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EuroEthos

Exploring the Scope for a Shared European Pluralistic Ethos.
A comparative investigation of religious and secular ethically-derived requests
for exemption from the law in an enlarging Europe.

Specific Targeted Research Project

Priority 7: Citizens and Governance in a Knowledge-based Society

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1. Project execution

Project acronym: EuroEthos

Project title: Exploring the Scope for a Shared European Pluralistic Ethos. A comparative investigation of religious and secular ethically-derived requests for exemption from the law in an enlarging Europe.

Project partners:

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2. Zentrum für Europäische Rechtspolitik – University of Bremen
3. University of Wales, Newport
5. Univerzita Komenskeho v Bratislave
6. Bilkent Universitesi, Ankara
7. Universitat de Valencia – Estudi General
8. Západoceská univerzita

Project website: <http://euroethos.lett.unitn.it/>

Aims and Objectives

The EuroEthos project aims to explore the possible scope for a shared European ethos through the analysis of political and legal questions concerning issues of religious and secular ethics-based requests for exemption from the law. The study of such issues is considered a promising route to the suggestion of indications on how societies try to handle a plurality of values.

The project has four objectives:

Objective 1: to develop and organize knowledge on cases in which religious and ethical secular values lead to the definition of politically relevant claims;

Objective 2: to raise historical awareness of the relationship between plural values and political stances;

Objective 3: to analyse the influence of a diverse cultural heritage on the political views of citizens in the enlarging Europe;

Objective 4: to study the scope for a European ethos as a precondition for political integration.

The EuroEthos Consortium includes research teams from well-established EU Member States (Italy – University of Trento; Germany – ZERP, University of Bremen; UK – University of Wales, Newport; Spain – University of Valencia), “new accession” countries (Czech Republic – University of West Bohemia, Pilsen; Slovakia – Comenius University, Bratislava), as well as an Associated country hoping to be included (Turkey – Bilkent University Ankara).

Approach and methodology

Building on the idea that cultural heritage is the cornerstone of regional, national and European identity, attention has been paid to its role in shaping the political attitude of different States, in

order to promote possibilities of cultural integration, as a pre-condition for political integration. In light of this, the *EuroEthos* project aims to study the role played by a heterogeneous cultural heritage (expressed in terms of a plurality of both religious and secular ethical values) as to the definition of a shared European *ethos*, considering the enlargement of the EU to Eastern European Countries, and even, possibly, to Turkey. This commitment is based on the conviction that forming a shared European pluralistic *ethos* is a necessary precondition for political integration across the European Union. In particular, EU enlargement further reinforces the need to reflect on the plurality of both religious and secular values held by different European citizens. The main aspect characterising European citizenship so far has been connected to the free movement of people and goods within the European single market, in accordance with the Maastricht Treaty. However, neither religious nor secular values can be thought of simply as goods that can be moved from one State to another in some equivalent way. Accordingly, a shared pluralistic European *ethos* cannot simply be created either by 'adding-up' the values held by different EU citizens, and forming some kind of aggregate, or identifying some simple common denominator. A specific knowledge-based definition of such an *ethos*, and an understanding of its scope and features, is, rather, needed in order to promote integration (as opposed to cultural assimilation) between distinct value systems.

In particular, views about exemption on religious and ethical grounds are highly pertinent to issues concerning political integration and the possibilities of defining a shared European *ethos*. Recent cases across Europe have highlighted acute egalitarian dilemmas about how best to treat religious faith and ethical beliefs in a multicultural society. These dilemmas are further exemplified by such cases as the recent banning of religious symbols in French schools, requests made by Catholic adoption agencies to be exempted from considering same-sex couples in the UK, requests for removal of Crosses from Italian schools – and less recently, the Salman Rushdie *fatwa*. In all these cases notions of equal citizenship and freedom of thought and expression seem for many to come into direct conflict with specific values and ethical and religious commitments.

To face such issues, instead of repealing or amending generally applicable laws approved by the majority of citizens, democratic institutions in several instances have endorsed the so-called 'rule & exemption' approach to diversity, thus combining respect for general legal obligations and attention for specific minority issues. Traditionally, practices of exemptions from the law, including rights to conscientious objection, have been associated with such cases as protests against military conscription and/or against the performance of abortion. However, in recent years, claims for exemptions from the law and instances of conscientious objection (either *contra* or *secundum legem*) have come to comprise a wide array of cases including, but not limited to, the legislation on medically assisted procreation, rules for the slaughtering of animals, provisions for state schools and education in general, regulations regarding laboratory tests on animals and dispositions on such compulsory medical treatments as vaccinations and blood transfusions.

An intense debate in legal and political theory has accompanied this trend in public policy. In particular, multiculturalist approaches to cultural diversity have made strong cases in favour of the 'rule & exemption' framework. Against the alleged difference-blindness of the liberal state, exemptions rights are presented as individually exercised negative liberties granted to members of a religious or cultural group whose practices are such that a generally and ostensibly neutral law would be a distinctive burden to them.

Such somewhat particularistic and communitarian-flavoured approaches have been contrasted by supporters of moral and legal universalism. This front is represented by republican and liberal theorists, according to whom exemptions are unacceptable as they undermine the fundamental commitment to equality by conceding to some citizens certain liberties which are denied to others. Moreover, the 'rule & exemption' approach has been criticized as it seems to require political

institutions to identify individual citizens as exclusive members of pre-defined cultural groups. This may lead to an oversimplified understanding of the complexity of individual identity and of the very (often mixed) composition of groups themselves. What is more, the possible concession of religious- or ethics- based rights to conscientious objection may entail judicial inquiry into whether an individual citizen is a faithful member of a religious community and a sincere holder of certain beliefs, or whether the exemption is being requested opportunistically. All this, arguably, leads to the depiction of a rather invasive role for the state, well beyond the minimal functions that have been traditionally assigned to it in liberal theories.

The Project aims to make an empirically grounded and knowledge-based contribution to such debate, through the comparative study of the role of acts of conscientious objection and requests for exemption from the law in some EU countries. Although some sectorial studies have explored some – or particular aspects – of these issues, no serious attempts have been made so far to address the question of conscientious objection and requests for exemption from the law in a systematic and comprehensive way. This project intends covering this gap through the creation of a database including references, bibliographies, and a table of cases listing a wide spectrum of those ‘value issues’ which have given rise to requests for exemption from the law. Moreover, the comparative analytical approach adopted aims to identify the similarities and dissimilarities in the treatment of those issues across the different considered countries, so as to provide material for a future direct, or, more probably, indirect EU intervention strategy dealing with questions of values, religions, and cultural diversity.

On this backdrop the project partners have compiled a database of instances of differential treatment (including requests for exemption from the law and conscientious objection) across eight countries (Italy, Germany, France, UK, Czech Republic, Slovakia, Spain and Turkey). Among these, two family of cases were selected revolving around issues of differential treatment in public health (e.g. objection to vaccinations, abortion, IVF, research on embryos, and euthanasia) and on the workplace (e.g. equal treatment of workers, wearing of religious symbols, concessions of holy/rest days) to carry out comparative case studies. These served as a basis for testing the research hypothesis concerning the pluralistic nature of a possible shared European *ethos*.

Work performed

Specifically, the EuroEthos Project partners carried out the following activities:

The purpose of Objective 1 was to develop and organise new knowledge on the array of cases in which a plurality of religious and ethical secular values play a role in the definition of the politically relevant claims put forward by different citizens. To that aim, we conducted a review of the knowledge and existing studies on the topics of conscientious objection and requests for exemption from the law (at national, regional and European levels) in order to collect information on the up-to-date state of the art in the area of rules and exceptions. The crucial part of the Objective has consisted in the creation of a database of cases of demands of exemption from the law (including cases of conscientious objection) on religious and secular ethical grounds across the countries involved in the project. The database was completed by all project’s partners and uploaded on a website created for the Project (<http://euroethos.lett.unitn.it/home.php?database>)

The purpose of Objective 2 was to increase in-depth knowledge and historical awareness of the relationship between a plurality of religious and ethical secular values and the political stances presented by different citizens. To that aim, two families of cases to be further explored were selected. These were the same for all the countries and were chosen on the basis of an overlap in the cases comprised in the database (main deliverable of Objective 1). Due to substantial differences

among the countries represented in the project, the Consortium decided to focus on broader families of cases rather than on specific individual cases. Such families draw on issues of individual vs. public health (including medical ethics) and of non-discrimination and protection of the rights of employees in the workplace. The two families of cases selected and explored in each of participating countries had to allow for cross-national comparison under Objective 3.

The purpose of Objective 3 was to increase knowledge concerning the influence of a heterogeneous cultural heritage – including a plurality of religious and secular ethical values – on the political views of citizens who are members of the enlarged (and enlarging) Europe. This objective was implemented through a comparative analysis of a set of case studies across the countries involved in the research. The analysis was aimed to identify the similarities and dissimilarities in the treatment of the selected issues across them. The major achievements of this Objective were the comparative papers, the highlights of which were included in the comprehensive comparative report. Comparative papers were discussed during a working seminar at Bilkent University.

The purpose of Objective 4 was to conduct a knowledge-based study of the scope and features of a EU shared ethos, as a precondition for a political integration that goes beyond the mere joint promotion and safeguard of economic interests. Building on the recognition of a variety of both religious and secular ethical values, our main hypothesis centred on the pluralistic nature of such an extended cultural substrate. Accordingly, the last phase of the project was devoted to a knowledge-based study aiming to establish the possible bases on which we might build a strategy to encourage the creation of a shared European pluralistic *ethos* that is capable of fostering integration (vs. assimilation), in the respect of different religious and secular ethical value-systems. The major achievement of this Objective was the writing of a number of original papers collected in several joint works, each of which has explored some aspect of a possible EuroEthos. From this perspective, a paramount role is played by the book proposal (edited by Emanuela Ceva and Gideon Calder and submitted to the publisher Routledge) titled: *Values, Diversity and Differential Treatment: Multicultural Europe in Theory and Practice*. The book aims to study through both theoretical and applied contributions the scope for a specific European way to address cultural and religious diversity through the concession of forms of differential treatment (including rights to exemptions and to conscientious objection) to minorities.

End results

The end results of the project may be summarized as follows:

1. The Consortium has carried out a thorough review of the knowledge and existing studies on the topic of conscientious objection and requests for exemption from the law at a national, regional and European level;
2. The Consortium has created a unique database of cases concerning demands to be exempt from the law (including cases of conscientious objection) on religious and secular ethical grounds. This represents a novel contribution to the study of issues of European integration;
3. The abovementioned results have produced also an increased knowledge of the history and politics of an EU Associate Candidate State (Turkey) and some Member States (Italy, Germany, France, Spain, UK, Slovakia and Czech Republic) in view of their cultural heritage. This is a fruitful basis on which to study further possibilities for European enlargement and integration.
4. The comparative case studies constitute an important and empirically grounded contribution to the theoretical debate on pluralism and on the scope for a European *ethos*;

5. The final, more speculative part of the Project has contributed to the development of new knowledge about the possibility of grounding political integration on a pluralistic shared cultural substrate; and
6. has generate normative guidelines above so as to interpret the results deriving from the comparative phase, with a view to foster the creation of a shared pluralistic European ethos as a basis on which to promote political integration.

2. Dissemination and use

Publishable results

- EuroEthos Project Database, <http://euroethos.lett.unitn.it/home.php?database>
Result description: database of cases of religious and secular ethically-derived requests for exemption from law (including cases of conscientious objection) across Europe (sample of countries including: Italy, Spain, the UK, Germany, France, Czech Republic, Slovakia and Turkey)
Contact details: Emanuela Ceva, Project Manager (emanuela.ceva@unipv.it)
- Michele Nicoletti, “Introduzione”. In Nicoletti M. (a cura di), *Cristianesimo, libertà, democrazia*, di Ernst-Wolfgang Böckenförde. Brescia: Morcelliana, 2007, p. 5-26
Result description: Introduction to the book.
Contact details: Michele Nicoletti (michele.nicoletti@lett.unitn.it).
- Michele Nicoletti, “Towards a European Civil Society”. Cap. II, 6: Foradori P., Scartezzini R., Piattoni S. (a cura di), *European Citizenship: Theories, Arenas, Levels*, Baden Baden: Nomos, 2007. p. 109-118
Result description: Book chapter
Contact details: Michele Nicoletti (michele.nicoletti@lett.unitn.it)
- Michele Nicoletti, “Disobbedienza e coscienza nella Germania della prima metà del Novecento”, in *Filosofia politica* 1/2008.
Result description: article in refereed journal
Contact details: Michele Nicoletti (michele.nicoletti@lett.unitn.it)
- Michele Nicoletti, “Per amore della libertà: sulla dialettica tra religione e politica”, in Ferrara A. (ed.), *Religione e politica nella società post-secolare*, Roma: Meltemi, 2008, forthcoming
Result description: book chapter
Contact details: Michele Nicoletti (michele.nicoletti@lett.unitn.it)
- Emanuela Ceva, “Valori plurali e giustificazione politica: Una proposta di minimalismo procedurale”, in *Ragion Pratica*, 31 (2), 2008, pp. 433-452.
Result description: article in refereed journal
Abstract: Un requisito tipico delle teorie della giustizia liberali è che un sistema politico sia giustificabile a tutti coloro che vi dovranno aderire. Rispettare tale requisito diviene specialmente difficile quando gli agenti, verso i quali la giustificazione dovrebbe essere indirizzata, sono portatori di valori differenti e in possibile contrasto tra loro. La domanda che questo saggio si propone di affrontare si staglia proprio su questo sfondo e può essere così sintetizzata: quale tipo di valori dovrebbe informare la giustificazione di istituzioni politiche in un contesto caratterizzato da pluralità valoriale? Una celebre risposta a tale domanda è stata data da John Rawls. Essa si presenta come un invito a fondare le istituzioni politiche su valori che siano propriamente *politici*, escludendo così il ricorso a quei valori che fanno riferimento alle controverse dottrine comprensive e credenze metafisiche dei diversi soggetti. Una simile posizione sembra, dunque, presupporre la plausibilità della dicotomia tra valori comprensivi e politici. Intendo mettere qui in discussione la rilevanza esclusiva di una tale dicotomia e, così facendo, propongo di studiare la questione della giustificazione politica lungo la divisione tra valori sostanziali e procedurali, quali sottocategorie di valori politici qualificanti istituzioni giuste. Mentre i valori sostanziali indicano le qualità proprie di un esito, i valori procedurali esprimono le proprietà intrinseche di procedure. Seguendo una simile distinzione, sosterrò che una teoria che aspira a delineare istituzioni che siano giustificabili ad agenti portatori di valori differenti dovrebbe essere fondata su valori che siano

procedurali (e che rendano così la teoria applicabile a una varietà di contesti differenti) e minimali, che non siano cioè espressione diretta di una qualche concezione potenzialmente controversa del bene, del mondo o della natura umana da realizzare. Per esemplificare e dare forza a questo argomento concluderò abbozzando un'idea di egualianza procedurale, quale valore minimale per la giustificazione di istituzioni politiche per la gestione di conflitti.

Contact details: Emanuela Ceva (emanuela.ceva@unipv.it)

- Emanuela Ceva, "Impure Procedural Justice and the Management of Conflicts about Values", in *Polish Journal of Philosophy*, 2 (1), 2008, pp. 5-22.

Result description: article in refereed journal

Abstract: This paper aims to outline the essential structural traits that a procedural theory of justice for the management of conflicts about values should display in order to combine open-endedness and cogency. To this purpose, it offers an investigation into the characteristics of procedural justice through a critical assessment of John Rawls's taxonomy of proceduralism, in terms of perfect, imperfect and pure procedural justice. Given the concessions the two former kinds of proceduralism make to substantive theories, and the potentially misleading characterisation Rawls gave of pure procedural theories of justice, it reformulates the latter category in terms of *impure* proceduralism. In this case, the theory is required not to pose substantive constraints on the qualities of just outcomes, but is, rather, expected to provide a trans-contextually applicable account of the qualities of just procedures on the basis of an independent formal criterion of justice.

Contact details: Emanuela Ceva (emanuela.ceva@unipv.it)

- Emanuela Ceva, "Pluralità etico-religiosa e giustizia politica", in Ferrara A. (ed.), *Religione e politica nella società post-secolare*, Roma: Meltemi, 2008, forthcoming.

Result description: book chapter

Contact details: Emanuela Ceva (emanuela.ceva@unipv.it)

- Gideon Calder, Emanuela Ceva, "Values, Diversity and the Justification of EU Institutions", in *Political Studies*, forthcoming, 2009.

Result description: article in refereed journal

Abstract: Liberal theories of justice typically claim that political institutions should be justifiable to those who live under them – whatever their values. The more such values diverge, the greater the challenge of justifiability. Diversity of this kind becomes especially pronounced when the institutions in question are supra-national. Focusing on the case of the European Union, this paper aims to address a basic question: what *kinds* of value should inform the justification of political institutions facing a plurality of value systems? One route to an answer is provided by John Rawls, who famously distinguishes between comprehensive and political values, and defends the exclusion of the former from the foundations of a political theory of justice. This paper questions the tenability of the Rawlsian solution, and draws attention to an alternative twofold conceptual distinction: that between minimal and non-minimal and between substantive and procedural values. Minimal values are meant to be as independent as possible of controversial conceptions of the good and views of the world, regardless of whether these are comprehensive or purely political. It will be argued that their endorsement may thus further specify the nature of what should be shared in order to justify political institutions in conditions of pluralism. In order to further refine the account of such basis of justification, two variants of minimalism will be presented according to whether they invest substantive or procedural values. Substantive values qualify the property of an outcome; procedural values qualify the property of a procedure. The latter part of the paper consists of a 'face-off' between minimal proceduralism and minimal substantivism, considering reasons in favour of the adoption of each. The result, we suggest, is a helpful reorientation of the political dimension of the value debates to which the multiplicity of values amid contemporary European horizons give rise.

Contact details: Gideon Calder (gideon.calder@newport.ac.uk), Emanuela Ceva (emanuela.ceva@unipv.it)

- Enzo Rossi, "Liberal Democracy and the Challenge of Ethical Diversity", in *Human Affairs. A Postdisciplinary Journal for Humanities and Social Sciences*, 18 (1), pp. 10-22, 2008.

Result description: article in refereed journal (special issue).

Abstract: What do we talk about when we talk about ethical diversity as a challenge to the normative justifiability of liberal democracy? Many theorists claim that liberal democracy ought to be reformed or rejected for not being sufficiently 'inclusive' towards diversity; others argue that, on the contrary, liberalism is desirable because it accommodates (some level of) diversity. Moreover, it has been argued that concern for diversity should lead us to favour (say) neutralistic over perfectionist, universalistic over particularistic, participative over representative versions of liberal democracy. This paper provides a conceptual framework to situate those debates, and argues that there are two fundamental ways in which diversity constitutes a challenge to the justificatory status of liberal democracy: consistency (whereby diversity causes clashes between the prescriptions generated by normative political theories), and adequacy (whereby diversity generates a rift between our experience of what is considered valuable and what the theory treats as such).

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- Tiziana Faitini, Alessandroantonio Povino, "Handling Religious Diversity: The Case of "Holy/Rest Days" in Italy", in *Human Affairs. A Postdisciplinary Journal for Humanities and Social Sciences*, 18 (1), pp. 23-36, 2008.

Result description: article in refereed journal (special issue).

Abstract: The accommodation of a plurality of values within the same institutional framework is one of the main challenges with which contemporary democracies have been persistently confronted. This challenge has recently gained strength even in such traditionally homogeneous countries as Italy, as a consequence of an increase in the number of residents committed to diverse religious beliefs. Against this backdrop, this paper focuses on the case of requests for the legal recognition of religion-specific holy/rest days in Italy. The analysis of such a case will disclose—or so we believe—some valuable pointers as to how democratic societies could try to accommodate religious diversity in a way that is both respectful of the specificities of each religious group and compatible with the typically liberal commitment to the safeguard of individual freedom

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- Jana Plichtova, Magda Petrjanosova, "Freedom of Religion, Institution of Conscientious Objection and Political Practice in Post-communist Slovakia", in *Human Affairs. A Postdisciplinary Journal for Humanities and Social Sciences*, 18 (1), pp. 37-51, 2008.

Result description: article in refereed journal (special issue).

Abstract: The example of Slovakia is used to show how one of the post-socialist countries failed in fulfilling the demanding task of securing freedom of religious belief (including the right to conscientious objection) and, at the same time, securing all other human rights. An analysis of the methods used for changing the policies of pluralism and neutrality of the state into a policy of discrimination (e.g. concerning the registration duty for churches) was carried out, followed by an analysis of a mechanism used for guaranteeing freedom of conscience of the members of the Catholic Church (the so-called Vatican Treaty). The treaty violates the prohibition of discrimination against women, because it makes it more difficult for them to have access to some health care services. Our hypothesis states that the hurriedly introduced right to conscientious objection is misused in this context as a means of regulating the politics of reproduction. In general, the re-Catholisation of the Slovak Republic follows two aims—to help in the fight for votes in the elections (because 70 % of Slovaks declare their religion to be Catholic), and to improve demographic development in the Slovak Republic (declared to be catastrophic by the Catholic Church), through hindering free access to abortions.

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- Juan Carlos Siurana, Isabel Tamarit, Lidia De Tienda, "Ethical, Religious and Legal Arguments in the Current Debate over Euthanasia in Spain", in *Human Affairs. A Postdisciplinary Journal for Humanities and Social Sciences*, 18 (1), pp. 52-66, 2008

Result description: article in refereed journal (special issue).

Abstract: In the last ten years, there have been several cases in Spain (Ramón Sampedro, Leganés, Jorge León that have led to an intense social debate on euthanasia. The recent case of Inmaculada Echevarría, a woman suffering from a serious disease that kept her immobilized in bed, has revived the debate on euthanasia in Spain. On 18 October 2006 she held a press conference and publicly asked to be disconnected from the ventilator that kept her alive. After a long ethical, religious, legal, and social debate, the patient was disconnected on 14 March 2007 after being adequately sedated. As a consequence, the patient died. In our paper we defend the need for a radical and intercultural democracy and present the main ethical, religious and legal arguments on euthanasia that are being posed in Spain and in Europe as a debate that should help to build a radical and intercultural democracy at a European level.

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- Lenka Strnadová, "Demokratizace Evropy – jednotný étos a jeho hranice" ["Democratization of Europe – Shared Ethos and Its Boundaries"]. In *Evropa – kultura – identita [Europe – Culture – Identity: Cultural Background of European Integration]*. Plzeň: Vydavatelství a nakladatelství Aleš Čeněk, 2007, p. 104-123. ISBN 978-80-7380-064-2.

Result description: chapter in an edited book (conference proceedings).

Contact details: Lenka Strnadová (istrnad@kap.zcu.cz)

- José Felix Lozano Aguilar, Pedro Jesús Pérez Zafrilla, Elsa González Esteban, "The Limits of Tolerance in Public Universities", *Politics in Central Europe*, vol. 4 (2), 2008.

Result description: article in a journal special issue.

Contact details: Elsa González Esteban (esteban@fis.ujl.es).

- Magda Petrjánošová, Claire Moulin-Doos, Jana Plichtová, "The Debate over Reproductive Rights in Germany and Slovakia: Religious and Lay Voices, a Blurred Political Spectrum and Many Inconsistencies", *Politics in Central Europe*, vol. 4 (2), 2008.

Result description: article in a journal special issue.

Contact details: Claire Moulin-Doos (moulindoos@yahoo.com)

- Jana Plichtová, Dino Costantini, Magda Petrjánošová, "State, religious pluralism and its legal instruments in Italy and Slovakia", *Politics in Central Europe*, vol. 4 (2), 2008.

Result description: article in a journal special issue.

Contact details: Dino Costantini (iodio@unive.it).