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7-2021

### Toleration of Free Speech: Imposing Limits on Elected Officials

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**Toleration of Free Speech: Imposing Limits on Elected Officials in THE PALGRAVE HANDBOOK OF TOLERATION, (Mitja Sardoč, Ed.) (Forthcoming 2021)**

**Amos N. Guiora**

Abstract

Tolerance is a nuanced issue, inevitably raising concerns regarding tolerant of what and whom. There is a sense of subjective judgment in the tolerance-intolerance debate; the terminology reflects particular norms, mores, customs, and traditions. What one might perceive as a healthy and tolerable challenging of existing acceptable “ways,” another would not tolerate because of the very challenge it poses to society. That split between tolerance-intolerance applies to both speech and conduct. It reflects everyday tensions, challenges, and conflict. In examining the tolerance-intolerance debate in the speech context there are a number of assumptions integral to a robust, liberal democracy: the freedom of speech is given a wide swath, whereby courts broadly protect the freedom of speech guaranteed in constitutions and legislation. While the speech may make certain sectors of the population uncomfortable, may be perceived as offensive, courts are tolerant of such speech provided it does not morph-transition into the realm of incitement. National leaders have significant power when they speak. The scope of this chapter is limited to analyzing the extent to which national leaders’ speech should be tolerated. Donald Trump and Bibi Netanyahu both provide salient examples regarding the extent to which speech should be tolerated. Both Netanyahu and Trump have used social media to great effect. The way that social media facilitates the spread of misinformation plays must be taken into account when analyzing the importance of contemporary leaders’ speech. In addition, the level to which qualified immunity and the freedom of speech should apply to elected officials comes under question. This chapter analyzes the extent to which qualified immunity should apply and the level of tolerance that the speech of leaders should be afforded.