Law and Philosophy Workshop

October 3rd, 2011

Question for David Estlund

“Human Nature and the Limits (If Any) of Political Philosophy”

A. On the role of Institutional Principles.

(1). You argue that facts about motivational limitations of human nature may play a role in institutional proposals, but not in the sphere of institutional principles. Can you elaborate a bit on how do you see the theoretical role of institutional principles, in light of your statement that if such principles will not be complied with, they ought not to be instituted? How do institutional principles differ, if they do, from fundamental principles on the one hand, and utopian conceptions of justice on the other?

B. On the question of whether numbers (and pathology) matter.

Considering your example of Bill who cannot bring himself to comply with a moral requirement due to selfishness, and your argument that numbers do not matter here, two related questions:

(2) First, would there not be at least some epistemic pressure that builds up: The more we come to see that people cannot bring themselves to comply with a requirement, perhaps the more we should doubt the soundness of the requirement? Put somewhat differently, there might be a suspicion that the plausibility of this example comes from the fact that we actually know that most people are not as selfish as Bill, if we really thought that most everybody is like Bill, perhaps we would have come to doubt the requirement?

(3) Second, we were wondering what justifies the exception of pathological disorders of willpower; why would the source or cause of the will make a difference on your account (given, that is, that human nature doesn’t)?
C. On cases in which the will forms part of what makes the object good.

(4) We were wondering whether your thesis that “can’t will” does not block a requirement, could also apply to those cases in which the will forms an essential part of what we value about something. Examples might be friendship and other intimate relationships, etc. And if this is true about what we value in friendship, love, and the like, can it also be true about values closer to justice, such as charity, or perhaps even the value of some forms of social cooperation?

(5) Relatedly, imagine a world in which absolutely nobody is willing to help a stranger; would this be a world in which helping a stranger is morally required? (How Kantian are you? – would you argue that this is a world in which the will contradicts itself, or something along those lines?)

D. On the possible role of reciprocity in the context of justice for humans

(6) On p. 18 (last paragraph) you say that “those to whom we owe justice do not lose their claim on us just because it might turn out that we are not, perhaps even by our nature, disposed to deliver it.”

We were wondering whether a principle of reciprocity might not undermine this claim. If it is part of human nature that people are not disposed to will what it takes to deliver X, then those “to whom we owe justice”, presumably humans as well, would not be disposed to deliver X either. Can people have a claim of justice against others if they could not possibly bring themselves to deliver what they claim for themselves?