

# What Is Neutrality?

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*Abstract.* This paper reinvestigates the question of liberal neutrality. We contend that current liberal discussions have been dominated—if not hijacked—by one particular interpretation of what neutrality could imply: namely, exclusive neutrality, aiming to exclude religious and cultural expressions from the public sphere. We will argue that this is merely one among several relevant interpretations. To substantiate our claim, we will first elaborate upon inclusive neutrality by formulating two supplementary interpretations: proportional neutrality and compensatory neutrality. Second, we will argue that inclusive proportional neutrality is the most appropriate interpretation in many contexts. Our discussion highlights the fact that some political disputes should not be seen in terms of the antithesis between liberal neutrality and illiberal alternatives but, instead, as a clash between various valid but incompatible interpretations of what liberal neutrality may imply.

## I. Introduction

One of the central axioms of liberalism is that governments should treat their citizens with equal respect and concern. One way to achieve this goal is to be neutral with respect to the variety of ideas of the good life that citizens endorse. The classic liberal interpretation of neutrality is that governments should not embrace or penalize particular conceptions of the good life, but should provide a neutral framework within which the various and potentially conflicting conceptions of the good life can be pursued (Kymlicka 1989, 883). Important ways of providing such a neutral framework include the employment of general laws that affect all citizens equally—or so it is assumed—and the exclusion of religious arguments and symbols from political debates and the public sphere in general.

However, in current political debates we encounter a variety of demands that appear, at least at first sight, to conflict with neutrality as conceived above. For

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example, some have argued that the freedom of religion implies allowing headscarves to be worn in schools and in the police force. Multicultural theorists have argued that liberal justice might require state support for certain religious and cultural minorities. Do these examples exemplify a genuine clash between neutrality and other liberal values? Or are they an indication that the classic interpretation of neutrality is too narrow? Or could both suggestions be correct simultaneously?

In this paper we intend to reinvestigate the question of liberal neutrality. We contend that current liberal discussions have been dominated—if not hijacked—by one particular interpretation of what neutrality could imply: namely, exclusive neutrality, which aims to exclude religious and cultural expressions from the public sphere. Although we acknowledge its importance, we will argue that it is only one among several possible interpretations. To substantiate our claim, we will first elaborate on inclusive neutrality by formulating two supplementary interpretations of neutrality: proportional neutrality and compensatory neutrality. Second, we will argue that, in most contexts, inclusive proportional neutrality is more appropriate than exclusive neutrality.

Before we describe the three models in detail, we need to situate neutrality in the wider liberal paradigm. First, neutrality is not a liberal end in itself, it is merely a means to a more fundamental liberal aim, namely, that governments should treat their citizens with equal respect and concern (Dworkin 1977, 272–3). This implies that government should be neutral to the various ideas of the good life as adopted by those citizens. Neutrality is not the foundational value of liberal theory as such, and is not even one of its most important ideals.<sup>2</sup> It is merely an intermediate value that is part of a larger set of ideals characterizing the constitutional order of liberal democracies including basic rights, fair equality of opportunity, and the Rule of Law.<sup>3</sup> Therefore, secondly, we will not interpret neutrality as a justificatory principle for a political system as a whole.<sup>4</sup> Instead, we will focus on neutrality as a political principle within the context of an existing liberal-democratic legal order, as a guideline for law and public policies.

The paper unfolds as follows. In section 2 we provide a presentation of the relevant neutrality interpretations as unrelated ideal types. Then in section 3 we reconsider the relative weight of these various interpretations. In section 4 we argue that liberals should not subscribe to one single interpretation of neutrality but, instead, endorse a pluralist and context-sensitive approach. In section 5 we discuss a number of possible objections to our context-sensitive approach. We will make our concluding observations in section 6.

<sup>2</sup> For a different view, see Nozick (1974) who claims that neutrality plays a foundational role as a basic idea underlying the democratic state as such.

<sup>3</sup> As an intermediate democratic principle, neutrality has been accepted by various international and national courts including, for example, the European Court of Human Rights and the Canadian and US Supreme Courts.

<sup>4</sup> We will thus not engage with current debates on political liberalism and public reason (cf. Rawls 1993, 1997). De Marneffe (1990, 353) distinguishes between neutrality as a first-order principle of justice (focusing on concrete state policies) and neutrality as a second-order principle of justification (focusing on the more general justification of the basic social and political institutions). Rawls' public reason concerns neutrality as a second-order principle of justification.

## II. Various Interpretations of Neutrality

The basic idea of all types of neutrality is that the “fact of plurality” implies that citizens are likely to adopt a wide variety of life plans and endorse different views about what makes life valuable. Governments should not penalize or reward any of these ideas of the good life: Instead they should provide an impartial framework within which each citizen can pursue the good life as (s)he conceives it. Neutrality can be important in the *justificatory* sense—neutrality of grounds—which implies that policies should not be justified in terms of the intrinsic superiority of a certain idea of the good life.<sup>5</sup> Neutrality can also be important in the *consequentialist* sense—neutrality of effect—which implies that government policy should not have the effect of favoring one idea of the good life over another.<sup>6</sup> This section discusses various ways in which neutrality, in the justificatory and consequentialist sense, can be achieved.

### 1. Exclusive Neutrality

Exclusive neutrality contends that this impartial framework can be achieved only if the state completely disregards religious and cultural differences. This implies that religious or cultural expressions, both in terms of arguments, practices, organizations, and symbols, should be excluded from the public sphere.<sup>7</sup> The classic liberal interpretation of this basic idea is usually expressed with metaphors such as “hands-off” and “difference blind.” These metaphors suggest that governments should disregard all divisive differences among and between citizens, such as religion or culture, in order to ensure equality of treatment (Galeotti 1999, 37–8). Indeed, exclusive neutrality seeks to exclude sources of controversy from the political decision-making process and claims the advantage that this exclusion makes it easier to arrive at decisions that everyone can support. If we can prohibit political decision-making on the basis of controversial views of the good life, it is argued, this will result in a free society in which everybody has the chance to live according to their own views of what constitutes a good life.

As the adjective indicates, exclusive neutrality does not emphasize what governments should do: Rather, it is more concerned with what governments should refrain from doing. For one thing, it is anti-perfectionistic as it contends that it is not the business of government to make citizens more virtuous, to raise their level of civility,

<sup>5</sup> De Marneffe (1990, 353) uses neutrality of grounds as a synonym for neutrality as a second-order principle of justification. We use it here in a different way, as synonym for what could be called neutrality as a first-order principle of justification.

<sup>6</sup> In De Marneffe’s terminology this would be neutrality as a first-order principle of justice.

<sup>7</sup> Different expressions are excluded in different contexts. In the American tradition, for example, there is a strong focus on exclusion of religion from political decision-making, but certainly not from civil society, whereas in the French tradition the common republican identity also implies that the expression of religious and cultural identities in the public sphere and in organizations in civil society is treated with suspicion. In many European debates on head scarves and burqas these more liberal interpretations and more republican interpretations compete, but they both claim to be the correct interpretation of state neutrality. As our conceptual analysis attempts to be broadly applicable in a variety of national contexts and both in legal, political and philosophical debates, we ignore those variations here and choose the most general and inclusive formulations.

or to prevent them from living degraded lives.<sup>8</sup> Moreover, exclusive neutrality is anti-moralistic: Governments should resist claims by self-proclaimed moral majorities to enforce their morality on all members of society. This idea can be recognized in many prominent liberal defenses. Ronald Dworkin presents an exclusive neutrality argument in the justificatory sense when he argues that “political decisions must be, so far as possible, independent of any particular conception of the good life, or of what gives value to life” (Dworkin 1985, 191). In the 1970s debate, liberals such as Dworkin defended state neutrality against communitarian attacks and focused primarily on diversity of lifestyles, especially with regard to religion and sexuality, and on issues such as free speech and the use of alcohol and recreational drugs. In current multicultural debates, Brian Barry (2001) and Chandran Kukathas (2003) represent this classic liberal approach. They argue that the government’s only duty is to protect individuals and their negative freedom through civil and political rights. Kukathas provides a justificatory argument when he argues that the liberal state has no collective projects and is not concerned with the promotion of human flourishing. “Its only concern ought to be with upholding the framework of law within which individuals and groups can function peacefully” (Kukathas 2003, 249). Political institutions should leave people free “to pursue their own ends, whether separately or in concert with others, under the rule of law. [. . .] [T]his requires leaving people free to worship as they see fit; but it also requires leaving them free to live by different cultural standards—provided their doing so does not threaten the legal and political order which allows for peaceful coexistence” (ibid.). Barry (2001, 32) provides a consequentialist argument when he argues for the implementation of universal rules in order to generate identical choice sets and, thus, equal opportunities. In actual politics, this ideal of exclusive neutrality toward religion can be recognized in US constitutional practice and in the dominant interpretation of the French doctrine of *laïcité*.<sup>9</sup>

## 2. Inclusive Neutrality

Inclusive neutrality does not seek to eliminate controversial views of the good life from the political sphere. On the contrary, it aims to take them fully into account, both with regard to the justification of policies and with regard to their consequences. In political debates, references to worldviews are allowed and, as outcomes, policies and legislation should try to do justice to the views of all citizens. Citizens are free to express and organize themselves in the public sphere on a religious or cultural basis. The state can support certain religious activities; for example, funding for religious schools and for army chaplains and imams. A similar regime applies to culture: Not only are citizens free to express and organize themselves on a cultural or ethnic basis but the state also supports some of their activities: for example, funding for schools and public broadcasting using minority languages. The best-known formulation of such an inclusive approach may be

<sup>8</sup> For a perfectionist alternative for neutrality see Sher 1997.

<sup>9</sup> In the US constitutional doctrine, neutrality is primarily based on the Establishment Clause. In France and Turkey, the doctrine of *laïcité* must be understood against the background of critiques on the social and political influence of the Roman Catholic Church and traditionalist Islam, respectively.

found in the work of Joseph Carens. He advocates an approach of evenhandedness—a clear juxtaposition with the hands-off metaphor discussed above—which implies a sensitive balancing of competing claims going back and forth between several considerations and concrete situations:

Now being fair does not mean that every cultural claim and identity will be given equal weight but rather that each will be given appropriate weight under the circumstances within the framework of a commitment to equal respect for all. History matters, numbers matter, the relative importance of the claims to the claimants matters, and so do many other considerations. (Carens 2000, 12)

Similar ideas have been proposed by one of the current authors, based on the experiences in the Dutch context of pillarization and accommodation (Van der Burg and Brom 1999).

Inclusive neutrality tries to take account of culture and religion in the public sphere in an evenhanded way and seeks to include all relevant views, including controversial worldviews, in the decision-making process. This may make the process much more complex, but the claim is that, at the end of the day, it does greater justice to the views and identities of all citizens. In order to do so, however, it requires a democratic attitude of accommodation in which the majority tries to accommodate the views of the minority—at least in part.

On closer examination, however, Carens' concept of evenhandedness is ambiguous. For one thing, it encompasses two different ideas that need to be disentangled. In the next two subsections we will develop the conceptions of "proportional neutrality" and "compensatory neutrality" in order to separate these ideas. Moreover, it is unclear from Carens' argument as to which interpretation of neutrality is appropriate in which context and, even more fundamentally, on what grounds we should choose one interpretation over another. These tasks will be taken up in sections 3 and 4.

### 3. *Proportional Neutrality*

Proportional neutrality is a form of inclusive neutrality that takes account of different comprehensive views by making any representation of minority groups or state support for their culture proportional to their size. For example, for those administrative positions and advisory committees for which political, cultural, or religious affiliations are relevant, all relevant groups should be represented on a proportional basis. It is also proportional in the consequentialist sense in that it advocates funding for religious schools and army chaplains in proportion to the ratio of the adherents of the various religions. In such situations, the hands-off interpretation of neutrality is replaced by a neutrality interpretation of "comparable support."

It is not a coincidence that ideas like these were proposed by philosophers working in Canada and the Netherlands, as proportional neutrality seems to be more in concord with political practice and constitutional law in those countries.<sup>10</sup>

<sup>10</sup> In Canadian constitutional law, state neutrality is explicitly discussed in terms of inclusiveness, evenhandedness, and accommodation of religious differences. See various contributions to Moon (2008b), especially Ryder (2008) and Moon (2008a). For the Netherlands, see Van der Burg and Brom (1999); Pierik and Van der Burg (2011); Bader 2003 and 2007.

For example, the Dutch electoral system is not a district system but a system of proportional representation without an electoral threshold, which makes it relatively easy for small minorities to gain a seat in parliament: Only 0.67% (1/150) of the vote ensures a party a seat in parliament. This makes coalition governments of two or more parties unavoidable. This electoral system avoids the winner-takes-all effect of the district model and fosters a political culture of mutual accommodation, broadly supported consensus, and compromise. In such a culture, minorities can, in principle, be easily integrated by giving them a proportional piece of the pie.

Proportional neutrality argues that the voice of minorities should not only be heard in the political process, but should also be taken seriously. Proportionality can be the basis for concrete policies: For example, a few years ago, in view of the composition of the Dutch army and the prison population, more imams (and fewer Catholic chaplains) were publicly funded in order to take care of Muslim soldiers and inmates. However, most importantly in current debates, proportional neutrality is also applicable to the symbolic representation of the state and the public sphere in what we may call the symbolic neutrality of public institutions. It allows teachers to wear headscarves and turbans as well as nuns' habits, and supports, sometimes even financially, the building of mosques as well as churches and synagogues. It allows for the public visibility of different cultures and religions.

#### 4. *Compensatory Neutrality*

The first two interpretations—exclusive and proportional neutrality—are not unfamiliar in philosophical and legal debates, although they are discussed under various names.<sup>11</sup> The third one, however, is rarely explicitly distinguished. It is partly and implicitly included in Carens' evenhandedness approach, but usually subsumed under the principle of proportionality.<sup>12</sup> Compensatory neutrality follows the path taken by proportional neutrality but takes it one step further, for example, by taking economies of scale and structural inequalities onboard. Consider countries with a dominant language and one or more officially recognized minority languages, such as Frisian in the Netherlands. For those speaking the minority language, it is more difficult to express themselves in public—even if their language is recognized as an official language. It will be more expensive for them to publish and purchase books in their own language, to attend theatre shows, or to have access to public broadcasting, simply in terms of economies of scale. Proportional support might be insufficient because it might not provide enough to meet threshold requirements for maintaining facilities, such as running a broadcasting corporation in the minority language. Compensatory

<sup>11</sup> For example, ideas of inclusive neutrality have been discussed under names such as "pluralist cooperation," "*laïcité ouverte*" and "accommodation."

<sup>12</sup> Some forms could also be regarded as proportional neutrality; that is, distribution not in proportion to the numbers of citizens but to their relative needs. However, the arithmetic in such a calculation of proportionality is probably not only highly complex and speculative but, in the end, not enough to cover all instances of compensatory neutrality, especially those where threshold requirements are at stake. These considerations justify distinguishing compensatory neutrality as a distinct type.

neutrality takes these economies of scale into account by supporting minority facilities, if necessary, with more than their proportional share. In other cases it may not be the existence of a numerical minority that justifies compensation, but a structural inequality. Current structural inequalities may be, but need not be, relics of historical injustices. Compensatory neutrality primarily aims to address current inequalities.<sup>13</sup>

What does this model mean in reality? It usually requires the granting of special rights or entitlements to specific minorities. We have mentioned some examples, such as special support and subsidies for books and broadcasting in minority languages. Especially in the heated political debates of the moment, political reality might rarely allow for the implementation of this support. However, it seems that the ideal is supported by good normative arguments and, in specific situations, the all-things-considered contextual balancing of the relevant liberal values might justify policies of compensatory neutrality.

### III. Reconsidering the Various Interpretations of Neutrality

So far we have distinguished between three different interpretations of neutrality as unrelated ideal types. We observed that, by and large, contemporary liberal political philosophy takes the model of exclusive neutrality for granted as the only relevant one. In contrast, we argue that the two models of inclusive neutrality should also be taken seriously. The obvious question, then, is which version should be preferred, and why? Is it possible to construct a general default position? In order to answer that question, we have to reconsider the role of state neutrality in the larger liberal normative scheme. As mentioned in the introduction, neutrality is not an end in itself, it is a means to a more fundamental liberal goal, namely, that governments should treat their citizens with equal concern and respect. The seminal formulation of this ideal can be found in Dworkin's work:

I presume that we all accept the following postulates of political morality. Government must treat those whom it governs with concern, that is, as human beings who are capable of suffering and frustration, and with respect, that is, as human beings who are capable of forming and acting on intelligent conceptions of how their lives should be lived. Government must not only treat people with concern and respect, but with equal concern and respect. (Dworkin 1977, 272–3)

If we take this ideal of equal respect and concern to be a fundamental liberal value, what does that imply for our interpretation of neutrality?

#### 1. *The Argument for Exclusive Neutrality*

Equal respect implies that governments should be neutral with regard to the various controversial ideas of the good life. In the classic liberal interpretation, the

<sup>13</sup> Thus, compensatory neutrality should not be equated with compensation for past injustices. Such measures may be justified as a matter of compensatory justice. Compensatory neutrality, however, merely requires taking into account existing socio-economic inequalities when they lead to lesser chances for some citizens to realize their own conception of the good life. For a defense of compensatory justice for past injustices, see Pierik 2006.

argument runs along the following lines. Respecting citizens means that the state treats them as intelligent, autonomous beings who can decide and act on their own conceptions of the good life. Thus, the state should not interfere with its citizens' autonomy in this respect: Citizens should be left to decide for themselves what constitutes a good life. Therefore, governments should not take a stance on those views, but should abstain from appeals to controversial views of the good life in justifying their policies, and provide an impartial framework in which various ideas of the good life can thrive equally.

Moreover, pursuant to this view, if citizens are to identify with the state as their state, it is important that the public domain in general, and public symbols such as oaths, courtrooms, and public ceremonies are organized in such a way that all citizens can identify with them. This identification is hindered if reference is made to controversial views of life, for example, by including controversial religious or cultural symbols such as the Ten Commandments in the courtroom, the Confederate Flag on US governmental buildings, or crucifixes in public schools. Therefore, any reference to controversial religions or other views should be banned from the public domain.

Similar points can be made with regard to public support for specific cultures or religious manifestations: This should be prohibited because it would require judgments of the state about the values of those cultures or religions, and a neutral state should abstain from making such judgments. This line of argument leads to exclusive neutrality as the best justifiable interpretation of neutrality.

This line of argument is sometimes valid, but it is not valid in this general form. Instead, it can be criticized in two ways: first, that an exclusively neutral framework is, in reality, often not neutral or impartial at all, and second, that it infringes the freedom of some citizens and, as such, violates the ideal of equal respect and concern. The criticism that exclusive neutrality *cannot* provide an impartial framework is most poignantly formulated by Samuel Scheffler: "Where culture is concerned, neutrality is not an option" (Scheffler 2007, 114; cf. Kymlicka 1995, 110–1). Governments can, in the name of exclusive neutrality, ban certain politically charged symbols such as Confederate Flags from their domains and crucifixes from their public schools. However, other elements cannot be renounced so easily: The most evident example is language. Cooperation in society, self-governance of a people in a democracy, and day-to-day interaction between citizens and governmental institutions implies that one language—or a very limited set of languages—must be chosen in order to facilitate communication. Exclusive neutrality cannot provide a "neutral" solution: The government cannot invent a neutral "state-Esperanto" or do without communication. To posit another example, although most liberal states have renounced state religions, the choice of public holidays and the weekly day of rest is usually determined by the religion that historically dominated the society's nation-building, making it harder for members of other religions when their day of worship coincides with a workday. More generally, government institutions in every society, no matter how liberal and democratic, are molded in the image of the historically dominant culture as a result of long-term processes of hegemonic nation-building. And regardless of their self-image of being secularized, Western states are still structurally intertwined with Christianity in ways that even secular Christians hardly notice, but which nonetheless have a confining effect on religious

minorities (Klausen 2005, 136). Some defenses of exclusive neutrality go hand-in-hand with rather unrealistic assumptions about societies in which no groups are systematically excluded or disadvantaged, and all groups have equal chances of losing. An example is Connolly's description:

Each 'group' has some voice in shaping socially binding decisions; and all major groups share a broad system of beliefs and values which encourage conflict to proceed within established channels and allows initial disagreements to dissolve into compromise solutions. (Connolly 1969, 3–4)

Connolly's analysis suggests that there are no systematic winners or losers in political struggles since individuals are members of overlapping subgroups—the proverb *you win some, you lose some* applies to all equally. This argument resonates with Barry's claim that universal rules "define a choice set which is the same for everybody; within that choice set people pick a particular course of action by deciding what is best calculated to satisfy their underlying preferences for outcomes. [. . .] If uniform rules create identical choice sets, then opportunities are equal" (Barry 2001, 32). But these analyses seem to be overly optimistic for culturally diverse societies in which majority and minority groups are asymmetrically situated: In reality, some systematically win, while others structurally lose in political struggles or in the free market. The interests of small structural minorities are too often neglected by majorities (or even by majority coalitions of larger minorities) in the political arena and this leads to general rules that are not neutral from the perspectives of certain minority groups.

Other defenders of exclusive neutrality frankly acknowledge that historical contingencies impair states in their ability to achieve neutrality:

In enforcing the political culture [. . .] and so in shaping the broader national culture, the state will inevitably be enforcing a set of practices and values that have their origins in the contingent history and traditions of a particular set of people. This is not in itself inappropriate, and there is in any case no alternative. The state can neither avoid promoting a national culture nor invent that culture *ab initio*. (Scheffler 2007, 113)

The contingent molding of the background culture during processes of nation-building cannot be undone retrospectively. Accepting this as a mere historical *fait accompli* seems to be inconsistent with a defense of governmental difference blindness—through exclusive neutrality—as a principled article of liberal faith. It neglects the structural majority bias, it hides it from view, and it does not provide for the fair treatment of the asymmetrically situated social categories (Bader 2007, 2003). Members of the dominant culture are in an advantaged position because their practices are ingrained in the background culture of a given society. The fact that weekends do not include Friday shows which days are considered to be the "normal" days for attending religious gatherings. Muslims who have a full-time job and want to attend the mosque for their customary Friday afternoon prayers have to make special arrangements to do so. In this context of structurally asymmetrically situated social categories, the ideal of exclusive neutrality systematically puts minorities at a disadvantage.

Exclusive neutrality and its hands-off approach simply ignore (the impact of) these inevitable but pervasive biases in the background culture, in democratic institutions, and in the free market. This is not an intentional sign of disrespect or

indifference for minorities. However, it shows that exclusive neutrality is simply based on unrealistic assumptions and, consequently, leads to biased results in certain social contexts that violate the ideal of equal respect and concern. Thus, if inclusive neutrality can do a better job in this respect, we might want to reconsider the dominant position given to exclusive neutrality. Inclusive neutrality does not turn a blind eye to these biases. Instead, it would defend policies of comparable support; for example, support for members of minority groups to do those things the majority can do unassisted or exemptions from laws that prohibit or disproportionately burden minority practices.

The first, empirical line of critique of exclusive neutrality is that the hands-off approach does not deliver impartiality because of (the impact of) historical biases in the background culture, and the imperfect functioning of the institutions of democracy and the free market. Some are caused by historical contingencies: for example, when the weekends and days of rest in Western societies only refer to days that are important to the historically dominant Christian religions, or when state boundaries do not coincide with language boundaries (Belgium, Canada). Others are caused by sheer injustices in the past against marginalized aboriginal groups, descendants of persecuted religious groups, or Afro-Americans in the USA, for example.

There is a second, principled line of critique. Exclusive neutrality not only unfairly burdens some citizens more than others, but these burdens are also sometimes unnecessary infringements on their freedom. For example, the exclusion of religious dress from parts of the public sphere—schools, courts, and governmental offices—affects some categories much more than others. Most Christians and Jews are not affected: Their religious beliefs do not imply dress codes that are seen as deviating from the “Western” or “secular” norm. However, some female Muslims, Sikhs, and Orthodox Jews are affected by this measure: It is a serious infringement of their cultural and religious freedom. Dominant social norms fit hand-in-glove with the beliefs of the members of the majority, so much so that they hardly perceive them *as* norms, and so that compliance is so self-evident that it rarely needs to be enforced. However, for members of minority groups, especially immigrants, these norms can be experienced as unfamiliar, alienating, and sometimes even as oppressive (Scheffler 2007, 94).

A similar point may be made with respect to the exclusion of appeals to religious views in public decision-making. Such a requirement not only implies heavier burdens for orthodox believers than for moderate ones, or for middle-of-the-road secularists, it even burdens the former in ways that seriously restrict their political freedom. If religion is foundational to their political views, we should have strong arguments to prohibit this kind of expression in public debates or voting on the basis of these views.

A number of authors have tried to address the empirical line of critique. Dworkin, for example, has argued that the market and the political institutions of democracy may easily lead to double counting of the preferences of some, and may include discriminatory prejudices of citizens (Dworkin 1985, 193ff.; 2000, 147–62). After all, he argues that a society “that allows prejudice to destroy people’s lives does not treat all members of the community with equal concern” (2000, 161). We need general rights as a corrective mechanism to protect those interests of citizens who might easily become victims of the deficiencies of democracy and the free

market.<sup>14</sup> Dworkin's correction is that in order to realize the basic idea of equal respect and concern, and its concomitant ideal of neutrality, we must take account of the context in which political institutions and the market are supposed to work, and we must therefore supplement both with guarantees, such as constitutional rights.

Kymlicka (1995) presents similar arguments to correct for imbalances in the background culture. He argues that the interests of minority cultures in societies with one dominant culture should be protected by special minority rights. These special rights are also meant to ensure that every citizen is treated with equal respect and concern, and that they have equal opportunities to live according to their own conception of the good life.

Thus, both Dworkin and Kymlicka remain within the dominant liberal paradigm of exclusive neutrality, but suggest corrections and additions in order to realize the basic idea behind it: that all citizens should be treated with equal concern and respect. Dworkin argues for a correction through general rights, Kymlicka for a correction through minority rights. For both, these rights are not foundational, but part of a larger constitutional scheme in which the democratic majority principle, the non-discrimination principle, state neutrality, and general or special rights are a coherent package.

## 2. *The Argument for Inclusive Neutrality*

The problems with exclusive neutrality are that it requires citizens to leave part of their identity at home when they enter the public sphere, and that it requires the state to disregard the identity of their citizens when it tries to do justice to them. In both cases, exclusive neutrality requires disregarding a part of the personal identity of citizens, which is often very important to them. What language a citizen speaks, which religion he practices, which culture he identifies with, or how he chooses to live out his sexuality are ordinarily all central aspects of his life. *Prima facie*, there is a good argument that neither the state nor citizens should be required to ignore this part of the identity of citizens. In the words of Veit Bader:

In the end [exclusive] neutrality and fairness as hands-off would literally strip people of their histories, languages, public holidays, monuments, rituals and symbols of national identity, dress codes, public monuments, history and literature lessons in public education. The result would be the fiction of a "naked public square." [This is] neither morally required nor desirable. (Bader 2007, 88)

<sup>14</sup> Dworkin is often mistaken for someone for whom fundamental rights provide the basis of a political theory. In several places, however, he presents a more sophisticated, contextualist argument. He argues that rights are necessary in our society because, and in as far as, imperfections of democratic institutions and the market may violate the right to equal respect and concern for some citizens. Rights are thus not a foundational category, but a corrective instrument within a broader political package. Therefore, the justification of rights is only relative, based on, e.g., the imperfections of democracy and the market in the context of a society in which utilitarianism is dominant. In a different society, we may need a different set of rights. Rights are therefore not timeless, universal rights based on general fundamental human interests: they are relative to context. Dworkin adds that he does not deny that some rights would be justified in every package and that, in this sense, these would be natural rights (Dworkin 1985, 198; 1984, 289–90).

An alternative line of reasoning takes this argument seriously and leads to inclusive neutrality as the default position. It also starts from the notion that citizens should be treated with equal respect and concern. This ideal implies that autonomous citizens should have equal opportunities to live according to their own view of the good life and in line with their deep-felt commitments and identities. "To treat people fairly, we must regard them concretely, with as much knowledge as we can obtain about who they are and what they care about" (Bader 2007, 82). Equal respect for autonomous citizens means that the state should not only refrain from interfering with the exercise of this freedom, but also that it should equally protect and, if necessary, support it.

One implication of this interpretation of equal respect and concern is that autonomous citizens should be permitted to live according to their idea of the good life, as prescribed by their religion, culture, or philosophy of life, unless there are convincing arguments to the contrary. Therefore, citizens should also be free to exercise this autonomy in the public domain, as voters, members of parliament, and so on. As politicians and state officials, they should be able to dress according to their cultural tradition or their religion, and be allowed to appeal to their religious and cultural backgrounds in political debates. Moreover, the state should actively protect and support the autonomy of its citizens—also with regard to cultural and religious dimensions of their life. This may mean state support for religious organizations and cultural groups.

We may discern three separate arguments for inclusive neutrality here. The first one is directly based on equal concern and respect. Treating citizens with equal concern and respect implies that citizens should have the freedom to express their identity and live according to their views of the good life, unless there are convincing arguments to the contrary. The state should not intervene with this freedom and it certainly should not do so in a non-neutral way. This means that citizens should have the right to wear religious dress, to speak minority languages, and so on.

The second argument is based on the idea of democracy (which itself can be derived from equal concern and respect). Democracy requires that all citizens should be able to fully express themselves in the political forum and this includes expressing political views that are intertwined with religious convictions. If citizens want to organize themselves in parties based on religious principles, then this should be possible and their representatives should have the right to appeal to their religious views in political debates.

The third argument is that inclusive neutrality is better equipped to take account of existing biases in the background culture and patterns of discrimination in reality. We should take the arguments put forward by Kymlicka and Carens seriously. If the state abstains from interference with culture in situations where there is a dominant majority culture, then this makes it much harder for members of minority groups to live according to the requirements of their culture. Minority groups may need support to do those things that the majority can do unassisted or they may require exemptions from laws that penalize or disproportionately burden minority practices. In those cases, an active state role is necessary to realize neutrality. Again, it is not necessary for the state to take a stance on these views of life. For example, with regard to homosexual relations, the state need not say that homosexual relationships are as good as straight ones. All that is required is for the

state to accept that some citizens are gay or lesbian, that some citizens live in homosexual relationships, and that the state has an obligation to make sure that these citizens have equal opportunities to live as they have chosen. This requires policies of equal treatment (opening up marriage and other benefits for gay and lesbian couples that are open to straight couples) and perhaps some special compensatory measures. An example of such measures could be support for gay and lesbian organizations and special attention to homosexuality in education. This would serve to counterbalance both the sheer power of numbers and prejudice, which in schools can easily lead to the invisibility of homosexuality at an age in which gay and lesbian students may struggle with their identity.

This alternative line of argument leads to inclusive neutrality as the default position. It is an argument for inclusive neutrality not as an absolute, foundational principle, but as an intermediate principle that may conflict with and sometimes be overruled by other intermediate principles of the liberal-democratic state. Consequently, neutrality only provides *prima facie* arguments; for a full analysis of concrete cases, we will often also need to refer to other principles and constitutional rights such as freedom of education and freedom of religion. It will depend on a careful analysis of the background conditions in order to determine which type of inclusive neutrality is warranted, but in general, we may suppose that proportional neutrality is adequate. Compensatory neutrality is, as we have argued above, only necessary in exceptional cases. Therefore, inclusive proportional neutrality is the default position. In order to treat all citizens with equal respect and concern, *prima facie* it is necessary that they not be asked to leave part of their identity and their views at home, in the private sphere. Moreover, the state must actively protect and support citizens' activities based on their views of life.

On the basis of this analysis, we can now begin to see the argument for exclusive neutrality in a new light. Once we have become aware of the possibility of inclusive neutrality, we should revise the argument. Exclusive neutrality's assumption that state abstention combined with banning religion from the public domain is the only way to implement neutrality is unwarranted. There are several ways to implement state neutrality. Refraining from state action and state involvement in culture and religion is one legitimate way, but not the only one. The crucial point is that the state can be actively involved in culture and religion without making judgments about their respective value. Inclusive neutrality does not require the state to take a stance about the value of specific views of the good life: It only takes them seriously because it takes its citizens seriously. It merely takes the existence of those views for granted and asks how it should treat the citizens with those views in such a way that they have an equal opportunity to realize their views. This can sometimes be attained by leaving citizens alone and sometimes by supporting them.

The dominant liberal argument leading to exclusive neutrality can thus be reconstructed in such a way that it becomes a more open argument which, depending on the specific circumstances, may lead to inclusive as well as to exclusive neutrality. For the reasons mentioned above, we would conclude that inclusive proportional neutrality should be regarded as the default position. As it is merely a default position, it raises the question: Under which conditions should we prefer one of the other interpretations of neutrality?

#### IV. A Context-Sensitive Approach

Our elaboration of these different interpretations of the neutrality ideal can help in terms of acknowledging that some political disputes should not be seen in terms of the antithesis between liberal neutrality and illiberal multiculturalism but, instead, that they should be viewed as a clash between various valid but incompatible interpretations of what liberal neutrality can imply. In these cases, there is no simple or straightforward answer to the question as to which interpretation of neutrality should prevail. There is no simple one-size-fits-all priority rule: We need a context-sensitive analysis of which type of neutrality is to be pursued in which context. Neutrality can never be realized in full, and this truism applies equally to exclusive and inclusive neutrality. For each specific context we have to analyse which specific neutrality interpretation is best justified. As we have argued above, from a philosophical perspective, the inclusive, proportional model seems to be preferable as a default position. Exclusive neutrality is second best: Therefore, the burden of proof lies with the latter. However, we can think of three contexts in which exclusive neutrality should be preferred over inclusive neutrality. The first context concerns cases in which there is no reasonable justification for governmental interference in a specific religious or cultural issue. A state-administered church tax, as in the systems existing in Germany and Italy, provides an example. There is no reason why the state should regard the financing of churches as a public affair (this does not exclude funding specific socially valuable services in the field of social work or education). Moreover, a church tax is an unsophisticated instrument to implement evenhandedness. It does not measure intensity: A nominal member who has no real affiliation is forced to pay as much as the devoted believer. And because of the administrative requirements usually connected to participation, small or new religious groups are often excluded from such revenues. The most neutral policy, therefore, is to abolish state-administered church taxes, where they exist, and let the churches, mosques, and other religious organizations raise funds directly and voluntarily from their members. If governments wanted to encourage such gifts, they could do so by making them tax-deductible: Neutrality, however, then requires that deductions can also be made for gifts to similar non-religious organizations.<sup>15</sup> This way, the members can decide for themselves how much their religious (or non-religious) view of life means to them, and how much they want to contribute to their religious organization—if at all.

A second context is the presence of religiously inspired symbols in governmental buildings and other objects, such as the Ten Commandments in courtrooms, crucifixes in classrooms, "In God We Trust" on coins and banknotes. An inclusive approach would be impractical and unacceptable—putting dozens of symbols of the various main religions in the classroom would still be offensive to atheists and small minorities; official prayers to God, Allah, Vishnu, and a number of other gods would be offensive to most believers and non-believers alike.<sup>16</sup> In addition, there

<sup>15</sup> This is basically the Dutch system.

<sup>16</sup> Therefore, the judgment of the Second Chamber of the European Court of Human Rights in *Lautsi v Italy* was, in our view, correct. It is far-fetched to hold that the crucifix is an uncontested secular symbol of democratic values, not only because it clearly is a symbol of Roman Catholicism (even most Protestants prefer a simple cross as a symbol), but also because for some oppressed groups it has been the symbol of intolerance. As it is not a neutral

seems to be no good justification as to why public institutions should be decorated with such evidently biased symbols, even though such symbols might have remained present and uncontested in the public sphere for many years.<sup>17</sup> In this sense, public institutions should be distinguished from public servants. A neutral government should either include such displays in an evenhanded way or, if that is not possible, it should exclude them altogether. However, respect for civil servants as citizens implies that they are not required to leave their religion at home, including possible public displays thereof, unless there are compelling reasons (based on other principles than that of neutrality) to prohibit them. Therefore, we should prefer an inclusive approach of “allowed, unless . . .” which starts from the opposite direction than the exclusive approach that principally seeks to exclude such displays entirely. This approach therefore requires a contextual discussion of which public displays should be allowed in which contexts and under what circumstances.

The third context in which exclusive neutrality is to be preferred is in countries with one dominant religion, such as France. Proportionality would, in practical terms, mean a strong public dominance of that religion. In France, without *laïcité*, there would have been much greater discrimination against Protestants, Jews, and atheists in the days when the Roman Catholic Church was still a major social power.<sup>18</sup> Inclusive neutrality in the political process may seem preferable in general, but when it leads to a clear lack of neutrality in the outcome of those processes, exclusive neutrality may be preferable.

We already discussed, above, one possible context in which the inclusive compensatory model of neutrality is relevant: financial support for minority language groups to maintain facilities such as a broadcasting corporation in their minority language. Proportional support might not provide enough to meet threshold requirements for establishing such a facility. A second context in which compensatory neutrality might be relevant is in the case of sexual minorities. Special support for gay and lesbian organizations might be warranted in situations where strong social prejudice and discrimination exist in order to help combat those prejudices. Special attention to homosexuality in education may also be required to counterbalance both prejudice and the sheer power of the far greater number of students with a heterosexual orientation, which, in schools, can easily lead to the invisibility of homosexuality during a stage when gay and lesbian students may struggle with their identity.

symbol, it should not be allowed in public classrooms. The Grand Chamber reversed the Chamber judgment without explicitly ruling that the interpretation of neutrality was wrong; it merely held that this issue falls under the margin of appreciation. Cf. *Lautsi v Italy* [2011] ECHR Application No 30814/06 (18 March 2011).

<sup>17</sup> An *institutional path dependency* might make it difficult to get rid of long-established symbols such as the “In God We Trust” slogan on US money. The *de facto* impracticability of removing such symbols can be understood in the larger scheme of things: this, however, does not make them just. In this respect, it is incomprehensible that some European governments decided to reaffirm such an inscription when they had an opportunity to break with this practice when the Euro was introduced in 2002.

<sup>18</sup> However, this justification for the dominant, exclusive interpretation of *laïcité* no longer applies in the largely secularized France of today, and certainly should not be held as an argument to discriminate small minority religious groups such as orthodox Jews, Sikhs and Muslims by prohibiting their specific religious dress.

In conclusion: Even an abstract philosophical argument needs to take account of societal context and the specific issues under debate in order to determine which position should be preferred. Moreover, these interpretations of neutrality are not mutually exclusive but, instead, provide supplementary arguments in actual debates.<sup>19</sup> Most societies require a mix of the three models. A pragmatic plural approach provides more fruitful solutions than a narrow-minded, either/or choice for any one of these neutrality interpretations. Such a pragmatic approach, however, does not lead to unprincipled policy-making: The choice for which form of neutrality should prevail, is to be made in light of the fundamental liberal ideals such as equal respect and concern.<sup>20</sup>

## V. Some Possible Objections

We have suggested a context-sensitive and pluralistic approach to neutrality as the best way to implement the ideal of state neutrality. However, a number of objections might be submitted in response to this position. Discussing them may help to clarify our position.

One objection is that this approach focuses not merely on justificatory neutrality, but also on neutrality of effect and on what we have called the symbolic neutrality of public institutions. Most authors have restricted neutrality to the input side of political processes, accepting that neutral procedures may lead to outcomes that are not neutral. Why do we complicate our approach by including an evaluation of the effects and the symbolic dimension of public institutions? Our answer is that the simplicity of focusing only on neutrality of grounds is bought at the cost of ignoring highly relevant dimensions of concrete social problems that liberal-democratic theories have to contend with.

For citizens, it is both the procedure and the outcome that may violate neutrality. For a Jewish or Muslim citizen it seems like cold comfort to learn that, in the legislative procedure, no anti-religious arguments have been heard or that the appeal to allow religious slaughtering according to the Jewish or Muslim rite has simply been denied because there was not a majority in favor of it. The outcome—that citizens are prohibited from living according to their religious duties—is what will count most. If their preferences are systematically outnumbered in the democratic process, they may become alienated from the political community.

This risk of alienation is even stronger with regard to the symbolic dimension of public institutions. In the United Kingdom if the Queen is the Head of the Anglican Church, this may signify to the citizenry that citizens with a different or no faith are second-class citizens. Similar points may be made with regard to the compulsory display of crucifixes in public schools, not allowing headscarves or turbans to be worn when in public roles, or with constitutions that refer only to one religious

<sup>19</sup> For two applications of our approach to actual debates see Pierik and Van der Burg (2011) (on crucifixes in Italian classrooms), and Van der Burg (2012) (on public education).

<sup>20</sup> Because the focus of this article is on conceptual analysis, we try to be relatively non-committal in our presentation. In a philosophical debate, the choice for which interpretation is to prevail will often be made with a direct reference to the fundamental ideal of equal respect and concern. In actual legal and political debates, other factors may be important, such as the legal and political traditions of a specific country, the constitutional recognition of certain values, and so on.

or linguistic tradition and exclude other traditions that are present in society. The more important these institutions are, the stronger the symbolic message is that what (and who) is excluded is not part of the common identity.

We should note that this risk of alienation cuts both ways. Dutch Christians may also feel alienated when the Queen's speech to parliament is no longer closed with a prayer to God. What is at stake in the symbolic neutrality of the public institutions is the definition of the common identity. If it is made more neutral to include minority groups, members of the majority group may feel that what they considered as their common identity is under threat.

This is exactly what is fundamentally at stake in various European debates. Headscarves and mosques, Islamic schools and the presence of people of a different skin color, and speaking a foreign language all symbolize that the historic identity of European countries is rapidly changing. The fear for the loss of a national identity may partly explain the protest movements in various European countries against whatever seems to threaten this historic identity. In some cases, the focus of these movements has been the European Constitution, in other cases the prohibition of the Qur'an, of the building of mosques, or of headscarves being worn. In fact, the precise issue at stake is largely irrelevant, as it only symbolizes the general feeling of discontent. There are many parallels here with Joseph Gusfield's analysis of the symbolic crusade of White Anglo-Saxon Protestants, rallying around the cause of temperance and prohibition (Gusfield 1976).

Because the common identity of a political community is such an emotional issue, debates on the symbolic neutrality of public institutions are often heated. Something essential is at stake for both parties: the determination of "who we are." In our view, it is precisely in those circumstances that neutrality is a valuable ideal—even if what it entails will be controversial and whether it should be accepted is controversial. The liberal-democratic ideal that every citizen should be treated with equal respect and concern implies that the public institutions should not symbolically refer to some citizens' conceptions of the good life, culture, or religion as being of a second-class status. Neutrality is precisely what makes a feeling of inclusion possible.

A second objection might be that this broad range of neutrality interpretations may seem to make the theory internally inconsistent. As Joseph Raz (1986) has shown, neutrality of grounds may have results that conflict with neutrality of effects. It is obvious that to make neutrality a useful foundational principle, it is preferable to limit it to the procedural aspects. Otherwise, the implications of the foundational principle will always point in various directions and the principle will have little constructive value.

However, if we take neutrality as an intermediate norm, as one of several ways in which the ideal of equal respect and concern can be implemented in actual societies, there is no reason to restrict it in such a way. We may, indeed, derive arguments from neutrality both for and against the same policy. For example, allowing judges to wear headscarves or kippahs can be both defended with an appeal to neutrality (all religious groups should be represented in the judiciary) and criticized (judges should not express religious or political preferences in any way). However, the possibility that an ideal might lead to conflicting conclusions is not an objection, as such a possibility holds for many principles and ideals. It only shows that the ideal of neutrality can be used to adequately highlight various nuances in the normative analysis.

A third and final objection is that such a theory of neutrality is extremely complex, only to be handled by a Dworkinian Hercules. We suggest that neutrality should address grounds, effects, and the symbolic dimension of public institutions, that we need a plurality of conceptions, and that it should be applied in a contextually sensitive way. Does this not result in an extremely complex theory of neutrality?

Again, this would be an objection if neutrality were to play a foundational role in theory construction. But, in fact, we do not aim at one complete theory of neutrality. Neutrality is merely a derivative ideal, which allows for a plurality of conceptions, and which must be interpreted differently in different contexts. The concrete norms derived from it have only a *prima facie* status. The conflict between the different forms of neutrality and the complexity of theory formation it generates are only a problem if one sees neutrality as a fundamental and broad norm. Once we regard neutrality as an ideal from which we may derive various *prima facie* norms, we can endorse neutrality as a critical, complex standard, and accept that conflicts between the different sides of the standard may occur.

## VI. Conclusion

In this paper we have defended a pluralist theory of neutrality. State neutrality is one of the central themes in current public debates; for example, on the integration of Muslims in Europe. These debates are highly emotional and ideological. Such debates do not primarily address specific policies but, instead, implicitly focus on the common identity of Western European societies. Are these societies willing to include Muslims on equal terms as part of their societies, or do they wish to continue defining themselves in terms of their Christian, and perhaps Jewish and Humanist traditions? Similar debates on issues with a high symbolic value include those in the USA and many other states on the opening up of civil marriage for same-sex couples. Again, the debate is as much about how a society wants to see itself (e.g., as one that upholds traditional family values or rather as one that defends liberal values) as about the concrete issue of equal rights for gay and lesbian citizens.

On issues such as these, abstract ideal-theoretical discussions may be of some help, but philosophy has a more practical application when it is sensitive to the variation in contexts. We believe that state neutrality is an important ideal that may help societies come to terms with the new diversity. Therefore, we have tried to clarify the ideal of neutrality and its various possible interpretations.

In current debates, state neutrality has a different focus than in the two previous debates (in political theory as well as in society at large) in which it played a central role; namely, the liberalism-communitarianism debate and the multiculturalism debate. The focus of the current debate is not on neutrality of grounds (the focus of the liberalism-communitarianism debate) or on correcting procedures and institutions, because with a non-neutral background culture they have structural non-neutral effects (the focus of the multiculturalism debate). The focus is now on the neutral identity of the state and its servants (such as judges, police officers, and teachers) and of the public sphere. This focus goes beyond the familiar distinction between neutrality in the justificatory sense and neutrality in the consequentialist sense. We have characterized this as the symbolic neutrality of public institutions.

Identity discussions often have highly emotional overtones and the new neutrality debate is no exception to that. Appeals to neutrality in this debate are frequently highly ideological and only seem to acknowledge one form of neutrality: exclusive hands-off neutrality or its French relative of *laïcité*. We have suggested that this exclusive neutrality is only one possible version of neutrality and that an inclusive approach is often preferable. We have further distinguished between two versions of inclusive neutrality: proportional and compensatory neutrality. Inclusive proportional neutrality is the philosophical default position, because it does not require citizens to leave part of their identity at home when entering the public sphere. However, we should be sensitive to the variation in contexts; each of these three versions can be the best alternative in specific contexts and when dealing with specific issues. Therefore, a balanced view of neutrality does not always lead to simple, let alone to universal answers.

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## References

- Bader, V. 2003. Religious Diversity and Democratic Institutional Pluralism. *Political Theory* 31, 2: 265–94.
- Bader, V. 2007. *Secularism or Democracy? Associational Governance of Religious Diversity*. Amsterdam: Amsterdam University Press.
- Barry, B. 2001. *Culture and Equality: An Egalitarian Critique of Multiculturalism*. Cambridge, Mass.: Harvard University Press.
- Carens, J. 2000. *Culture, Citizenship and Community: A Contextual Exploration of Justice as Evenhandedness*. Oxford: Oxford University Press.
- Connolly, W. 1969. *The Bias of Pluralism*. New York: Atherton Press.
- De Marneffe, P. 1990. Liberalism, Liberty, and Neutrality. *Philosophy and Public Affairs* 19, 3: 253–74.
- Dworkin, R. 1977. *Taking Rights Seriously*. London: Duckworth.
- Dworkin, R. 1984. A Reply. In *Ronald Dworkin and Contemporary Jurisprudence*. Ed. M. Cohen. London: Duckworth.
- Dworkin, R. 1985. *A Matter of Principle*. Cambridge, Mass.: Harvard University Press.
- Dworkin, R. 2000. *Sovereign Virtue: The Theory and Practice of Equality*. Cambridge, Mass.: Harvard University Press.

- Galeotti, A. E. 1999. Neutrality and Recognition. In *Pluralism and Liberal Neutrality*. Eds. R. Bellamy and M. Hollis, 37–53. Ilford, Essex: Cass.
- Gusfield, J. R. 1976. *Symbolic Crusade: Status Politics and the American Temperance Movement*. Urbana: University of Illinois Press.
- Klausen, J. 2005. *The Islamic Challenge: Politics and Religion in Western Europe*. Oxford: Oxford University Press.
- Kukathas, Ch. 2003. *The Liberal Archipelago: a Theory of Diversity and Freedom*. Oxford: Oxford University Press.
- Kymlicka, W. 1989. Liberal Individualism and Liberal Neutrality. *Ethics* 99: 883–905.
- Kymlicka, W. 1995. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Oxford: Oxford University Press.
- Moon, R. 2008a. Introduction. In *Law and Religious Pluralism in Canada*. Ed. R. Moon, 1–20. Vancouver: University of British Columbia Press.
- Moon, R. 2008b. *Law and Religious Pluralism in Canada*. Vancouver: University of British Columbia Press.
- Nozick, R. 1974. *Anarchy, State and Utopia*. New York: Basic Books.
- Pierik, R. 2006. Reparations for Luck Egalitarians. *The Journal of Social Philosophy* 37,3: 423–40.
- Pierik, R., and W. Van der Burg. 2011. The Neutral State and the Mandatory Crucifix. *Religion and Human Rights* 6: 259–64.
- Rawls, J. 1993. *Political Liberalism*. New York: Columbia University Press.
- Rawls, J. 1997. The Idea of Public Reason Revisited. *University of Chicago Law Review* 64, 3: 765–807.
- Raz, J. 1986. *The Morality of Freedom*. Oxford: Oxford University Press.
- Ryder, B. 2008. The Canadian Conception of Equal Religious Citizenship. In *Law and Religious Pluralism in Canada*. Ed. R. Moon, 87–109. Vancouver: University of British Columbia Press.
- Scheffler, S. 2007. Immigration and the Significance of Culture. *Philosophy and Public Affairs* 35, 2: 93–125.
- Sher, G. 1997. *Beyond Neutrality: Perfectionism and Politics*. Cambridge: Cambridge University Press.
- Van der Burg, W. 2012. Inclusive Neutrality in the Classroom. In *Islam in State-Funded Schools. Religion and the Public Law Framework*. Ed. G. Lauwers, J. De Groof and P. De Hert, 180–190. iTunes Store.
- Van der Burg, W., and F. W. A. Brom. 1999. Eine Verteidigung der staatlichen Neutralität. In *Angewandte Ethik in der pluralistischen Gesellschaft*. Ed. K. P. Rippe. Freiburg, CH: Freiburger Universitätsverlag.