Law & Philosophy Workshop

October 17th, 2011

Questions for Margaret Moore

‘Natural Resources, Territorial Right and Global Distributive Justice’

1. The main argument of the paper provides a partial defense of the statist view about territorial rights. However, some of the examples you discuss, including the one opening the discussion, are of intra-state conflicts over land use. We were wondering whether you can say a bit more on how these two types of cases relate, and how, on your view, the argument from self-determination might help in thinking about intra-state conflicts.

2. Your main argument builds on the distinction between a right to control resources and the right to enjoy the full economic benefits flowing from those resources. We have a number of questions about this distinction:

(a) We were wondering how the distinction matches onto the traditional conceptions of private property. A right to private property is generally regarded (with the exception of some extreme libertarian conceptions) as compatible with taxation, which implies that a right to private property does not normally give the owner an unlimited right to enjoy the economic benefits of the ownership. Would your argument then suggest that states have a right to private property in their land/natural resources, as opposed to some other, stronger kind of right?

(b) If the right to control a territory includes, as you seem to suggest, a right to prevent any economic use of it, does it not give the right holder the equivalent of the full potential benefit of the land?

(c). Relatedly, does your thesis assume that the non-instrumental argument for control over territory takes a certain priority over the instrumental, efficiency argument? If so, can you tell us a bit more about what grounds such a priority?
3. With respect to your argument derived from the intrinsic value of land as part of a right to collective self-determination, against a global conception of luck egalitarianism, we have two questions:

(a). Unlike the Miller’s argument you approvingly cite, the argument from self-determination does not seem to undercut the luck-egalitarian principle, only to form a kind of counter-claim. So perhaps we have two principles at work here that need to be balanced against each other?

(b.) We were also wondering what justifies the emphasis on the right to collective self-determination in this argument; could one not also rely on such principles as peoples’ right to shape the immediate environment in which they happen to live? In other words (perhaps), why is history more important here than future-oriented concerns?

4. You argue that only the human right to subsistence can compete with and potentially override territorial rights. We have two related questions about this minimalist conception: Is the right to subsistence, on your view, the only kind of human right with global reach? Or is it the only global right that can compete with territorial claims?

Relatedly, we were wondering whether the right to control a territory protects use of land in ways that are detrimental to people outside the state or territory in question, such as cases of massive deforestation, or destruction of endangered species? If it is not, on what grounds?