

The Ethos of Europe

Can the EU become a ‘just’ institution? Andrew Williams considers this highly charged political and moral question by examining the role of five salient values said to be influential in the governance and law of the Union: peace, the rule of law, respect for human rights, democracy, and liberty. He assesses each of these as elements of an apparent ‘institutional ethos’ and philosophy of EU law and finds that justice as a governing ideal has failed to be taken seriously in the EU. To remedy this condition, he proposes a new set of principles upon which justice might be brought more to the fore in the Union’s governance. By focusing on the realisation of human rights as a core institutional value, Williams argues that the EU can better define its moral limits so as to evolve as a more just project.

Formerly a practising solicitor in London, Andrew Williams teaches EU and human rights law at the School of Law in the University of Warwick.

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The Ethos of Europe

Values, Law and Justice in the EU

Andrew Williams



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Preface

This book represents an investigation into the ethical terrain of the European Union. In the course of its enquiry, it reveals how the practice of the institutions, through law *and* policy, through adjudication and regulation, through rhetoric and action, has led to the adoption of a number of values, each of which possesses indeterminate substance and is highly ambiguous. It argues that an institutional ethos, composed in part by a philosophy of EU law, has developed that lacks any coherence *and*, ultimately, clear moral purpose. Most importantly, there has been a failure to take ‘justice’ seriously as a central, defining and governing theme. The EU’s capacity to respond to crises and provide a focal point for vital decisions that will affect the lives of countless peoples inside and outside its domain is therefore diminished.

But my aim in this assessment is *not* simply to dismiss the Union as an ‘unjust institution’ or to argue that the evident failings make it worthy of dismantlement. Rather, the analysis is intended as a prelude to considering how change might be effected so as to make the EU *more* disposed to justice. Understanding the nature of the problem is the first step on this route. Believing that the trajectories of the ethos and the philosophy of law do not have to remain fixed, that they can be re-directed, is the second. But in order to achieve this, to make the EU a more just institution, a reconfiguration of values, law and the constitution of the EU is necessary. A fundamental reappraisal is required that will provide the Union with a clearer appreciation of its philosophical underpinnings and a more certain ethical framework. *That* is the ambition of this book. Having provided an evaluation of the salient values purportedly governing the EU, I look towards constructing *one* plausible account of justice based on a coherent set of principles that could provoke the change sought. This is a foundation upon which

further work will build. Practical as well as philosophical effort will still be needed. But I believe starting this process in earnest is a worthwhile endeavour given the scale of the problem and the tasks required to remedy it.

In this respect the introduction of the Lisbon Treaty, reference to which I have incorporated into the text where relevant, is merely the latest moment in the EU's history. It does not reduce the overall problem or the remedial task I advocate. It does, however, make discussion about the future ethical direction of the Union more urgent. Any great constitutional change should provoke a sense of reflection.

There are people I wish to thank for helping me to complete this book. At Warwick Law School I have benefited over a number of years from the comments and insights of Upendra Baxi, Victor Tadros and Jayan Nayar. All of them have taken pains to read through early drafts of sections of the book and ask important questions of my arguments. I would also like to acknowledge the continuing support of Gráinne de Búrca who has been unstinting in her encouragement. On a more personal note, I am as always hugely grateful to my parents, Norman and Pauline Williams, for the positive attitude that they take to my work. But most of all I want to thank Kathy, Antonia and Claudia who have put up with so much in this book's gestation. Their enduring love and generosity have made it possible for me to undertake and complete this project. They have made it worthwhile.