The 2007 Kuyper Lecturer: Roy Clouser

In this 30th Anniversary Year of the Center for Public Justice our 13th annual Kuyper Lecture will be delivered by Prof. Roy Clouser. The lecture will be held in the fall and an announcement of the location, date, and time will be released in the near future. The lecture will address one of the most important questions about a constitutional, democratic republic whose citizens pledge allegiance to “the rule of law”: What are the foundations of law?

Roy A. Clouser is Professor Emeritus of Philosophy and Religion at The College of New Jersey in Trenton, where he taught for most of his academic career. Best known for his book *The Myth of Religious Neutrality* (University of Notre Dame Press, 2005, revised edition), he is also the author of *Knowing With the Heart: Religious Experience and Belief in God* (InterVarsity Press, 1999).

As a way of introducing the 2007 Kuyper Lecturer and the topic he will address, we are presenting an excerpt below from *The Myth of Religious Neutrality*. The excerpt is from a chapter on the nature of society and explains why Clouser rejects both subjectivism and objectivism as accounts of the foundation of law for social institutions. In the text of his book that precedes this excerpt, Clouser develops the idea of a “cosmic law framework” that is fundamental for the whole of human life. By cosmic law framework he means the ordering of creation that cannot be accounted for by either subjectivism or objectivism. Some would call such a law framework “natural law” while others would refer to it as God’s moral law. But both of those ideas can tend in the direction of objectivism. On the other hand, the rejection of any notion that humans are bound by a creation order that they do not establish for themselves is an expression of subjectivism.

In the excerpt below, Clouser uses the word “norm” or “norms,” by which he means the kind of law-order that holds for the various kinds of human responsibility in personal and social life. And in discussing this subject, the author says why it is important to reject the fact/value dichotomy, which presumes that human “values” are merely subjective feelings or beliefs while “facts” are objective realities or truths that can be demonstrated by a neutral, scientific investigation or judgment.
We hope you will enjoy the following excerpt and that you will come to hear Dr. Clouser this fall and help us celebrate the Center’s 30th anniversary.

—The Editor

Norms and the Development of Society
by
Roy A. Clouser©

The idea of a cosmic law framework gives us a distinctive direction of thought which steers a course different from both subjectivism and objectivism. . . . We utterly reject the position that norms of logic, linguistics, economics, art, justice, ethics, etc., are nothing more than subjective biases. Though people do disagree over exact statements of the norms of some aspects, there is no way anyone can avoid the general recognition that human acts and social communities are norm-governed in their very nature. For example, the employment of norms of clarity in language or of supply and demand in economics are unavoidable in speech and business; so is the ethical norm of love (love your neighbor as yourself) for doing what is morally right, or the norm of justice (that people should get what they deserve) for being fair. These norms are principles that . . . make these kinds of human activities and communities possible even when people engaged in those activities or communities deny and/or disobey them.

This fact cannot help but be implicitly recognized, even by a theory that explicitly wishes to deny it. The purpose of a business organization, for instance, cannot help but be led by economic norms even if the subjective intention of its owner is not economic wealth but fame or besting a personal rival. Similarly, the purpose of the marriage institution is still led by norms of love even if one of the partners has married only for economic gain. This is why when there is no love between husband and wife there is no real marriage, and we say they have a marriage “in name only.” Likewise, the members of a family may in fact hate one another rather than conform to the ethical norm of love. But in that case, everyone recognizes that it is an ab-normal family. Or, again, the purpose embedded in the leading function of a synagogue or church is governed by fiduciary norms of faith even if some of their members participate in them purely for social prestige. . . . What, for instance, would be left of our understanding of a business if every reference to economic norms were eliminated? What would be left of our understanding of marriage or family if all reference to love were excised? What would be left of our understanding of a temple, synagogue, church, or mosque if we ignored the norms and purposes of faith? The very concepts of these communities would be stripped of their most essential characteristics! . . .

The same holds for other social institutions and organizations as well. A state may act illegally, but it will still have a legal structural purpose led by the norm of justice. This is why the crimes of a government or government officials seem the more reprehensive to us: they violate the very purpose that is qualified by the leading function [justice] of that
institutions. The same is true of a political party whose structural purpose is to generate trust in the policies and people it wishes to have direct the state. For this reason we say it [a political party] is qualified by a fiduciary leading function. Nevertheless, a political party may violate the trust people place in it, and may even guide the state into violating its own structural purpose of justice (think of the Nazi party). Nevertheless, the norms do not go away and they cannot be ignored. It is a common saying that even criminal organizations have their own internal ethical rules to which they adhere, so that there is “honor among thieves.” And even the most violently anarchistic organization would quickly fall apart if it became devoid of all observance of norms of fairness or trust among its own members.

We are therefore in agreement with the part of the objectivist position which holds that norms are real and cannot be ignored even if we try. In other ways, however, we must disagree with the classical objectivist position. For instance, we cannot agree that norms are only extrapolations from the nature(s) of things, so that those natures make the norms possible. Our theory holds instead that there is a distinct law side to creation . . . . This has seemed to some critics to be a minor point, so that they take our position to be another version of objectivism. But holding that laws and things exist in mutual correlation is not a minor point. For if norms were merely our summaries of the inviolate natures of things, it would be impossible for any thing to disobey those norms without violating its very nature and thus becoming something else. Thus our theory, unlike objectivism, can account for the fact that individual activities and communities can retain their identity while disobeying norms.

These points further support our position that norms must be regarded as a distinct side of reality, not identical with the things, acts, and communities they govern. And it is why we do not call the purpose of an act or community . . . its “objective” purpose. The normative purposes included in the leading functions of human acts and artifacts do not reside in the objects of our experience any more than they reside in us as experiencing subjects . . . .

We also disagree with traditional objectivism’s position that human reason is autonomous and neutral in its reading of norms from the natures of things. This point is what makes the disagreements over them lead subjectivists to reject objectivism. For if norms are really “read” from the natures of things we experience by pure unbiased reason, they ask, why doesn’t everyone see them alike? By contrast, however, we deny that norms and normative structural purposes are interpreted in a neutral fashion . . . .

Since it’s subjectivism that is in vogue right now, I’m going to aim an additional critical point its way in the form of a question. Why should we think that disagreements over norms show they’re really only subjective biases? Why is that conclusion drawn for norms and not for, say, colors? Two people can—and often do—look at the same object in the same light at the same time and still disagree on whether it is more green than blue, for example. But does this prove that colors are merely our subjective biases rather than real (passive) sensory qualities of things? Surely not. But, then, why draw that conclusion for norms?
In sum, the program of eliminating norms in order to deal with the pure facts is, we say, destructive of social theory and impossible in fact. What “ought” to be is always part of what “is.” Norms, like natural laws, have an existence distinct from both subject and object with God as their source; He alone is the law-giver to creation. This is why norms can and do continue to govern creation even when people exercise their freedom to disobey them. And it’s also why any theory that attempts to pare down human activities and communities to the “bare facts” by eliminating norms is attempting something which is self-defeating. To strip away their norm-governed structural purposes and ignore their leading functions is to destroy their specifically human and social character, and ends up rendering them incomprehensible.