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A Game for Reflection

Suppose we land on an uninhabited planet and have to start all over. To do this, we would have to establish minimal rules of social conduct. And, since no one would know where he or she stands or will end up in relation to the rest, it would be impossible to skew the rules for personal benefit.

Let us begin, then, behind the veil of ignorance.

First. We would define whether we want a democratic or an authoritarian government. Undoubtedly, we would choose democracy.

Second. We would question whether everything—without exception—should be decided democratically. At this point, we would start to weigh our answers. It would be tempting to respond with a “yes.” However, some may point out that if everything is decided democratically, in reality no one will have any rights, since a majority could vote them away. For example, a majority could legalize the slavery of a minority (something that has happened in the past). A majority could also decide that everyone should profess the same religion (which also has happened). Or that everybody has to take vitamins to protect their health (which, too, has happened). After a bit of reflection, we would probably decide that not everything should be subject to democratic rule.

This conclusion means that (1) we would not assign absolute power to the majority; (2) we would have rights that antecede the state, which cannot be violated even through a democratic process; (3) government would be established only for certain purposes; and finally, that democracy is a means and not an end.

Third. On our new planet, we would have to determine which things will and will not be subject to democratic rule. In other words, we would need to decide what the proper function of the government should be, as well as define in what areas the government does not have a legitimate function, such as in each person’s private sphere, in which interference from other persons is also excluded. Examples include whom we marry; the profession we choose to practice; how many windows we have in our house; whether we consume alcoholic beverages or not; exercise or not, etc. However, it would be impossible to list everything our democratic government cannot do; such a list would be imprecise. It would be better to list what the government can do (inclusive) leaving everything else outside its jurisdiction (example: the Tenth Amendment to the U.S. Constitution states that the government can only exercise those powers that are expressly delegated to it).

Fourth. In order for us to coexist peacefully, we would have to establish beforehand the rules for the legitimate acquisition and possession of things. For example, a person would acquire ownership of something when it is the product of his own work or the result of a voluntary exchange of legitimately owned properties (capital and labor).

Our definition of property would stipulate that only the owner has the right to dispose of something, provided he does not use it to violate the equal rights of others; and that this right may not be violated democratically. NOTE: Since everything we do with our property affects others in one way or another (if I consume iron or take up space, less iron or space is available for others), we would have to determine what effects we all will need to tolerate reciprocally.

In the case of new land, initially it could be divided in equal parts among all of us. Obviously, many of us would soon exchange our land voluntarily for other things more important to us. This would establish a market for land ownership. Property rights acquired this way would be legitimate, respected, and could not be violated democratically.

Fifth. In order for everyone to feel fairly treated, it would be forbidden in the future for a majority to make exceptions to the law that would allow certain people (we don't know who, for we are shrouded by the veil) to do something that another person, although he has the means, would not be permitted to do.

Sixth. No doubt, we would agree that no one could expect to resolve his problems by appropriating the use of resources that belong to others against their will. For example, a majority could not require through the democratic process that a minority provide them with food, medicine, or education for their children.

Seventh. It is equally reasonable to assume that from behind the veil, and so all feel justly treated, we would establish that a majority could not impose on a minority taxes different from those it is willing to pay itself.

In real life, we are not behind the veil of ignorance, and we all know where we are and where we want to go. Thus, it would be difficult for a government based on the principles described in our example to come about democratically. As Frédéric Bastiat stated 150 years ago, government is the instrument through which everyone tries to live at the expense of others.

Nonetheless, we must not lose hope. As it celebrates its 43rd anniversary, the Center for Economic and Social Studies (CEES) will continue its efforts to convince, persuade, and explain why, if we ever want to enjoy long-lasting and peaceful prosperity, we must place constitutional restraints on democracy, so that justice and the efficient assignment of resources, which are indispensable to abolishing poverty, will prevail.

Translated from the original Spanish

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