Introduction

In early 2014, a student named Daniel Harper started passing out flyers at Cameron University in Oklahoma. The flyers outlined Harper’s extensive and damning objections to a religious group active on campus, the World Mission Society. As an evangelical Christian, Harper felt he needed to inform fellow students that the WMS was a dangerous cult that used “mind control” techniques to brainwash members, and that WMS Bible study sessions offered a view of scripture that would “twist and bend” its meaning.¹

A publicly funded school, Cameron University had in place a speech code that barred “offensive” and “discriminatory” speech. Other students, offended by the flyers, filed a complaint; and university administrators eventually decided against Harper. The flyers, they wrote in their decision letter, had been “specifically created to denounce another person’s religious beliefs.” Public distribution of the flyers therefore constituted “discrimination based on religion,” in violation of the campus code. Harper was instructed to be “respectful” of other people’s religious beliefs. Refusal to do so threatened “the basic values of religious freedom [that] are provided to every citizen of our country,” along with the “educational mission” of the university. In short, Harper was being religiously intolerant, and his intolerance was not to be tolerated.

According to a 2016 report by the Foundation for Individual Rights in Education (FIRE), about half of America’s campuses maintain speech codes like Cameron University’s, policies FIRE characterizes as

“clearly and substantially prohibit[ing] protected speech.” The codes often contain vague terms such as “verbal abuse” or “discriminatory speech,” the prohibition of which is meant to foster an atmosphere of mutual respect and tolerance. Though enacted by administrations, they are often drafted at the behest of students, who are increasingly supportive of measures that allow for the banning of “extreme” speakers and offensive speech on campuses.

Thanks to recent high-profile incidents at Wesleyan, Yale, Northwestern, and Georgetown Law School, these codes are now receiving wide coverage in popular media. The resulting public debates touch on a range of thorny philosophical questions. What is “tolerance”? Under what conditions should we be tolerant? What does it mean to say someone doesn’t have the “right” to be intolerant? Answers to these questions tend to be poorly articulated, vague, and different from one discussion to the next. People have the legal right to say all manner of intolerant things, but the law, presumably, is not Donald Trump’s concern when says, “No leader, especially a religious leader, should have the right to question another man’s religion or faith.” If not the law, then what normative standard should advocates of tolerance and respect appeal to? Does the same standard apply on campuses and in public parks?

Normative standards can differ from legal standards, and it is the former, with regards to tolerance and intolerance, that will be the focus of this essay. The central question is not whether and under what circumstances citizens have a legal right to proselytize publicly or denounce other faiths. The United States Supreme Court’s unanimous decision in Cantwell v. Smith (1940)—which concerned the right of Jehovah’s Witnesses to proselytize using anti-Catholic material in a Roman Catholic neighborhood—set a precedent for protecting potentially incendiary religious claims in a public forum from charges of disturbing the peace. Nevertheless, just because an action is legally protected does not mean one ought to perform it (and vice versa).


3. 2015 data can be found in the Higher Education Research Institute’s report: http://www.heri.ucla.edu.
Most cases of everyday religious tolerance or intolerance fall into the category of legally permissible actions that may not be advisable—or conducive to the conditions of democratic order.

This essay argues that in order to answer questions about the advisability of tolerance, legal or otherwise, we must first be clearer about what tolerance means. Too often, tolerance is confused with such virtues as respect or kindness, which in turn makes it seem as though one cannot be intolerant without also being unkind and disrespectful. Against that position, I defend the counterintuitive claim that one can indeed be intolerant while also being kind and respectful—in fact, respect for others as rational persons who desire to hold true beliefs may, in certain circumstances, actually permit, indeed demand, intolerance.

I examine the implications of this alternative understanding of intolerance by focusing on religiously intolerant beliefs and language of the sort exemplified in Daniel Harper’s flyer—or in Thomas Jefferson’s judgment that the last book of the New Testament is “merely the ravings of a maniac, no more worthy, nor capable of explanation than the incoherences of our own nightly dreams.” That is, I focus on public speech meant to denounce certain (or all) religious beliefs. Of course there are significant differences between intolerance based on religion and intolerance based on race, gender, or sexual preference. Calling the World Mission Society a “dangerous cult” is not the same thing as saying that homosexuality is unnatural and ought to be illegal. It is entirely possible that speech asserting the former should be allowed on campuses while speech asserting the latter should not be. Such issues are beyond the scope of this essay, but it is my hope that the following examination of the practical and philosophical issues attending religious tolerance might inform debates about the appropriate limits of tolerance more generally.


5. On the other hand, one could also argue that religion “can be given and unchosen and in this respect it is similar to human characteristics such as ethnicity and gender.” Commission on Religion and Belief in British Public Life, *Living with Difference: Community, Diversity, and the Common Good* (Cambridge: The Woolf Institute, 2015), 14.

6. If, as Brian Leiter suggests, religious beliefs deserve no more or less tolerance than any other kind of belief, the arguments presented here should apply to other forms of intolerance as well. I have some reservations about the transferability of his argument...