NOVAMIGRA NORMS AND VALUES IN THE EUROPEAN MIGRATION AND REFUGEE CRISIS

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NOVAMIGRA Bibliography

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2

Contents

3

Abstract

This bibliography, which is intended as a resource for public action as well as for further work in the NOVAMIGRA project, collects important references from philosophy as well as, to an extent, from other disciplines such as anthropology and law. These references concern (1) articulations of central normative concepts such as values, norms and (human) rights; (2) important approaches for conceiving of the relations between these concepts. We call these approaches the rights-/norms-based approach and the value-based approach and they also offer two distinct ways to reconstruct the EU's normative commitments. (3) The bibliography concludes with a section with references that specifically concern refugees.

4

1. Introduction

This bibliography has three sections. After this first, introductory section, **Section 2** concerns the ways in which values, norms, rights etc. are usually understood in philosophy (understandings that are relatively uncontroversial). This is a compact section enlarging the number of references with regard to values, norms, rights, human rights, and also European values given in the bibliographical section of the conceptual map (yet to be published publicly). The second section also includes a number of sources as to where prominent understandings in other disciplines may be found. Each (group of) references comes with a brief explanation.

Section 3 is the heart of this bibliography. It brings together literature on what could be called a value-based approach on the one hand and a rights- or norms-based approach on the other hand. These approaches are different ways of connecting basic notions such as values, rights, human rights etc., and it is this *connection* that ultimately matters; while the approaches are general approaches, it is particularly important that free-floating notions such as value, norm, right (let alone merely the word/term 'value', 'right', 'human right') also cannot give one enough normative orientation to help one in answering pressing questions, such as how the EU's normative commitments/self-understanding are best reconstructed. Therefore this bibliography focuses above all on the connection between basic concepts.

Briefly:[2] a *value-based* approach starts with values. The duties it articulates are about realizing and furthering values, and rights and norms too are regarded under the aspect of how much they contribute to this. A *rights-based* (or norms-based)[3] approach takes it that it is first of all rights (or norms) that are securely grounded, for example in human dignity. Rights (and often also norms) and duties immediately go together and what (talk of) values (is) are really about is best understood in terms of rights (or norms). Section 3 of the bibliography shows how these approaches are embedded in the philosophical literature and also, to an extent, how they are embedded in the literature in other academic disciplines: law, economics, sociology and cultural anthropology.

For each entry or group of entries, its **content** (its position/central question/angle) and often also explicitly its **place in the literature** (centrality, and its place and what views, among other ones, are opposed to it) are briefly addressed, and this is done somewhat more elaborately for the particularly central references. Some **evaluative remarks** concerning certain references and positions are also included. We start with rights- and norm-based approaches, which are arguably the most prominent in the philosophical literature.

Section 4, which is not the center of the current bibliography but is a prelude to the work to be done in especially work package 4, enlarges the list of references given in the conceptual map concerning the ethics of migration and in particular refugees.

5

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[2] A more elaborate discussion can be found at the beginning of Section 3 below.
[3] The difference between a norms- and rights-based approach will become clear in the introduction of Section 3.

2. Basic concepts

Principle, norm, maxim

-Konrad Ott (2006), Prinzip, Maxime, Norm, Regel, in Marcus Düwell, Christoph Hübenthal and Micha Werner (eds.), *Handbuch Ethik***, Stuttgart: Metzler.**
-Walter Lesch (2006), Norm, in Christoph Hübenthal and Jean-Pierre Wils (eds.), *Lexikon der Ethik***, Paderborn: Schöningh.**
-Christoph Hübenthal (2006), Maxime, in idem and Jean-Pierre Wils (eds.), *Lexikon der Ethik***, Paderborn: Schöningh.**
Three German encyclopedia articles on the notions of a principle and a norm. Also important is the notion of a maxim (principle/rule which one subjectively sees as underlying one's action, which can then be evaluated for, say, its moral acceptability).

-Jonathan Dancy (2004), *Ethics without Principles***, Oxford: Clarendon.**
Leading example of an approach to ethics in which general principles are taken to play no great role in determining what is good and what it is right to do.

-Cristina Bicchieri and Ryan Muldoon (2011), Social Norms, *Stanford Encyclopedia of Philosophy***. (online)**
On social norms (conceived as different than moral norms in the discussions in philosophical ethics).

-Steven Hetcher (2001), Norms, in Lawrence Becker and Charlotte Becker (eds.), *Encyclopedia of Ethics***, Abingdon: Routledge.**
On both social norms and norms as conceived of in moral theory.

-Hans Kelsen (1960), *Reine Rechtslehre***, 2nd. ed., study edition Tübingen: Mohr Siebeck, 2014.**
On legal norms.
-Maria Ossowska (1970), *Moral norms: An Attempt to Systematize***, Warsaw: State Scientific Publisher.**
A classic in Poland.

Right, human right

Right:
-Leif Wenar (2015), Rights, *Stanford Encyclopedia of Philosophy* **(online).**
Prominent encyclopedia article on philosophical conceptions of what a right is.

-William Edmundson (2012), *An Introduction to Rights***, Cambridge: Cambridge University Press, 2nd ed.**
-Tom Campbell (2006), *Rights: A Critical Introduction***, Abingdon: Routledge.**
Two introductions to rights, with a lot of attention for philosophical conceptualization.

6

-Henry Shue (1996), *Basic Rights***, Princeton: Princeton University Press. (2nd ed.)**
Prominent articulation of what a moral right is.

-Wesley Hohfeld (1919), *Fundamental Legal Conceptions* **(W. Cook ed.), New Haven: Yale University Press.**
A lawyer's classic articulation of features of rights and kinds of rights.

-Ronald Dworkin (1977), *Taking Rights Seriously***, Cambridge MA: Harvard University Press.**
Rights as distinguished from various other normative categories (rules, political objectives etc.).

Human right:
-Jack Donnelly (2006), *International Human Rights***, Boulder: Westview. (3rd ed.)**
Exemplary articulation of the traditional idea of a human right.

-Alan Gewirth (1996), *The Community of Rights***, Chicago: Chicago University Press.**
Strongly elaborated philosophical articulation of human rights.

-Charles Beitz (2009), *The Idea of Human Rights***, Oxford: Oxford University Press.**
Articulation of the traditional idea of a human right and of important alternative ideas.

-James Nickel (2007), *Making Sense of Human Rights***, Malden MA: Blackwell. (2nd. ed.)**
More practically oriented consideration about human rights and what they are.

-Henry Shue (1996), *Basic Rights***, Princeton: Princeton University Press. (2nd ed.)**
Articulation of a basic right, arguably an important subcategory of human rights.

Value

-Abraham Edel (2001), Theory of Value, in Lawrence Becker and Charlotte Becker (eds.), *Encyclopedia of Ethics***, Abingdon: Routledge.**

-Christian Krijnen (2006), Wert, in Marcus Düwell, Christoph Hübenthal and Micha Werner (eds.), *Handbuch Ethik***, Stuttgart: Metzler.**
Some encyclopedia articles on the notion and philosophical theory of value.

-William Frankena (1963), *Ethics***, Englewood Cliffs: Prentice-Hall.**
Classic introductory textbook in philosophical ethics, with important observations pertaining to values.

-James Griffin (1985), *Well-Being***, Oxford: Oxford University Press.**
Many philosophical considerations on the nature of value and different kinds of values.

-Heinrich Schnädelbach (1983), *Philosophie in Deutschland 1831-1933,* **Frankfurt a.M.: Suhrkamp.**
Includes many considerations with regard to values.

-Hans Joas (1999), *Die Entstehung der Werte***, Frankfurt a.M.: Suhrkamp.**
An influential work in Germany.

7

-Joseph Raz (2001) *Value, Respect, and Attachment*, **Cambridge: Cambridge University Press.**

-Joseph Raz (2003) *The Practice of Value*, **Oxford: Oxford University Press.**

In these two books, Raz presents an account of values that tries to reject value relativism and defend a form of value universalism while recognizing the social dependence of value and the way in which our attachments contribute to make something valuable for us.

-J.E. King and Michael McLure, History of the Concept of Value, Crawley: University of Western Australia (*working paper*)

On the conceptualization of value in **economics**.

-David Graeber (2001), *Toward An Anthropological Theory of Value*, **Basingstoke: Palgrave Macmillan.**

Anthropological thought about value.

-Ronald Inglehart (1989), *Culture Shift in Advanced Industrial Society*, **Princeton: Princeton University Press.**

Influential **sociological** work regarding values.

-Max Weber (1919), *Wissenschaft als Beruf*, **Berlin: Duncker & Humblot.**

An articulation of the notion of value by a classic author of **sociology.**

European values

The following texts are connected, at a more concrete level, both to fundamental notions such as values and norms and to the two approaches to be discussed below, the value-based and the rights-/norms-based approach (these are two approaches for reconstructing, among other things, the EU's normative commitments). The texts that follow are discussed at this point in the bibliography by way of parallel to where 'European values' are discussed in the conceptual map (yet to be publicly published).

-Sebastiano Maffettone (2009), The Legacy of the Enlightenment and the Exemplarity of the EU Model, *The Monist*, ***92***, **230-257.**

Puts human rights at the heart of Europe and defends the EU's institutional model (situated between cosmopolitanism and statism).

-Jürgen Habermas (2013), Demokratie oder Kapitalismus? In idem, *Im Sog der Technokratie: Kleine politische Schriften XII*, **Frankfurt a.M.: Suhrkamp.**

European integration as furthering a liberal and deliberative democratic ideal.

-Joseph Weiler (2003), *Un'Europa cristiana. Un saggio esplorativo.* **Milano: Rizzoli.**

A way of thinking of European identity, given cultural etc. diversity, which gives an important place to particular, specific cultural traits etc.

-Ian Manners (2002), Normative Power Europe: A Contradiction in Terms? *Journal of Common Market Studies*, *40*, 235-258.

The EU as a normative global actor, promoting (certain) human rights and values (e.g. opposition to the death penalty) on the global scene.

-Christof Mandry (2009), *Europa als Wertegemeinschaft: Eine theologisch-ethische Studie zum politischen Selbstverständnis der Europäischen Union*, **Baden-Baden: Nomos.**

A multifaceted investigation of the EU as a community of values.

Texts addressing both Europe and ethically relevant considerations more generally

These texts are more broadly drawn additions to the texts about European values mentioned above.

-Etienne Balibar (2006), *Nous, citoyens d'Europe : Les Frontières, l'Etat, le peuple*, **Paris: La Découverte.**

A critique of the failure of European institutions to build a post-national order, based on an interpretation of democracy and human rights as permanent principles of contestation, and mainly directed against the closure of national borders and exclusion of migrants.

-Luis Cabrera (2005), The Cosmopolitan Imperative: Global Justice through Accountable Integration, in Darrel Moellendorf and Gillian Brock (eds.), *Current Debates in Global Justice*, **Dordrecht: Springer.**

The EU as, in certain respects, a model of cosmopolitan justice.

-Dipesh Chakrabarty (2000), *Provincializing Europe: Postcolonial Thought and Historical Difference*, **Princeton: Princeton University Press.**

A founding text of postcolonial studies, offering a historical analysis of the European standards of modernity (disenchanted space, secular time, and sovereignty) and claiming for a decentering of Western intellectual categories.

-Jean Marc Ferry (2005), *Europe, la voie kantienne. Essai sur l'identité postnationale*, **Paris: Cerf.**

Indebted to Habermas, Ferry analyses the European integration as having as its legal foundations not only human rights but also rights of peoples rooted in diverse national cultures.

-Jürgen Habermas (2011), Wie demokratisch ist die EU? Die Krise der Europäischen Union im Licht einer Konstitutionalisierung des Völkerrechts, *Blätter für deutsche und internationale Politik*, *8*, 37–48.

Deliberative democracy is possible in the EU.

-Bruno Karsenti et Cyril Lemieux (2017), *Socialisme et sociologie*, **Paris: EHESS.**

A **sociological** account drawn from Emile Durkheim and Marcel Mauss, which, with an explicit eye to Europe, offers an intermediate way between nationalism and post-national order. It envisions cosmopolitanism as originating from the growing interdependence of democratic states and internal pluralization of their national communities.

-Will Kymlicka 'The European Experiment,' in idem, *Multicultural Odysseys. Navigating the New Politics of Identity*, **Oxford: Oxford University Press, 2007.**

On the importance of cultural identity even for liberal ideals.

9

-Justine Lacroix (2008), *La pensée française à l'épreuve de l'Europe***, Paris: Grasset.**
A typology of the different theoretical trends analyzing the European construction.

-Andrea Sangiovanni (2012), Solidarity in the European Union: Problems and Prospects, in Julie Dickson and Pavlos Eleftheriadis (eds.), *The Philosophical Foundations of European Union Law***, Oxford: Oxford University Press.**
An exploration of solidarity in the EU, offering perspectives to link it to various kind of justice and liberal theorizing.

-Dominique Schnapper (1992), L'Europe, marché ou volonté politique ? Point de vue d'un sociologue, *Commentaire***,** *60***, 829-835.**
Defends an account of integration grounded on national citizenship. Criticizes the current process of European construction for overvaluing economic exchanges and individualism at the expense of sharing of a common horizon and outside any political project.

10

3. The rights-/norms-based approach and the value-based approach

This is the bibliography's central section: what ultimately matters are not free-floating notions, such as values, norms, rights etc., but how they can be connected in coherent approaches. We will start with the rights- and norm-based approach, which is arguably dominant in the philosophical literature, and then turn to the value-based approach. It will be shown how these approaches are embedded in the philosophical literature as well as (more briefly) how they are embedded in some other academic disciplines, such as law, economics, sociology and cultural anthropology.

Let us briefly recapitulate what the two perspectives are about. In the introduction, we said that a **value-based approach** begins with values. The duties it articulates are about realizing and furthering values, and rights and norms too are regarded under the aspect of how much they contribute to this. A **rights-based (or norms-based) approach**, by contrast, considers that it is first of all rights (or norms) that are securely grounded, for example in human dignity. Rights and duties immediately go together and what (talk of) values (is) are really about is best understood in terms of rights (or norms).

The distinction between a value-based- and a rights-/norms-based approach offers –besides these approaches being general approaches– an important typology for understanding the EU's normative commitments/self-understanding; it offers two different ways of reconstructing the different notions involved in this self-understanding and the connection between these notions.

To understand why the literature discussed below can be ordered under a rights- or norm-based or under a value-based approach, the important thing to keep in mind is that a **value-based approach** has a **relatively straightforward thrust** to it: there is something that is regarded as good or valuable (be it a good life, of virtues and *eudaimonia* [happiness], as with Aristotle, or the attainment of pleasure or satisfaction of preferences, as with utilitarians); and society and the individual's conduct should then be about realizing (to some extent or maximally) these good or valuable things, about bringing them into existence.

Compared with this, a **rights- or norm-based approach** is arguably **less straightforward**. It starts from certain observations concerning human beings. These can have to, for example, with what human beings do (or don't do), or may (not) do, with what is owed to them, or with how they should regard themselves. For example, Hobbes assumes that humans seek security and what he calls 'commodious living', Locke thinks that freedom and equality is what should naturally be every human being's part, and Kant supposes that I have to regard myself as an acting being and that I have to so regard others as well. This is wide variety of observations and accordingly, **the accent can be on norms (norms-based), rights (rights-based)**, or some other kind of principle etc.; but we will not usually spell this out exactly below. Then the theorists concerned take, so to say, a step back from the observations that they regard as particularly relevant, and ask the questions they are interested in: if these observations hold (man seeks security and commodious living; man is naturally entitled to freedom and equality, etc.) then why and how should humans *live together*? Why and how should they accept *coercive power* over them (if at all)? How should they *act individually*?[4] To figure out the answers to such questions

11

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[4] Incidentally, to answer these questions includes figuring out what the 'should' means in the first place.

can require taking recourse to deductive reasoning, to thought experiments, to examining the coherence of different views, and to much else; but things are not simply or even primarily a matter of realizing (sufficiently of maximally) something which is taken to be good or valuable.

In short, a rights-/norms-based approach connects certain central observations about human beings (what they are like, what is owed to them, etc.) with certain normative questions that one is particularly interested in. In this model an especially central and fundamental place can be reserved for, among other things, what people have a claim to –**rights-based**– or to what they, or others, ought to do – **norms-based**.

Schematically:

Value-based approach:

(maximally) realizing value

is key to answering many normative questions

Rights-/norms-based approach:

central observations about human beings + questions regarded as central

→ thinking about how to answer these questions in light of these observations

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With this in the background, we will turn to the literature, philosophical and also to an extent from other disciplines.[5] Inasmuch as the right-/norms-based approach is, as observed above, arguably dominant in the philosophical literature, we will start with that approach.

Generally, the central problems, issues, insights and answers articulated in the approaches are best brought out by starting with the major figures who can be discussed under the approach in question. This makes, in the first instance, for an historical approach, which is, secondarily, further deepened by addressing some themes that come out as particularly central from this historical literature (such as freedom and democracy in the case of the rights-/norm-based approach, or motivation in the case of the value-based approach). But the idea is not that all the philosophical etc. literature about democracy takes a norms-/rights-based approach, or that all the philosophical etc. literature pertaining to motivation takes a value-based approach. As will be clearly indicated below one may, for example, discuss democracy from an outspokenly value-based approach.

12

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[5] Our claim is not, of course, that every single contribution to the literature can unambiguously and illuminatingly be assigned to one of the two approaches. It is only that an ordering of the literature along these approaches is in general possible and fruitful.

Also, it should be noted that values can figure in the rights-/norm-based approach (for example, one may call 'freedom of speech' or 'the right to food' values, and resort to rights and duties when it comes to articulating the content of these values), as well as the other way round: rights, norms etc. may figure in a value-based approach (for example, the right to freedom of speech may be regarded as an important value, and one can still continue to speak of it as a right). The two approaches, then, do not have an exclusive claim on the different concepts (and terms), and authors categorized under either approach will usually use the full range of concepts and terms. What the two approaches offer, are different ways of connecting the various concepts, ways which come with their own strengths and weaknesses.

Finally again, the most important thing to keep in mind when considering the approaches (and the single texts) below, is that they (contribute to) offer(ing) **ways of thinking about the normative commitments of the EU.**

3.1 Rights-/norms-based approach

Hobbes, Locke, Rousseau, and Kant

-Thomas Hobbes, *Leviathan* **(1651)**
Hobbes is arguably the founder of a rights-/norms-based approach (or in his case a more apt name could be: a 'non-value based' approach). He more particularly starts not from rights but from a hypothetical state of nature, that is to say, a situation without a government with coercive powers. About such a situation, he postulates that humans, who are roughly equal in strength, will all seek security and commodious living. If so, he argues, a 'war of all against all' will result and life will turn out to be 'nasty, brutish and short' (*Leviathan*, Ch. 13); on this basis he shows how coercive government is justified.

Hobbes is often regarded as the first central figure in the social contract tradition, where coercive government (or more generally, as with Rousseau, living together in society) is justified by what it delivers for citizens, which are postulated as having certain characteristics before coercive government is present. Hobbes's view was pessimistic about the hypothetical situation without coercive government and hence gives this government virtually unlimited powers (it just must not threaten security itself); this could be understood against the background of the English civil war (1642-1651). Later, authors in the social contract tradition (notably Locke and Rousseau) can be understood in part as reactions to Hobbes.

-John Locke, *Two Treatises of Government* **(1690)**
Locke takes a more favourable view than Hobbes of a situation without coercive government. People are by nature –or in fact his justification is theological, but that need not concern us– owed freedom, equality, and property (Locke has a very specific theory about property), and a situation without coercive government would not be as dismal as Hobbes thought; coercive government merely protects freedom and equality better. This means, however, that the bar it ought to meet will be higher. In particular, it should abide by people's natural rights. Historically, Locke can be understood as justifying certain limits to the King's power.

-Jean-Jacques Rousseau, *Du contrat social* **(1762)**
Rousseau can be understood as more of a general social critic, in particular of the great social inequalities of his day. For him, a justifiable social order elevates natural freedom (in the hypothetical state of nature, which according to him would not be all that bad) to civil and moral freedom: this is a societal situation where the interests of each member of society can coexist with those of all others. It is not just a balance of interests as an outcome of might; Rousseau emphatically agrees with Locke (against Hobbes) that might does not make right and arguably takes Locke a step further. Civil and moral freedom point to a common good which harmonically subsumes the good of each member of society; the term brotherhood would be appropriate here.

13

-Immanuel Kant, *Grundlegung zur Metaphysik der Sitten***, and Immanuel Kant,** *Kritik der prakti-*
schen Vernunft **(**about the moral law, **1785 and 1788),**
-Immanuel Kant, *Metaphysik der Sitten* **(**among other things about law, **1797)**
While Hobbes, Locke and Rousseau are central and classic authors of the rights- or norms-based tra-
dition, Kant is arguably *the* central author. Kant takes up many of the themes of Rousseau. Kant's
moral law expresses, as social laws ought according to him also to do, respect for each human being
as a being who can give laws to himself; it is Kant's starting point that I have to regard myself as well
as others in that way (one could speak here of human dignity). Starting from there, Kant sketches an
order (moral or legal) where all human beings and their freedom are respected. To this order we are
bound categorically, that is to say, irrespective of our specific aims in life.
[An example of a good contemporary secondary source about Kant is
Onora O'Neill (1989), *Constructions of Reason***, Cambridge: Cambridge University Press.**]

After Kant etc.: contemporary approaches

-Alan Gewirth (1978), *Reason and Morality***, Chicago: Chicago University Press.**
-Christine Korsgaard (1996), *The Sources of Normativity***, Cambridge: Cambridge University Press.**

-John Rawls (1971), *A Theory of Justice***, Cambridge MA: Harvard University Press.**
-John Rawls (1993), *Political liberalism***, New York: Columbia University Press.**
-Thomas Scanlon (1998), *What We Owe to Each Other***, Cambridge MA: Harvard University Press.**

The Kantian idea of respecting the freedom of all human beings equally is taken up by many contem-
porary authors. One kind of Kant-inspired perspective takes a strict starting point which is sometimes
called transcendental (for example Alan Gewirth: I have to regard myself as an acting being, and then
I will subsequently recognize that I need certain things in order to be able to act. A somewhat differ-
ent but also strict line of reasoning is found in, for example, Christine Korsgaard). Another kind of
Kant-inspired perspective –sometimes called coherentist– starts with ideas regarded as central in lib-
eral-democratic societies (notably, that people are regarded as free and equal) and tries to get to
principles of justice from there (as in John Rawls) or to general moral principles (compare for exam-
ple Thomas Scanlon).
One way in which a transcendental way of reasoning is vulnerable is that the steps in the argument
are frequently related as a chain, so that they all need to work; one way in which coherentist way of
reasoning is vulnerable is in that it often draws heavily on pre-given intuitions and thus, arguably,
ends up being only as good as these intuitions are.

14

Human rights

[Outspokenly value-based approaches to human rights are indicated with *]

-Alan Gewirth (1978), *Reason and Morality***, Chicago: Chicago University Press. (as already cited above)**
-John Rawls (1999), *The Law of Peoples***, Cambridge MA: Harvard University Press.**

Strikingly, what are arguably the most influential accounts of **human rights** in the contemporary philosophical literature (Gewirth's and Rawls's) stem directly from the present-day Kant-inspired literature. For Gewirth, human rights are rights to what one needs in order to be able to act – they are justified claims to secure protections of the things which one needs to be able to act. As such, human rights are rights that every human being has simply in virtue of being human. For Rawls, human rights (he works with a very small list) are the minimum requirements of political cooperation, requirements for protecting that everyone subject to political authority can, to a rather minimal extent, live their own lives in their own ways. Rawls understands human rights as the rights that have this political function. Without human rights, there is no system of social cooperation but rather a system of mere coercion – and starting with this, human rights can also be taken to have further political functions.

Freedom

[Outspokenly value-based approaches to human rights are indicated with *]

-Robert Nozick (1974), *Anarchy, State and Utopia***, New York: Basic Books.**
-Amartya Sen (1999),** *Development as Freedom, Oxford: Oxford University Press.**
-Martha Nussbaum (2000), *Women and Human Development: The Capabilities Approach***, Cambridge: Cambridge University Press.**
(*)-Philip Pettit (1997), *Republicanism***, Oxford: Oxford University Press.**
-Isaiah Berlin (1958), *Two Concepts of Liberty***, Oxford: Clarendon.**

Among contemporary liberal perspectives (that is to say, roughly, perspectives which derive from Locke, Rousseau and Kant and put freedom and equality and some form of neutrality of the government at the center of society) there are, importantly, various interpretations of **freedom** (and of much else as well of course). Freedom can, broadly in the line of Locke, be first of all connected to removing obstacles posed by others and to safeguarding property; I am free if others do not prevent me from acting as I want to and if my property is protected. Robert Nozick is a prominent contemporary proponent of such a view. Others, such as Rawls and Gewirth, endorse more expansive notions of freedom, which also emphasize the role of social institutions in providing goods that facilitate agency; Amartya Sen's and Martha Nussbaum's so-called 'capability approach' is another prominent example of a more expansive approach to freedom. Another distinctive perspective, of which Philip Pettit is the most prominent contemporary proponent, understands freedom as the norm that society ought to be structured in such a way that no one is subject to another's arbitrary interference (or, as Pettit says, everyone should be free from domination). Isaiah Berlin's text, finally, is a classic,

15

making a distinction between different forms of freedom (negative, freedom from obstacles, and positive, to do with the question who rules).

Democracy, citizenship
[Outspokenly value-based approaches to freedom are indicated with *]

-Jürgen Habermas (1981), *Theorie des kommunikativen Handelns, Band 2: Zur Kritik der funktionalistischen Vernunft*, Frankfurt a.M.: Suhrkamp.
-Jürgen Habermas (1994), Three Normative Models of Democracy, *Constellations*, *1*, 1-10.
-Jürgen Habermas (2013), Demokratie oder Kapitalismus? In idem, *Im Sog der Technokratie: Kleine politische Schriften XII*, Frankfurt a.M.: Suhrkamp.
-Hannah Arendt (1958), *The Human Condition*, Chicago: University of Chicago Press.

Another important strain in contemporary philosophical theorizing stemming from Locke, Rousseau and Kant emphasizes that free and equal citizens should **actually** engage in deliberation as free equals (where their freedom and equality is guaranteed by certain background conditions, such as constitutional rights). This line of thinking, most influentially developed by Jürgen Habermas, emphasizes a number of ideas which (along with majority decision) are particularly central to credible **democratic** ideals. Habermas also emphasizes the threats to free and equal dialogue, as posed by for example capitalist systems.
Pettit and Arendt too stress, each in their own way, the importance of citizens being actively engaged in the polity.

[for more on the rights- and norms-based approach, see Section 3.3 below]

3.2 The value-based approach

Utilitarianism

-**Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*. (1789)**
-**John Stuart Mill, *Utilitarianism* (1861)**
-**John Stuart Mill, *On Liberty* (1859)**
-**Henry Sidgwick, *The Methods of Ethics* (1874)**
-**Richard Brandt (1979), *A Theory of the Good and the Right*, Oxford: Clarendon Press.**
-**Peter Singer (1979), *Practical Ethics*, Cambridge: Cambridge University Press.**
-**Katarzyna de Lazari-Radek and Peter Singer (2014), *The Point of View of the Universe*, Oxford: Oxford University Press.**

In a first kind of value-based approach, the social order, as well as personal morality, is about realizing –to some extent or even maximally– pleasure (as with Bentham), utility understood in some more complex and qualitative way (as with Mill and Sidgwick), or preference satisfaction (as with Singer and Brandt); all these varieties go under the name of utilitarianism. Mill, for example, is very explicit that utilitarianism forms the basis of a social order where freedom and equality are central.

16

One problem to which this evidently and notoriously gives rise is whether this is not too contingent a basis for freedom and equality (and the associated neutrality of the government).

Bentham, Mill and Sidgwick are the classic authors of utilitarianism; Richard Brandt and Peter Singer are influential contemporary proponents. Singer's books show the application of his preference utilitarianism (that the right thing to do is to maximize preference fulfillment) to problems of personal morality as well as social problems.

Aristotle

-Aristotle, *Politics* (4ᵗʰ century B.C.)

Arguably a second kind of value-based approach can content-wise be traced back to Aristotle, although the term 'value' is not found with him, nor are a number of aspects of the concept. For Aristotle, a good city state is about making a good life –of *eudaimonia* and living in accordance with the virtues– possible, although not for everyone but only for citizens. This is clearly a premodern vision (pre-social contract, for example) and there is no idea of some form of state neutrality nor of every citizen being left free to follow their own vision of the good life, or of them being facilitated to some extent to do so.

Communitarian approaches

-Michael Walzer (1983), *Spheres of Justice*, Oxford: Blackwell.
-Michael Walzer (1994), *Thick and Thin*, Notre Dame: University of Notre Dame Press.
-Charles Taylor (1985), Atomism, in idem, *Philosophy and the Human Sciences: Philosophical Papers 2*, Cambridge: Cambridge University Press.
-Alisdair MacIntyre (1984), *After Virtue*, Notre-Dame: University of Notre Dame Press. (2nd ed.)

Aristotle's lead is followed to a certain extent by, among others, certain authors who have sometimes been called communitarians and have stressed the centrality of collective goods and the sense of belonging to a community. The most prominent are Michael Walzer, Charles Taylor and Alisdair MacIntyre. Walzer puts social goods at the center of what he thinks a society ought to look like; Taylor stresses that rights, for example, ultimately go back to finding certain things (such as people's capacities) valuable and that this implies a commitment to furthering these things in certain ways; and MacIntyre argues that social practices have their own intrinsic goods (which he opposes to extrinsic goods such as money and power, which can pervert the practices).

Communitarianism (addition)

Communitarian ways of thinking often also put a lot of emphasis on traditional values, solidarity and belonging. While communitarians sometimes emphasize the incompatibility between liberalism and community or tradition (a view which finds its clearest expression in the works of MacIntyre, Daniel Bell, and Jeffrey Stout), communitarians have sometimes stressed that a sense of community is instrumentally valuable for sustaining a liberal political order (Michael Sandel, Charles Taylor), a point which has been granted by many who self-identify as liberals (Ronald Dworkin, Will Kymlicka, Stephen Macedo). The question of whether or not liberalism can support the value of community has

17

been central in the debates over minority rights (Will Kymlicka, Charles Taylor), women's rights (Sheyla Benhabib, Elizabeth Frazer) and the universality of human rights vs. Asian values (Joseph Chan, Abdullahai Ahmed An-Na'im, Daniel Bell).

-**Abdullahi Ahmed An Na'im (ed., 1992)**, *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, **Philadelphia: University of Pennsylvania Press.**

-**Daniel Bell (2006)**, *Beyond Liberal Democracy: Political Thinking for an East Asian Context*, **Princeton: Princeton University Press.**

-**Daniel Bell (1993)**, *Communitarianism and its Critics*, **Oxford: Oxford University Press.**

-**Seyla Benhabib (1992)**, *Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics*, **Cambridge: Polity.**

-**Joseph Chan (2014)**, *Confucian Perfectionism: A Political Philosophy for Modern Times*, **Princeton: Princeton University Press.**

-**Ronald Dworkin (1989)**, Liberal Community, *California Law Review*, **77**: 479–504.

-**Elizabeth Frazer and Nicola Lacey (1993, eds.)**, *The Politics of Community: A Feminist Critique of the Liberal-Communitarian Debate*, **Hemel Hempstead: Harvester Wheatsheaf.**

-**Will Kymlicka (1989)**, *Liberalism, Community and Culture*, **Oxford: Clarendon.**

-**Stephen Macedo (1990)**, *Liberal Virtues: Citizenship, Virtue and Community in Liberal Constitutionalism*, **Oxford: Clarendon Press.**

-**Michael Sandel (1996)**, *Democracy's Discontent*, **Cambridge: Harvard University Press.**

-**Jeffrey Stout (2004)**, *Democracy and Tradition*, **Princeton: Princeton University Press.**

-**Charles Taylor (1989)**, Cross-Purposes: The Liberal-Communitarian Debate, in Nancy Rosenblum ed., *Liberalism and the Moral Life*, **Cambridge, MA: Harvard University Press, 159-182.**

Some more on value-based approaches

-**Alfred Marshall**, *Principles of Economics* **(1890)**
An example of utilitarianism in (neo-classical) economics.

-**Amartya Sen (1973)**, *On Economic Inequality*, **Oxford: Oxford University Press.**
On the dominance of utilitarianism in **economics**, and on some drawbacks of utilitarianism.

-**Isaiah Berlin (1991)**, *The Crooked Timber of Humanity*, **New York: Knopf.**
Many of Berlin's essays defend the idea of value pluralism and of the inevitability of conflicts of values.

-**Bronislaw Malinowski (1922)**, *Argonauts of the Western Pacific*, **London: Routledge & Kegan Paul.**
-**E.E. Evans-Pritchard (1940)**, *The Nuer*, **Oxford: Clarendon.**
Classic examples of **anthropological** descriptions of the ways of life and of valuing in non-Western societies.

18

-**Karen Sykes (ed., 2009),** *Ethnographies of Moral Reasoning: Living Paradoxes of a Global Age*, Basingstoke: Palgrave Macmillan.
Describes ordinary people –rather than through the lens of universal rationality or cultural relativism-- as valuing human relationships and reasoning through the commonplace contradictions of their local way of life in a global age. **Anthropological** perspective.

-**Didier Fassin (ed., 2012),** *A Companion to Moral Anthropology*, Malden MA: Wiley-Blackwell.
The first collective consideration of the **anthropological** dimensions of morals, morality, and ethics. Examines such topics as the ethnography of moralities, the study of moral subjectivities, and the exploration of moral economies.

-**Didier Fassin and Samuel Leze (2014),** *Moral Anthropology: A Critical Reader*, Abingdon: Routledge.
The first anthology to cover the growing field of moral **anthropology**.
More **anthropology**:
Robert Boyd and Peter J. Richerson (1994), The Evolution of Norms: An Anthropological View, *Journal of Institutional and Theoretical Economics*, *150*, 72-87.

In addition, given that the vast majority of refugees coming to Europe in recent years are Muslims, we also mention some **anthropological** studies dealing with European and Muslim perspectives on values and norms, and with religious perspectives on values and norms more generally:

-**John Esposito and Ibrahim Kalin (eds., 2011),** *Islamophobia: The Challenge of Pluralism in the 21st Century*, Oxford University Press.
-**Monika Bobako (2015), Inventing Muslims in Europe: Religion, Culture and Identity in the Time of Neoliberalism,** *Przegląd Religioznawczy/The Religious Studies Review*, *5*, 258.
-(in Polish) **Monika Bobako (2016), Islamofobia. Źródła, przejawy, zagrożenia, in E. Kledzik, M. Praczyk (eds.),** *Migracja, edukacja. Edukacja międzykulturowa w kontekście kryzysu migracyjnego*, **Poznań: Visegrad Fund.**
-**Ahmed Akgunduz (2010), The Values and Norms of Islam,** *The Journal of Rotterdam Islamic and Social Sciences*, *1*, 1-19.
-**Vicente Llorent GarcíaI and Carolina IvanescuII (2013), Religion as Social Curriculum: Education, Values and Islam in Europe,** *Educação e Pesquisa*, *39*.
-**Yueqin Liu (2011), The Coordination Function of Islamic Ethics in Transforming Islamic Societies,** *Journal of Middle Eastern and Islamic Studies (in Asia)*, *5*, 17-36.
-**Tariq Ramadan (2004),** *Western Muslims and the Future of Islam*, Oxford: Oxford University Press.
-**Tariq Modood (**2013), *Multiculturalism*, Cambridge: Polity, 2nd ed.
-**L. Arnakim (2016), Islamic Norms and Values in International Relations and Their Reinterpretation in AKP-Governed Turkey, in D. Abdelkader, N. Adiong, and R. Mauriello (eds.),** *Islam and International Relations*, **London: Palgrave Macmillan.**

Solidarity

[Outspokenly rights-/norms-based approaches to motivation are indicated with **]

Solidarity is a value made central in a number of varieties of the value-based approach as well as in some rights-/norm-based approaches (Kolers). It tends to be central in the work of several communitarian thinkers. The meaning of solidarity is complex as it can refer to a normative principle asserting that individuals and/or states should assist one another and redistribute fairly the benefits of social cooperation (at the end of the 19th century, Léon Bourgeois put solidarity and the heart of his social and political doctrine; more recently, for solidarity in the EU, see Sangiovanni; for solidarity of fiscally de-centralized pluri-national states, see Van Parijs). It can also refer to the sources of motivation that nurture individuals' willingness to comply with the demands of justice (Miller, Tamir). Here, the question is whether solidarity requires a strong sense of community (see also Mason). The possibility of solidarity in multicultural societies is a hot topic in political philosophy and the social sciences (Banting and Kymlicka) as is the possibility of global, post-national and cross-cultural solidarity (Tan, Brock, Weinstock). Here are some more references:

-**Keith Banting and Will Kymlicka (eds.) (2017),** *The Strains of Commitment: The Political Sources of Solidarity in Diverse Societies***, Oxford: Oxford University Press.**
-**Keith Banting and Will Kymlicka (2006, eds.),** *Multiculturalism and the Welfare State: Recognition and Redistribution in Contemporary Democracies***, Oxford: Oxford University Press.**
-**Léon Bourgeois (1896),** *Solidarité***, Paris : Armand Colin et Cie.**
-**Gillian Brock (2009),** *Global Justice : A Cosmopolitan Account***, Oxford: Oxford University Press.**
-**Avery Kolers (2016),** *A Moral Theory of Solidarity***, Oxford: Oxford University Press.**
-**Andrew Mason (2000),** *Community, Solidarity and Belonging: Levels of Community and their Normative Significance***, Cambridge: Cambridge University Press.**
-**David Miller (1995),** *On Nationality***, Oxford: Oxford University Press.**
(**)-Andrea Sangiovanni (2012), Solidarity in the European Union: Problems and Prospects, in Julia Dickson and Pavlos Eleftheriadis (eds.), *The Philosophical Foundations of European Union Law***, Oxford: Oxford University Press.**
-**Yael Tamir (1993),** *Liberal Nationalism***, Princeton: Princeton University Press.**
-**Kok-Chor Tan (2004),** *Justice without Borders: Cosmopolitanism, Nationalism and Patriotism***, Cambridge: Cambridge University Press.**
-**Philippe Van Parijs (2009), Genuine Solidarity: Coffee Pot or Cappucino? in André Decoster (ed.),** *On the Interaction between Subsidiarity and Interpersonal Solidarity***, The Re-Bel initiative.**
-**Philippe Van Parijs (2015), Fiscal Federalism and Solidarity: In search of an Ideal Formula, in Jean-François Grégoire and Michael Jewkes,** *Recognition and Redistribution in Multinational Federations***, Leuven: Leuven University Press, 183-191.**
-**Daniel Weinstock (2009), Motivating the Global Demos,** *Metaphilosophy***,** *40***, 92-108.**

For historical considerations:
-**Andreas Wildt (1999), Solidarity: Its History and Contemporary Definition, in Kurt Bayertz (ed.),** *Solidarity***, Dordrecht: Springer.**

20

A Catholic perspective (from Poland):
-Józef Tischner (1981), *The Ethics of Solidarity***, Krakow.**

More on motivation:

-Luuk van Middelaar (2014), *The Passage to Europe***, New Haven: Yale University Press.**
Part 3: different motivations on the part of European citizens to support European integration.

-Jürgen Habermas (1992), Staatsbürgerschaft und nationale Identität, in idem, *Faktizität und Geltung*, Frankfurt a.M.: Suhrkamp.**
Important work in relation to Habermas's 'Verfassungspatriotismus', an important notion in debates concerning the question of whether alternatives to nationalistic motivation are possible.

-Helder De Schutter (2012), European Ties That Bind: Political or Cultural? in Elke Cloots, Geert De Baere, and Stefan Sottiaux (eds.), *Federalism in the European Union***, Oxford: Hart.**
Nationalistic approaches vs. Habermasian constitutional patriotism.

-Emile Durkheim, *De la division du travail social* **(1893).**
-A classic **sociologist's** emphasis on social integration through various means other than the rule of law.

<u>Women's rights and human rights and gender equality</u>
        [Outspokenly rights-/norms-based approaches to motivation are indicated with **]

Although the value of gender equality can be espoused (or neglected…) from a rights-/norms-based perspective and value-based perspective alike, its espousal was in any case often critical of dominant perspectives in (political) philosophy, and utilitarians were very prominent among the promoters of it. Therefore we include it at this point in the bibliography. Gender equality –and women's rights– is often portrayed as an important universal value --or also as a cosmopolitan value— one which should be respected by agents regardless of their cultural belonging. Hence, women's rights are seen as universally valid human rights (Howard, Okin, Nussbaum). However, how to interpret gender equality in the light of different cultural traditions is a difficult question that has been the source of important and ongoing controversies in political philosophy. Certain liberal feminists have criticized multiculturalism and respect for cultural differences regarding gender roles and norms for neglecting the importance of women's right and gender equality (Okin), while others have tried to reconcile liberal multiculturalism and feminism (Song, Deveaux, Sachar, Philips). On the other hand, postcolonial feminists have rather tried to highlight non-Western traditions of feminist thought and activism (Narayan), arguing that liberal criticisms of non-western conceptions of gender roles fail to recognize the agency of women situated in non-western cultural settings (Mahmood) and that liberal concerns have been used as a rationalization to justify new forms of Western imperialism and Western countries' foreign interventions interferences into the lives cultural minorities within the West (Scott).

-Charlotte Bunch (1990), Women' s Rights as Human Rights: Toward a Re-Vision of Human Rights, *Human Rights Quarterly***, 12.**

21

-Monique Deveaux (2007), *Gender and Justice in Multicultural Liberal States*, Oxford: Oxford University Press (Ch. 3: 'Women's Rights as Human Rights')

-Sara Farris (2017), *In the Name of Women's Rights: The Rise of Femonationalism*, Durham NC: Duke University Press.

-Rhoda Howard (2011) Universal Women's Rights since 1970: The Centrality of Autonomy and Agency, *Journal of Human Rights*, *10*, 433-39.

-Saba Mahmood (2005), *The Politics of Piety: The Islamic Revival and the Feminist Subject*, Princeton: Princeton University Press.

-Saba Mahmood (2015), *Religious Difference in a Secular Age: A Minority Report*, Princeton: Princeton University Press.

Chandra Mohanty (2003), *Feminism without Borders: Decolonizing Theory, Practicing Solidarity*, Durham NC: Duke University Press.

-Uma Narayan (1997), *Dislocating Cultures: Identities, Traditions and Third-World Feminism*, New York : Routledge.

-Martha Nussbaum (2000), *Women and Human Development: The Capabilities Approach*, Cambridge: Cambridge University Press.

-Susan Okin (1994), Gender Inequality and Cultural Differences, *Political Theory*, *22*, 5-24.

-Susan Okin (1998), Feminism, Women's Human Rights and Cultural Differences, *Hypatia*, *13*, 32-52.

-Susan Okin (1999), *Is Multiculturalism bad for Women?* Princeton: Princeton University Press.

-Norani Othman (1999), Grounding Human Rights Arguments in Non-Western Culture: Shari'a and the Citizenship Rights of Women in a Modern Islamic State, in Joanne Bauer and Daniel Bell (eds.), *The East-Asian Challenge for Human Rights*, Cambridge: Cambridge University Press.

-Anne Philips (2007), *Multiculturalism without Culture*, Princeton: Princeton University Press.

-Maria Pia Lara (2007), Globalizaing Women's Rights: Overcoming the Apartheid, in Barbara Arneil, Monique Deveaux, Rita Dhamoon, and Avigail Eisenberg (eds.), *Sexual Justice/Cultural Justice: Critical Perspectives in Political Theory and Practice*, Abingdon: Routledge.

-Ayelet Sachar (2001), *Multicultural Jurisdiction: Cultural Differences and Women's Rights*, Cambridge: Cambridge University Press.

-Joan Wallach Scott (2017), *Sex and Secularism*, Princeton: Princeton University Press.

-Joan Wallach Scott (2009), *The Politics of the Veil*, Princeton: Princeton University Press.

-Sara Song (2007), *Justice, Gender and the Politics of Multiculturalism*, Cambridge: Cambridge University Press.

22

3.3 Appendix to the rights-/norms based approach

More on (human) rights, freedom and democracy and, as input for the work in later work packages, on (global) justice:

Rights and human rights; human dignity

[Outspokenly value-based approaches to rights, human rights, or human dignity are indicated with *]

-James Griffin (2008), *On Human Rights***, Oxford: Oxford University Press.**
Grounds human rights in normative agency, but in a less strict way than Gewirth (1978, cited on p. 15 above) does.

-Charles Beitz (2009), *The Idea of Human Rights***, Oxford: Oxford University Press.**
Tries (inspired in certain ways by Rawls' *The Law of Peoples*) to conceive of the idea of human rights 'practically', that is to say more specifically: by drawing on the (incipient) post-WWII practice of human rights.

*-William Talbott (2010), *Human Rights and Human Well-Being***, Oxford: Oxford University Press.**
A consequentialist defense of human rights (i.e. a defense starting from moral duties to maximize the good).

-Allen Buchanan (2015), *The Heart of Human Rights***, Oxford: Oxford University Press.**
Important although controversial contribution to thinking about how moral and legal human rights relate. Also important for stressing the centrality of equal status in the legal practice of human rights.
*-John Finnis (1980), *Natural Law and Natural Rights***, Oxford: Clarendon.**
A contemporary formulation of Thomas Aquinas's theory of natural law, basing natural rights on our duty to respect/not to harm *basic goods* conceived as moral absolutes.

On human rights and on the relation between legal rights and philosophical notions of rights and also human dignity, mainly from a **legal** standpoint:
- Christopher McCrudden (2008), Human Dignity and Judicial Interpretation of Human Rights, *The European Journal of International Law***, *19*, 655-724.**
-Paolo Carozza, (2008), Human Dignity and Judicial Interpretation of Human Rights: A Reply, *The European Journal of International Law***, *19*, 931-944.**
-Samantha Besson (2015), Human Rights and Constitutional Law: Patterns of Mutual Validation and Legitimation, in Rowan Cruft, Matthew Liao and Massimo Renzo (eds.), *Philosophical Foundations of Human Rights***, Oxford: Oxford University Press.**

In some sense, the debates in the above literature follow up on classic debates in legal philosophy and **law**, about whether law should be understood in a **positivistic** way or in some more **interpretive** way, also involving its relation to society, morality, etc.

23

Positivism:

-**Hans Kelsen (1960)**, *Reine Rechtslehre*, **2nd. ed., study edition Tübingen: Mohr Siebeck, 2014.**

-**H.L.A. Hart (1961)**, *The Concept of Law*, **Oxford: Clarendon.**

-**Luigi Ferrajoli (2007)**, *Principia juris*, **3 vols., Roma-Bari: Laterza.**

Interpretive positions:

-**Ronald Dworkin (1977)**, *Taking Rights Seriously*, **Cambridge MA: Harvard University Press.**

-**Ronald Dworkin (1986)**, *Law's Empire*, **Cambridge MA: Harvard University Press.**

-**Robert Alexy (2002)**, *A Theory of Constitutional Rights*, **Oxford: Oxford University Press.**

-**Robert Alexy (1992)**, *Begriff und Geltung des Rechts*, **Freiburg: Alber.**

-**Gustavo Zabgrebelsky (1992)**, *Il diritto mite*, **Torino: Enaudi.**

Understandings of **human dignity**:

-**Marcus Düwell, Jens Braarvig, Roger Brownsword, and Dietmar Mieth (eds.) (2008)**, *Cambridge Handbook of Human Dignity*, **Cambridge: Cambridge University Press.**

- (from a **legal** perspective) **Aharon Barak (2015)**, *Human Dignity: The Constitutional Value and the Constitutional Right*, **Cambridge: Cambridge University Press.**

Human rights and multiculturalism:

-**Stephanie Berry (2018), Aligning Interculturalism with International Human Rights Law: 'Living Together' without Assimilation**, *Human Rights Law Review*, *18*, **441–471.**

Historical understandings of human rights (in addition to the conceptual understandings outlined above):

-**Stanley Hoffmann (2011) (ed.)**, *Human Rights in the Twentieth Century*, **Cambridge: Cambridge University Press.**

-**Samuel Moyn, (2012)**, *The Last Utopia: Human Rights in Hist*ory, **Cambridge MA: Belknap Press.**

-**Christopher McCrudden (2014), Human Rights Histories**, *Oxford Journal of Legal Studies*, *34*, **1-34.** (critique of Moyn)

Sociological and **anthropological** perspectives on human rights and basic rights:

-**Niklas Luhmann (1965)**, *Grundrechte als Institution. Ein Beitrag zur politischen Soziologie*, **Berlin: Duncker & Humblot.**

-**Mark Frezzo (2015)**, *The Sociology of Human Rights*, **Cambridge: Polity.**

-**American Anthropological Association (1947), Statement on Human Rights**, *American Anthropologist*, *49*, **539-543.** (a classic and much-criticized statement of cultural relativism)

-**Mark Goodale (ed.) (2009)**, *Human Rights: An Anthropological Reader*, **Malden MA: Blackwell.**

-**Fuyuki Kurasawa (2007)**, *The Work of Global Justice: Human Rights as Practices*, **Cambridge: Cambridge University Press.**

Understanding of rights from a **legal** perspective generally:

-**Toni Honoré (1995)**, *About Law*, **Oxford: Oxford University Press.**

24

Freedom and democracy

[Outspokenly value-based approaches to freedom or democracy are indicated with *]

Following up on the above references concerning different conceptions of **freedom**, liberal perfectionists see among other things the need for a rich/meaningful set of options available to someone, see for example:

-**Joseph Raz (1986)**, *The Morality of Freedom*, **Oxford: Oxford University Press.**

-**Ronald Dworkin (1985), Can a Liberal State Support Art? In idem,** *A Matter of Principle*, **Cambridge MA: Harvard University Press.**

(*)-William Galston (1991), *Liberal Purposes: Goods, Virtues and Diversity in the Liberal State*, **Cambridge: Cambridge University Press.**

(*)-William Galston (2002), *Liberal Pluralism: The Implications of Value Pluralism for Political Theory and Practice*, **Cambridge: Cambridge University Press.**

Galston defends a form of comprehensive and perfectionist liberalism claiming that what justifies liberal institutions is their aptitude to promote liberal values and goods; also defends a form of value pluralism.

-**Ronald Dworkin (2011),** *Justice for Hedgehogs*, **Cambridge MA: Harvard University Press.**

A very ambitious attempt to defend the unity and objectivity of value and normativity. Defends the idea of the coincidence of the good and the right and a form of comprehensive liberalism.

Some more on **democracy**:

-**Ronald Dworkin (2000),** *Sovereign Virtue: The Theory and Practice of Equality*, **Cambridge MA: Harvard University Press, Ch. 4.**

Conceptions of democracy have to be understood as ideals.

(*)-Thomas Christiano (1996), *The Rule of the Many: Fundamental Issues in Democratic Theory*, **Boulder: Westview.**

(*)-Amartya Sen (1999), *Development as Freedom*, **Oxford: Oxford University Press, Ch. 6.**

Democracy has both intrinsic and instrumental value.

-**Andreas Niederberger (2009),** *Demokratie unter Bedingungen der Weltgesellschaft. Normative Grundlagen legitimer Herrschaft in einer globalen politischen Ordnung*, **Berlin/New York: De Gruyter.**

On democracy in a global political order.

(*)-Marek Siemek (2002), Wolność, rozum, intersubiektywność (*Freedom, Reason, and Intersubjectivity***), Oficyna Naukowa.**

Polish reference in favour of Western democracy and the rule of law.

25

Liberal debates on global justice and critical perspectives

Although this is not the heart of this bibliography, we now mention some main sources in current debates on global justice, which can serve as input for, in particular, work package 4's theorizing about the possible outlines of a cosmopolitan ideal for Europe.

a) Liberal debates on global justice:

[Outspokenly value-based approaches to global justice are indicated with *]

-John Rawls (1999), *The Law of Peoples***, Cambridge MA: Harvard University Press.**
A classic of a non-cosmopolitan approach to international morality.

-Martha Nussbaum (2004), Women and Theories of Global Justice: Our Need for New Paradigms, in Deen Chatterjee (ed.), *The Ethics of Assistance: Morality and the Distant Needy***, Cambridge: Cambridge University Press.**
Cosmopolitan criticism of Rawls.

-Gillian Brock (ed.) (2013), *Cosmopolitanism vs. Non-Cosmopolitanism***, Oxford: Oxford University Press.**
Recent overview of philosophical discussions concerning the concept of cosmopolitanism.

-Thomas Pogge (2008), *World Poverty and Human Rights***, Cambridge: Polity.**
Global institutional structure (upheld by among others, the EU and its member states) as unjust, but based on an account of human rights. A lot of attention for concrete institutional reforms.

-Andreas Follesdal (2014), Subsidiarity and the Global Order, in Michelle Evans and Augusto Zimmerman (eds.), *Global Perspectives on Subsidiarity***, Dordrecht: Springer.**
Discussion of some central aspects of a cosmopolitan institutional order, and of different conceptions of subsidiarity.

-Thomas Nagel (2005), The Problem of Global Justice, *Philosophy and Public Affairs***, *33*, 113-147.**
Justice as based on the existence of social relations (relationism), more specifically making the case for relations of coercion as a precondition for the applicability of considerations of justice.

-Andrea Sangiovanni (2007), Global Justice, Reciprocity, and the State, *Philosophy & Public Affairs***, *35*, 2-39.**
Another influential relationist account, more specifically making the case for relations of cooperation as a precondition for the applicability of considerations of justice.

(*)-Simon Caney (2005), *Justice beyond Borders***, Oxford: Oxford University Press.**
A non-relational account of global justice.

26

-Onora O'Neill (2000), *Bounds of Justice***, Cambridge: Cambridge University Press.**
An influential Kantian philosopher's perspective on global justice.

-Matthias Risse (2012), *On Global Justice***, Princeton: Princeton University Press.**
Relationism and non-relationism combined.
-**Richard Miller (2010),** *Globalizing Justice: The Ethics of Poverty and Power***, Oxford: Oxford University Press.**
Global institutional structure (upheld by among others, the EU and its member states) as unjust, but critical of, among others, Pogge.

(*)-David Miller (2007), *National Responsibility and Global Justice***, Oxford: Oxford University Press.**
Making a case for relatively much partiality of a state towards its own citizens. Also a prominent defence that states have relatively great discretion over which aspiring immigrants to admit.

-Will Kymlicka (2004), Le mythe de la citoyennete transnationale, *Critique Internationale***, 23**, 97-111.**
On the importance of culture from a liberal perspective.
-Nancy Fraser (2010), *Scales of Justice: Reimagining Political Space in a Globalizing World***, New York: Columbia University Press.**
A defense of transnational forms of political mobilization, based on the critique of the Westphalian order and the problem of 'political misframing' that it creates (i.e. discrepancy between the group of affected people by global problems and the group of people included in processes of decision-making about these problems).

-Iris Marion Young (2006), *Responsibility for Justice***, Oxford: Oxford University Press.**
Essential reflections on how to conceive of individual responsibility in a globalized world.

b) <u>Critiques of liberal perspectives on global justice etc. (postcolonial and other):</u>

[These references cannot usually be assigned to either of the two approaches but are critical of both.]

-**Frantz Fanon (1952),** *Peaux noires, masques blancs***, Paris: Seuil.**
A phenomenological account of anti-black racism influenced by Sartre's existentialism.

-**James Tully (1995),** *Strange Multiplicity: Constitutionalism in an Age of Diversity***, Cambridge: Cambridge University Press.**
A central reference in theories of multiculturalism which adopts a critical stance on the imperial past of Western liberalism and its oppressive effects on cultural minorities, especially on indigenous peoples.

27

-Abdellali Hajjat (2012), *Les frontières de l'identité nationale***, Paris: La Découverte.**
A socio-historical analysis of the evolution of the French legislation on citizenship and of its racist biases towards colonial subjects of the French Empire and, after independences, towards postcolonial migrants.

-Chantal Mouffe (2013), *Agonistics***, London: Verso.**
Criticizes deliberative/liberal positions of a Habermasian flavour for neglecting power relations.

-Karl Marx, *On the Jewish Question* **(1844)**
A classic critique of rights and human rights.

More criticisms of human rights and rights generally, also by lawyers and practitioners:

-David Kennedy (2004), *The Dark Sides of Virtue***, Princeton: Princeton University Press.**
A critique of human rights activism by a practitioner and lawyer.

-Elizabeth Wolgast (1987), *The Grammar of Justice***, Ithaca: Cornell University Press**.
A Wittgensteinian perspective.

-Martti Koskenniemi (2004), *The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870– 1960***, Cambridge: Cambridge University Press.**
International law as power-laden and hegemonic; a **lawyer**'s perspective.

-Danilo Zolo (2009), *Victor's Justice: from Nuremberg to Baghdad***, London: Verso.**
Argues that international penal law is subject to Western manipulation.

-Costas Douzinas (2007), *Human Rights and Empire: The Political Philosophy of Cosmopolitanism***, London: Glass House Book.**
Focuses on issues of power and the way human rights are being used to justify exploitation of power and even wars.

28

4. Refugees

This section contains a number of references to normative-philosophical approaches with regard to refugees (only very limitedly with regard to immigration in general). Usually they are not specifically concerned with the EU or Europe. This is a first overview which hopefully will be helpful for practitioners as well as, in the consortium, for preparing the work in wp4 in particular. After the philosophical literature, some contributions from the social sciences follow, ending (last but not least) with some papers conceptualizing the experience of refugees themselves.

Philosophical bibliography:

-Giorgio Agamben (1995), *Homo Sacer. Il potere sovrano e la nuda vita***, Torino: Enaudi.**
Discussion of both the State of exception as well as the power politics over the migrant body.
-Hannah Arendt (1943), We Refugees, in M. Robinson (ed.), *Altogether Elsewhere: Writers on Exile***, Faber and Faber.**
Emphasizes the importance of being a full member of a rights-governed polity.

-Seyla Benhabib (2004), *The Rights of Others: Aliens, Residents, and Citizens***, Cambridge: Cambridge University Press.**
Benhabib reformulates the Kantian conception of hospitality in discussing the problems raised by the claims of asylum seekers.

-Seyla Benhabib, with Jeremy Waldron, Bonnie Honig and Will Kymlicka (2006), *Another Cosmopolitanism: Hospitality, Sovereignty, and Democratic Iterations***, Oxford: Oxford University Press.**
Benhabib but also, and mainly, Honig question hospitality for its potential to be mandated, or reflected, in migration, rights and citizenship policies.
-Joseph Carens (2013), *The Ethics of Immigration***, Oxford: Oxford University Press.**
Life work of one of the leading ethicists who work on immigration. Worthwhile chapter on refugees, discussing, among other things, the definition of a refugee.

-Thomas Christiano (2008), Immigration, Political Community and Cosmopolitanism, *San Diego Law Review***, 45, 933–961.**
Liberal-democratic societies as actors of justice and still restricting immigration.

-Yves Cusset (2010), *Prendre sa part de la misère du monde: Pour une philosophie politique de l'accueil***, Paris: La Transparence.**
A radical critique of the normative approaches to the ethics of immigration. A reevaluation of the concept of hospitality.

-Jacques Derrida and Anne Dufourmantelle (1997), *De l'hospitalité***, Paris: Calmann-Lévy.**
On the conditionality of hospitality of foreigners.

-Marcus Düwell (2016), Ethiek en vluchtelingenbeleid, *Filosofie en Praktijk***, 37(4), 10-19.**

On the importance of maintaining or creating the conditions for the effective functioning of institutions for protecting refugees and other immigrants. In Dutch.

-**Matthew Gibney (2004),** *The Ethics and Politics of Asylum: Liberal Democracy and the Response to Refugees*, **Cambridge: Cambridge University Press.**
Looking for an appropriate balance, in how states deal with asylum seekers, between partiality of states (towards their own citizens) and impartiality.

-**Matthew Gibney (2015), Refugees and Justice between States,** *European Journal of Political Theory*, *14*, **448-463.**
A proposal for a fair division of refugees among counties.

-**Matthew Gibney (2018), The Ethics of Refugees.** *Philosophy Compass*.
On moral obligations towards refugees.
-**Suzanne Jacobi et al. (2016), Morele verantwoordelijkheden tegenover vluchtelingen [Moral Responsibilities towards Refugees],** *Ethische Annotatie*, **Ethiek Instituut Universiteit Utrecht.**
Various considerations concerning the responsibilities of the EU and of EU countries towards refugees. In Dutch.

-**Hans Lindahl (2007), Breaking Promises to Keep Them: Immigration and the Boundaries of Distributive Justice.** *LSE Legal Studies Working Paper No. 3.*
Problematizes the boundaries of political communities in the light of immigration and distributive justice.

-**Leo Lucassen, Paul Scheffer, Ernst Hirsch Ballin (2018),** *Regie over migratie: Naar een strategische agenda*, [*Keeping Control over Migration: Towards a Strategic Agenda*], **Den Haag: Wetenschappelijke Raad voor het Regeringsbeleid.**
Perspectives from Dutch discussions on migration and integration, incl. refugees. In Dutch.

-**David Miller (2007),** *National Responsibility and Global Justice*, **Oxford: Oxford University Press.**
Makes a case for relatively much partiality of a state towards its own citizens. Also a prominent defence that states have relatively great discretion over which immigrants to admit. Also:
-**David Miller (2016),** *Strangers in Our Midst: The Political Philosophy of Immigration*, **Cambridge MA: Harvard University Press.**

-**Peter Schuck (1997), Refugee Burden Sharing: A Modest Proposal,** *Yale Journal of International Law*, *22*, **243-297**.
A proposal for a fair division of refugees among counties.

30

-**Etienne Tassin (2017), Philosophie /et/ politique de la migration,** *Raisons politiques*, *21*, **197-215.**
A philosophical critique of the repressive dimensions of European policies on migration and refugees, drawing on Arendt's thought and pleading for the rehabilitation of a common world between migrants and European citizens.

-Michael Walzer (1983), *Spheres of Justice*, **New York: Basic Books, Ch. 2**
Influential defence that states have relatively great discretion over which immigrants to admit.

-Christopher Heath Wellman (2008), Immigration and freedom of association, *Ethics*, **119, 109–141.**
Defending, and articulating the content of, the right of states to self-determination.

Social sciences (various aspects of journeys of and treatment of refugees):

-Alastair Ager and Joey Ager (2011), Faith and the Discourse of Secular Humanitarianism, *Journal of Refugee Studies*, **24, 456–472.**

-Michel Agier (2011), *Le couloir des exilés. Être étranger dans un monde commun*, **Paris: Editions du Croquant.**
An anthropological critique of the administrative centres where illegal migrants are secluded.

-Gadi BenEzer and Roger Zetter (2015), Searching for Directions: Conceptual and Methodological Challenges in Researching Refugee Journeys, *Journal of Refugee Studies*, **28, 297–318.**

-Homi Bhabha and Klaus Stierstorfer (2017), Diaspora and Home: An Interview with Homi k. Bhabha, *blog* **De Gruyter.**

-B. S. Chimni (2009), The Birth of a 'Discipline': From Refugee to Forced Migration Studies, *Journal of Refugee Studies*, **22, 11–29.**

-Barbara Harrell-Bond (1986), *Imposing Aid: Emergency Assistance to Refugees*, **Oxford: Oxford University Press.**
-Barbara Harrell-Bond (2002), Can Humanitarian Work with Refugees Be Humane? *Human Rights Quarterly*, *24*, **51-85.**
These two publications focus on providing aid to refugees, the majority of whom remain in the region, and the principles that underwrite provision of these services.

-Anne Mcnevin and Antje Missbach (2018), Hospitality as a Horizon of Aspiration (or, What the International Refugee Regime Can Learn from Acehnese Fishermen)
Journal of Refugee Studies, *31*, **292-313.**

31

-Evangelia (Lilian) Tsourdi (2017), Solidarity at Work? The Prevalence of Emergency-Driven Solidarity in the Administrative Governance of the Common European Asylum System, *Maastricht Journal of European and Comparative Law*, *24*, **667-686.**
-Jennifer Hyndman and Wenona Giles (2011), Waiting for what? The feminization of asylum in protracted situations, *Gender, Place & Culture: A Journal of Feminist Geography, 18*, **361-379.**
A paper showing how immobile refugees are perceived as 'genuine' while mobile refugees are perceived as a threat.

Social science publications specifically pertaining to a particularly important country in the discussion, Greece:

Integration [indicative, there are many collective volumes that deal with this issue]
-Α. Μωυσίδης, Δ. Παπαδοπούλου (επιμ, 2001). Η κοινωνικής Ενσωμάτωση των Μεταναστών στην Ελλάδα. Εργασία, Εκπαίδευση, Ταυτότητες, Αθήνα: Κριτική. (A. Moysidis and D. Papadopoulou (eds., 2001), *The Social Integration of Migrants in Greece: Employment, Education, Identities***, Athens: Kritiki.)**
The issue of immigration policy is discussed in relation to employment, education or identity. The main argument underscoring the book is that immigration policy presents serious shortcomings both in Greece and across Europe.

-Μ.Παύλου, Δ.Χριστόπουλος (επιμ, 2001) Η Ελλάδα της μετανάστευσης. Κοινωνική Συμμετοχή και Δικαιώματα του Πολίτη. Αθήνα: Κριτική/ΚΕΜΟ. (M. Pavlou and D. Christopoulos (eds., 2001), *Migration to Greece: Social Participation and the Rights of the Citizen***, Athens: Kritiki/KEMO.)**
The focus is on the implications of Greece's transformation from a sending to a destination country, particularly with the advent of Albanian immigrants as well as the gradual appearance of Asian migrants. Addresses questions of nationalism, racism, social integration, the rights of migrants in the Greek legal order, the criminalisation of migrants, religious freedoms of Muslim populations, and citizenship.
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Αθ.Μαρβάκης, Δ.Παρσάνογλου, Μ.Παύλου (επιμ, 2001). Μετανάστες στην Ελλάδα , Αθήνα: Ίδρυμα Ν. Πουλαντζάς/Ελληνικά Γράμματα. (A. Marvakis, D. Parsanoglou, and M. Pavlou (eds., 2001) *Migrants in Greece***, Athens: Poulantza Institute/Ellinika Grammata).**
Migration is analyzed as part of the organization of Greek society. It is, among other things, examined in connection with the procedures for the constitution and reconstruction of the concept of 'Hellenism' and with the exclusions from the Greek nationality. At the same time, however, immigration to Greece is part of the broader phenomenon of population movement from developing countries to southern European countries, which have some common points, such as strong under-economic activity, the existence of many small or medium-sized family businesses, incomplete regulation and weak state control.

Crime & migration [There is only one key text in Greek, by Karydis]
-Β.Καρύδης (1996), Η εγκληματικοτητα των μεταναστων στην Ελλαδα. Ζητηματα θεωριας και αντεγκληματικης πολιτικης, Εκδόσεις Παπαζήση (V. Karydis (1996), *The Crime of Immigrants in Greece: Theory and Counter-Crime Policies***, Papazisis Publications.)**
The book is grounded in critical criminology but utilizes also anthropology and sociology in the analysis.
Among other things, the book critically examines whether the perception that migration results in an increase in crime is accurate. The latter is in fact considered by the author a 'mythologised social construction', and to a large extent the book seeks to show how the fear of newcomers is the foundation for this social construction and how it is perpetuated in the media and public discourse.

32

-Ε.Παπαταξιάρχης (επιμ, 2η εκδοση, 2006), Περιπέτειες Της Ετερότητας. Η Παραγωγή Της Πολιτισμικής Διαφοράς Στη Σημερινή Ελλάδα. Αθήνα: Αλεξάνδρεια (E. Papataksiarxis (ed., 2006), *Adventures of Otherness: The Production of Cultural Differences in Contemporary Greece* **(2nd ed.), Athens: Alexandria.)**

The different authors discuss from an anthropological point of view the adventures of otherness in today's Greece. The volume is unique in bringing together authors from different disciplines to discuss the production and management of cultural diversity. The book also considers processes of politicizing identity, 'minority' and minority claims, with the discussion of migration but also Muslim population taking center stage.

Conceptualizing the refugee experience:

-Barry Stein (1981), The Refugee Experience: Defining the Parameters of a Field of Study, *International Migration Review*, *15*, **320-330.**
-Liisa Malkki (1995), Refugees and Exile: From 'Refugee Studies' to the National Order of Things, *Annual Review of Anthropology*, *24*, **495-523.**

These two papers are classic publications on the conceptualization of 'the refugee'. Barry Stein's article was the very first scholarly publication on the concept and of the ensuing field of study. Fifteen years later Liisa Malkki questioned his assumptions, especially the notion of 'refugeeness.'
The following paper by Georgia Cole is the newest contribution to this debate:
-Georgia Cole (2018), Beyond Labelling: Rethinking the Role and Value of the Refugee 'Label' through Semiotics, *Journal of Refugee Studies*, *31*, **1–21.**

33

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34

About NoVaMigra

Several, partly interconnected crises have profoundly challenged the European project in recent years. In particular, reactions to the arrival of 1.25 million refugees in 2015 called into question the idea(l) of a unified Europe. What is the impact of the so-called migration and refugee crisis on the normative foundations and values of the European Union? And what will the EU stand for in the future? NoVaMigra studies these questions with a unique combination of social scientific analysis, legal and philosophical normative reconstruction and theory.

This project:

- Develops a precise descriptive and normative understanding of the current "value crisis";
- Assesses possible evolutions of European values; and
- Considers Europe's future in light of rights, norms and values that could contribute to over-coming the crises.

The project is funded with around 2.5 million Euros under the European Union's Horizon 2020 research and innovation programme for a period of three years.

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35