on the ability to speak for oneself, most notably exemplified by Gayatri Chakraborty Spivak in the essay *Can the Subaltern Speak?*[111] Since, as already stated, one cannot eat justification.

4.4. Spontaneity and toleration

One aspect that I would like to emphasize, in relation to the virtue aspect of toleration as an ambivalent concept, is the need for spontaneity in the mediating process which creates it. Returning to Gadamer and the hermeneutic process, there are aspects that might not at first be thought of as part of toleration, but which nevertheless can provide new perspectives. The hermeneutic process described in the theoretical chapter can be applied to how one can approach toleration in an open-ended manner. Just as Forst writes, one is situated in a certain context from which one can only view the world, and the reflexive component is there which in a way combines some structural thinking regarding production not only of knowledge but other forms of insights as well.[112] The hermeneutical method can be thought of as a structured way of performing reflexiveness, being modeled from an open-ended perspective but also entail the component of spontaneity. Toleration as virtue, whether aided by certain process models, such as Forst suggest, or thought of in a more discursive way, can be increased in scope since the mind is open to the spontaneous event. Engaging in practices with other whom one may not at first wish to tolerate, but actively listen, might open the interpretation along lines not apparent at first. Structured thinking not closed off in relation to certain models or schemas might serve

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[111] Spivak, 1988

[112] I will not go into a lengthy discussion regarding epistemology, but I believe that there is more than one form of "knowledge" and other insights which one can adhere to, for example, beliefs.

a greater purpose in relation to a just sense, produced through theory in relation to the context in which one is situated. The theory proposed by Forst can serve as one method in relation to this, but the sense of justice – just as he himself writes – must be the overarching goal where toleration is mere a component. The modality of the ambivalence cannot be reduced to only procedural understandings, it must progress through the institutions of a democratic society, but the proposed grounds for them cannot be realized under any circumstances (hence the discussion of sittlichkeit above). The rationality, as discussed of what constitutes the domain of toleration earlier, of ambivalence cannot be encompassed in its totality, instead, discursive practices from different subject positions must impose a self-reflexiveness.

4.5. Toleration and exclusion

One aspect where the concept of generally and reciprocally justifiable principles need further negotiation, is in relation to citizenship and whom as the right to be included since the construction of inclusion can serve a severely limiting function towards others. In a state where the respect conception of toleration is present, all might seem well upon the first gaze, but it might obstruct the view of whom get to participate in the dialectic relationship. The concept of toleration does not per se include all parties in an equal manner, even though that is what Forst tries to move away from. Since institutions are functioning only according to the practices of the civil servants, there is still the need for a larger discussion of virtue being needed. Democratic institutions are in a sense part of the sittlichkeit present (see the earlier discussion for an elaborate view), making, for example, a bad presence possible in relation to statelessness. This must be attributed in such a way that for example citizenship cannot, at least in many cases, be a sole reason of omission. The reciprocity principle must not only be modeled but rather practiced, through certain democratic principles and institutions, in such a way that force and prejudice to the least possible extent can be grounds for rejection. The nation-state alone cannot serve this function since no state can produce enough space for all-inclusive inclusion. Instead, this must be accompanied by a global theory of solidarity, where the participants of a certain system can entail individuals and groups of wide demographics. One demographic easily marginalized may be Roma people living in other countries, Sweden for example, which from an exclusion of citizenship might not be part of the discourse of toleration since they often lack the structures to be visible in the public debate. In a case where toleration is mediated through the understanding that one is an "illegal" habitant, no difference in practice from the different conceptions above is of help. Self-reflexiveness and the just sense of virtue is an

attractive foundation here since it can aid in the production of broadening the discourse of whom can constitute a subject in the domain of toleration.

4.6. Toleration and multi-level coercion

Forst mainly constructs his theory around group identities and the inclusion in a multicultural society. Further aspects should indeed be considered so this view does not obscure certain power relations, making the theory presented above just another tool in the same manner as current views of toleration often present. In the case of idealized group identities, intergroup relations might be reasonable easy to deconstruct with the process by Forst but can create rather challenging oppositions when applying a more diversified understanding of identity and how it relates to various forms of relational processes in the context at hand. Identity, and even more so in a multicultural society with large amounts of possible markers, the construction of identity is a constant practice through various dialectic processes – some conscious and most likely even more unconscious ones.[113] Understanding the setting of the multicultural states not in homogenous terms, but more as part of a fragmented modernity consisting of differentiated patterns and relations, no stable certainty regarding identity creation can be perceived to be present.[114] In reality, this relates to complex identity schematics, where the latter is of utter importance since the cognitive typology is not simplistic but rather processed through an array of functions, where the outcome is in constant flux regarding certain levels. From an outside perspective, they might seem stable, but that is a false perception since the inner logic of identity – as all human activity – is mediated through a dialectic process. This understanding is important in relation to how Forst presents certain groups to be able to deviate from the "general" schematics of reciprocal justification, which to an extent opens for the understanding that groups create their identity in a vacuum.[115] I do not believe Forst believes this, but the position should still be discussed since this presents the process of inter-group identity logic in

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[113] Even if it not presented in this way, Paetzold (2008) seems to lean toward this understanding as well in relation to this critique of Forst.

[114] A short remark regarding *modernity* and fragmentation should be made here. Modernity should not be perceived as merely one processes equal to "progress" as presented and brought forward by "The West", but rather as an aggregated modality of aspects producing different modes of thought in relation to certain materialistic advancements and dispositions. This is crucial in the present, often not well thought of enough, perception creates a false consciousness that *modernity* produces only one type of internal relations and patterns. There are certain processes that seem prevalent – like economy and homogenization through mass culture (exemplified by Adorno & Horkeimer, 1944) – but the implementation varies, thus it is more fruitful to think of *multiple modernities* (Eisenstadt, 2002).

[115] Forst, 2014b, p.525ff

a simplistic way. Here, the power of domination by certain modes of thought, especially when present in at a hegemonic status, the position to freely creates one's identity is severely limited, while the infusion of more moral practices might make it less so. Justification might work as one tool, especially on group levels, but needs other aspects when between levels; for example, inter- vs. intra-group variations. With complex identities, often present in multicultural societies, conformity regarding certain processes is present, while the mixture creates the possibility of a wider variety. Thus, the perspective of groups is not to be fruitful, whether they are labeled in an ethnic, religious or, as Forst suggests, ethical system manner. The deviance of the *group* might from time to time not coincide with the purposeful wishes of the individuals comprising it, and how are those situations to be negotiated?

Making double (or even further) exclusions depending on the situation and complex identity at hand creates all sort of situations not solved by mechanistic forms of processes. Instead, this necessitates the return of negotiated virtue ethics in a mode of justice but that transcends the understandings of the political and moral domain in relation to groups. As Seyla Benhabib has written on the matter, discourse ethics provide the need of how group inclusion and exclusion is mediated in that one can both enter and leave groups freely.[116] This is a to a lengthy discussion to elaborate to the full extent, but points towards understandings of importance, mainly a stratified view of political subjects. In relation to this, the stratified view must be pursued further, to make clear the power dynamics both within a group and to the outside, where several components can be present, where different attributes relate to both a position of power and a subjugated position at the same time. These complex cases must be mediated from a different perspective.[117] The risk, as proposed, creates an illusion of group identities as the foundation for justice, while this – no matter how noble the goal – obscures the vision regarding individuals in an already subjugated group, thus making them (at least) twofold subjugated. The "group" can never serve as a reasonable moat for personal justice, but can at the same time, not me ignored in relation to the concurrent value of tradition in relation to the proponed meaning system created and the ones that adhere to it. This complexity, of stratified power positions and identities founded upon more than one signified entity, serve to illustrate the need for open-ended negotiation – but where justification as the sole principle is not enough for justice and toleration.

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[116] Benhabib, 1992 & 2004

[117] One example could be a man from a patriarchal family, in which he has a position of power, but in relation to society he might be part of a marginalized religious group, essentially both holding power and not at once.

4.7. Toleration, religion, and bodily integrity

One aspect Forst draws a line towards is the use of physical violence, which can never be tolerated,[118] but makes no distinction of what he understands as physical violence. An intuitive understanding might be sufficient in most cases, but in relation to religion and bodily integrity, the cases become more complex. If one thinks of physical violence as opposed to discursive violence, the former can easily be expanded to include cases of bodily "corrections",[119] in relation to religion often exemplified by male circumcision of Jewish babies, and in relation to cultural practices (most notably areas in Africa and some parts of the Middle East) female genital mutilation.[120] In relation to Forst's understanding of not categorizing groups in relation to religious or ethnic cultures, but rather ethical systems, the difference between the two examples just given conflates and both can be thought of as part of an ethical system. Most might intuitively want to abolish the latter but not the former practice, since the implication for the individual receiving the correction suffers more severely. But if physical violence is thought of negating the bodily integrity of an individual, both cases cannot be tolerated according to the logic proponed by Forst. This serves an interesting example since the practice in the type of multicultural state elaborated on is almost always performed by minorities already in a marginalized position, but the child receiving the correction is, of course, subjugated internally since children in practice seldom have any rights at all. But this case should not be conceived in the same manner as other forms of minority marginalization where the notion of universal rules serves in practice only to limit certain groups – as Forst thinks of the permission conception. One such example is the abolition of religious clothing in the public sphere (as in France), where the universal rule of not wearing said clothing only in practice is aimed towards minorities, most notably Muslims and to some extent Jews. Here the conception hides the position of power in the way that universalizing only serves a particular purpose; domination of minorities. If at the same time the need for bodily integrity should be preserved, then the earlier practices should be abolished or outlawed, but from a mediating strand of discourse

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[118] Forst, 2004, p.321

[119] This term, as well as other ones in relation to this, is a highly dichotomized area, and the reasoning behind why certain practices should be named differently in relation to the meaning of modality is one I am fully aware of. Here the terms should be understood in an agnostic way, neither positive or negative regarding the subject at hand.

[120] An example less thought of, but nonetheless relevant here is the "correction" of inter-sex babies who deviate from the normative understanding of gender binaries (male/female). The same practice can thus be said to be more prevalent in The West than most think of. As always it is easy to point towards others but hide one owns bias from theories of oppression, thus showing once again a greater need for self-reflexion.

ethics, the outcome should nevertheless not be perceived as given, but rather an outcome of a negotiation. In the case of children though, there is no possibility of speaking for oneself (relating to the position of Spivak presented earlier), so still guardianship – usually in the form om parents – must take upon this. But then there can be no "free choice" since one cannot speak for the self, always making this the case for the permission conception where justification cannot be reciprocal since the power from above (parent or guardian) is needed for the children to survive. Justification can in that system never function in a reciprocal sense, but rather only to further position the dominant in relation to one's own precedence – no matter how one wishes to escape to position of domination the relations of power must be present (a view shared by Brown for example).[121] This serves to show that, as in other examples above, the difference between the permission conception and the respect conception collapses into the former, thus again obscuring the view of domination from the position of power through the very understanding of the concept, epistemology thus trumps the inter-woven logic of the self, wishing not to dominate, but where one cannot escape it, instead making the mistake one wishes to elude by once again – in relation to the best intentions – weaponizing ideology and construe the meaning of justice in a mode of domination.

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[121] Forst & Brown, 2014

Chapter 5. Discussion

Resolute refusal of the concept of "timeless truth" is in order. Nevertheless, truth is not—as Marxism would have it—a merely contingent function of knowing, but is bound to a nucleus of time lying hidden within the knower and the known alike. This is so true that the eternal, in any case, is far more the ruffle on a dress than some idea.   [N3,2]

– Walter Benjamin[122]

5.1. The future of toleration

In relation to the theory of toleration by Forst, one can easily see that the future of toleration is in a state of flux, no way near the respect conception he proposes. In a multicultural democratic society, toleration will be a negotiated and ongoing process and, as with other concepts of power, submerged in a discourse of domination and non-egalitarian practices. The self-reflexion component of toleration, well in line with the understanding of critical theory, should be one of the best insights in the future advancement of a theory of toleration that wishes to free itself from current unjust modes of thought. The challenges are many since power and negotiation are never settled, so stratified views are needed since the foundation of justice cannot be attributed to only group identities; instead one must look towards intersectional perspectives which can produce an even fairer theory than the one at hand. Another important topic to remember is what *should*, and more importantly what *should not* constitute the domain of toleration. Just as with the permission conception, the collapsed view of this and the respect conception but still obscure modes of dominance and subjugation, even when applied through the practice of justification – therefor not in practice per se produce justice for the oppressed. Easy to go blind, when looking upon the self, the domain of toleration might have to be inverted, instead focusing not on why people are *not* tolerant, but perhaps even more so why prejudice, racism and discrimination seem to be so widespread and stable on the vast scale in which we find it. This related to the understanding of toleration as a form of insult, which is part of the

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[122] Benjamin, 2002, p.463

very notion itself. As some have suggested, Jacques Derrida for example, that toleration should not be the focus but instead a radical hospitality.[123] This does not solve the problem regarding limits of toleration, but points towards the inability of toleration to actually welcome "the stranger", which should be perceived of as a positive trait in relation to virtue ethics. Moving forward, the need for toleration, even when disliked, will serve a special function in the future, and in the absence of a widely implemented self-reflexive theory of justice, it should still be regarded in high fashion.

5.2. Self-reflexion and theory

In relation to the hermeneutic methodology and method adopted from Gadamer, some short remarks regarding the outcome of the practice thereof seem feasible. Grounding the choice of methodology mainly in relation to the understanding of the production of knowledge, the critical aspects of said theory choice makes pressing the need for remarks as well. In relation to the production of knowledge, I stand firm in my belief that the method at hand was of great importance when reading and re-reading Forst and adjacent literature. The process is of open-ended character, which relates to the next sub-chapter, also in relation to the demarcations and time constraints. The internal relations of hermeneutics and critical theory has a long history, and no surprises have presented themselves. Instead the combination and logic of these proved fruitful, even when most of the production is not provided in writing but rather perceived in the internalization of the writer/reader. This creates a double position, also ambivalent in that the mediating of knowledge, from reading via the writer/reader as perceived through theory, is structured in the "new" way as presented in this thesis. This dialectic process resembles Hegel's dialectic,[124] where the negated negation and former subject at hand are encompassed in the whole; said product. Moving forward to the hermeneutics by Gadamer in relation to critique, the theory was only of moderate aid, which from the start was not intended for more, but anyway, should be thought of. The concept of spontaneity is one of the concepts that played an increasing role, especially since the virtuous character partly ascribed to Forst has some close connections in relation to this notion. Virtue and discourse ethics, the modality of said concepts should be perceived in just that, the modality, and not in a mechanistic fashion since the

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[123] Kakoliris, 2015 & Westmoreland, 2008

[124] Hegel, 2009, p.52ff. A more substantial discussion is not possible in this thesis, but the relational aspects contained within this concept (*Negation*, or later often described as *thesis*, *antithesis*, and *synthesis*) should be acknowledged in relation to the tradition of critical theory.

mediating function of the entities cannot in themselves be reduced to static logic. Instead, the strength of those are that they tranced a mechanistic view of the moral domain.[125] This opened for the critique to be of a broader kind since the constraints of the theory were limited. In line with both the hermeneutic methodology and the tradition of critical theory, the future remains open-ended in relation to both production of knowledge and production of theory, but granting the use of both in relation to themselves – further stressing the self-reflexive character thereof – can yield better concepts in due time. The ambivalence, and spontaneity, propels this further.

5.3. The research question revisited

Returning to the research question of this thesis: *What are the possibilities and limits of Forst's theory of toleration when applied to a democratic political community?* yield some further insights regarding the outcome produced. In short, the answer to this question cannot be summarized in just one or a few sentences, neither is this the aim in relation to the theoretical framework applied. Instead, one should approach it from a broader angle, viewing it as not simply as a question, instead, a discursive practice domain where the complexity of answering it transcends the question itself. As seen mainly in Chapter 3. and Chapter 4., there are both possibilities and limits, where the former regard the use of the theory in relation to the justification principle and while the latter presupposes a wider spectrum of areas since that principle alone is not the *only* guiding principle providing foundation for a just political theory which encompasses a theory of toleration within it. If applied, as already written, the complications of Forst's theory, unfortunately, can collapse some of the distinctions he makes, thus remaining open for the type of unjust practices he wishes to deviate from. This is a highly complex topic, which in relation to the theoretical framework of critical theory must remain open-ended, nevertheless constantly be improved upon. The aim of this thesis is not to provide an extensive theory of political theory and toleration, but as lightly schematized it should show in which direction it should be heading. This provides the further need for studies in this highly important area, something to indeed revisit itself.

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[125] I am more than well aware that there are negative aspects in these concepts as well, but that falls outside the limit of this section.

5.4. Future research

The venues for exploring toleration in relation to politics and justice are many, including some already touched upon earlier in this thesis. The field should be improved further by directing resources that can grasp the implications of theory not only on one level but to seek new domains and more importantly; combine them. As should be clear by now, my understanding of a sound theory of toleration should be part of a larger theory in relation to the virtue of justice. Being an ambivalent concept, the need for the self-reflexive component to play a crucial role cannot be underestimated, and theory should be the praxis where they converge. Investigating the relational aspects of power dynamics in relation to toleration as part of a theory production would be of great interest. From the current position, the normative theory needs to combine the stratified views of the need for justice and toleration in relation to multiple spheres. Thus, justification, in the sense Forst explores it, can serve as *one* component, but not the sole foundation.[126] Further, the theory needs to be susceptible to language in relation to how the construction of notions is mediated in relation to the power dynamics produces that one cannot escape. Here the modality of the normative virtue ethics meets a need for justice that is built upon egalitarian principles, in that it can produce actionable resources for implementation. Relating this to the intersection of theory and practice, for example where language, perception, and the physical manifestations are joined. The combination thereof must be present since the abstract theory in itself must meet the demands of the worldly need for change. This is not the same as the conception brought forward by Walzer,[127] even though it shares some conceptual modalities in relation to virtue. The normative outlook should thus spearhead further than perception at first equates since the self-reflexiveness otherwise might not serve the purpose needed for introspection. Here, the hermeneutics derived from Gadamer can serve a mediating function since it makes aware not only the production of knowledge itself but how the repetitive process of dialectics must be part of this relational practice. In essence, the need for a stratified theory of justice, where toleration is part of it, in the domains of discursive virtue ethics – mediated through a hermeneutics theory, in the mode of self-reflexion from critical theory – is what I would like to explore further.

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[126] One perspective that can replace the justification principle is, for example, a discussion in relation to the concept of *human dignity*.

[127] Walzer, 1997

5.5. Concluding remarks

Researching and writing are a joyous practice and in relation to pressing topics of great social and political impact – even more so. The writing of Forst in this area should not be underestimated, and even though our perspectives deviate from time to time, the function reciprocity and mutual understandings are some of the most interesting components to relate to further on. The debate, in the classical discursive mode, in which one can engage is what drives theory forward, and also reflexes back toward the author, where – as seen – the praxis of hermeneutics can produce knowledge not earlier seen. The need for toleration, as stated, will remain a pressing one, no matter how ambivalent it thus needs to be. Coexistence and to refrain from violence should be the priority since the opposite can never be part of the domain of toleration, ambivalent or not. I would like to end this thesis with a line from Forst, which captures the present and future need for constant reflexive criticism of the concept of toleration, in a sense no-one can escape if the matter is taken seriously and not to be part only of another hegemonic practice of domination: "The concept of toleration always was and still is an ambivalent concept."[128]

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[128] Forst, 2004, p.322

Summary

This master's thesis provides a critical inquiry into Rainer Forst's theory of toleration, including a descriptive section and a normative critical stance of said theory. Being placed in the tradition of critical theory, the same school of thought as Forst, also applied as the theoretical framework and using a hermeneutics methodology when approaching the material, the aim is to provide a close reading of Forst's texts. The hermeneutics method is based on Hans-Georg Gadamer's theory, including a situated understanding of knowledge production including an element of spontaneity. The research question of the thesis is *What are the possibilities and limits of Forst's theory of toleration when applied to a democratic political community?* The material used comprises several of Forst's text on the subject of toleration, as well as adjacent political theories.

The descriptive section of Forst's theory of toleration includes an array of sections. Forst starts his outlook in what he believes is the current mode of toleration, named the *permission conception*, where a majority grants a minority certain right to a limit. He instead proposes the *respect conception*, where there are mutual understandings and not a top-down perspective but a reciprocal one. What constitutes the domain of toleration comprises of what is deemed negative, but not negative enough to be outlawed. Toleration thus always include an element of dislike. The foundation of toleration according to Forst's theory is a principle of justification as the foundation, mainly derived from his political theory of justification, practiced in a reciprocal and universal manner of the participants in a system combined with a reflexive component. All participants have to justify their claims in relation to all affected, and no claim can be particular but rather abstracted as a universal principle; for example, hijabs cannot be outlawed but should instead be part of the abstract principle of the universal right to wear religious clothing or adornments. One aspect which is often not touched upon, but to an extent explored in this thesis, is the virtuous character of said theory, in a way deviating from the mechanistic foundation usually presented as the core. This broadens the scope of the theory but also weakens it in a sense, since the elegancy of the "simple" mechanistic character is lost. The presentation also includes how Forst relates his theory to politics and various cases where it can be applied and in what contexts it can be of use. Forst also makes clear that toleration is an ambivalent concept, and will so remain in the future.

The critique includes components of toleration in relation to the need of tradition, where it is suggested by Forst that the theory at hand should free itself from certain parts of social foundations – an impossible practice. Other sections include how the ambivalence of the intolerants' claims should be understood, in relation to an intolerant logic seeking to gain influence. This critique collapses the practice of Forst's separations of the *permission conception* and the *respect conception*, in that it only serves to internally justify the claim of the dominant. Further, the virtuous character is elaborated, where the element of spontaneity from the hermeneutics theory of Gadamer is brought into use. The founding principle of toleration, according to Forst, is the principle of justification, a claim that might not always be the most important for groups or individuals, instead a direct distribution of material goods might provide better results in the given setting.

Other sections of the critique include the relation of toleration and whom can participate in the domain of it, even with the view Forst suggests but wishes to deviate from, the concept of toleration can skew the discourse in relation to whom get to be a political subject. Also, inter- and intra-group deviances regarding power and perspective are discussed, as well as toleration and religious minorities – mainly focused on bodily integrity exemplified by religious minorities in Europe. This stems from Forst's notion that violence and bodily harm can never be tolerated, but if put into practice could be expanded to limit for example circumcision on religious grounds.

The critique includes the suggestion that one should approach the question of toleration from a discursive virtue ethics position, combining elements of critical theory and hermeneutics in a certain mode of thought. This stance should be developed further during future research, combining a theory of toleration with a larger political theory since toleration is not a closed off venue. The discussion at the end of the thesis includes a section of the future of toleration and a self-reflexive discussion of theory in relation to the thesis, mainly relating the strength and weaknesses of hermeneutics in relation to the research question.

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