HANG TOGETHER

"We must indeed all hang together, or most assuredly we shall all hang separately." – Benjamin Franklin

THAT'S NOT FAIR!

Posted on September 25, 2012 by Daniel Kelly

Now here's something on which we can all agree: Fairness. It's the basis for public appeals without number. I hear that the rich should pay their fair share of the tax burden – and why not? Workers should get a fair wage, which beats the alternative. Fair Wisconsin is fighting for fairness (fairly?) for LGBT Wisconsinites. Minorities should have a fair shot at

employment opportunities, which seems only fair. Fairness, it seems, is in vogue.

Fair enough. I think I'll take this one out for a spin and see how it works for me. I love Friesians (a majestic breed of horses; massive, powerful, and graceful beyond belief), but I don't have one. Not likely to either – I have a mortgage and five children who plan on college educations and expect to eat every day. I just can't afford all that *and* a Friesian. They're just too darn expensive. And that's not fair!

It's not like I'm unwilling to pay a fair price. Just not the one the greedy owners are demanding. So . . . do I get my Friesian now? I hope you're not in doubt of the answer – it's "no." A resounding, imperative, unequivocal (and saddening) "no."

The answer is "no" for the same reason that requiring the rich to pay their fair share of taxes might mean they should pay less. Or that the protesting employee might be entitled to no more than he is currently receiving. Or that marriage laws just possibly ought to remain as they are.

Here's the rub with appeals to fairness. It's not, as it turns out, a self-contained concept. By itself, it actually has no meaning whatsoever. When we say something is fair (or unfair), we are judging circumstances against an external (and all-too-often unspoken) standard. To the extent circumstances deviate from that standard, we call them unfair.

Let's take taxes for an example. We all agree that the rich should pay their fair share. But what, exactly, is that? What is that even *conceptually*? The top 5% of income earners pay more than 50% of all income tax. Is that fair?

We don't often address the same demand to the non-rich, but surely we would all agree that they ought to pay their fair share of taxes too. We would, wouldn't we? Or would we say the non-rich ought to pay an unfair share of taxes? Over 50 million earners pay no income tax at all, including those making as much as $50,000 a year. Is that fair?

We can only answer these questions if we first establish what the rich and the non-rich *ought* to pay. If you can't identify the "ought," you've got no fairness argument. Without reference to the standards that all appeals to fairness necessarily imply, "fairness" is nothing more than personal preference dressed up in moral guise.

I sure want that Friesian. But I can't think of any moral standard that says I ought to have it notwithstanding my inability to pay the asking price. Which means I can't demand that the owner accept less than he wishes, or that my neighbors help me pay for it.

Fairness-as-morality has invaded, and distorted, a wide swath of our public discourse, creating the illusion of moral consensus. But it's only an ersatz morality, popular because it creates the desired look and feel without the inconvenience of identifying any actual standard.

That's not all there is to say about this, of course. But don't you worry, I'll be returning to this subject from time to time. 'Twouldn't be fair otherwise.

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6 Thoughts.

Kyle Ferguson
September 25, 2012 at 10:39 am

"Fairness is not everyone gets equal, but everyone gets what they need," at least so said a elementary special education teacher. I'm not sure you need that horse. Of course, who gets to determine 'need?'

Reply

Daniel Kelly
September 25, 2012 at 11:31 am

The special education teacher was proposing the second half of the Marxist formulation: From each according to his means, to each according to his need. The second half, of course, predicts and necessitates the first half. From where else would the "need" be met?

Greg makes the salient point below. We have a moral obligation to care for the needy, but is that an obligation that the government may enforce? Only if satisfaction of the need is something to which the needy person is "due." And whether he is "due" that satisfaction depends on the existence of an obligation of which the government may take cognizance.

The special education teacher's admonition sounds harmless enough, and even suggests a pleasant moral content. But we need to be careful not to swallow that fly, lest you find yourself quickly swallowing a spider to go after it, after which you must send in the . . . well, you get the point.
Reply

Kyle Ferguson
September 25, 2012 at 11:46 am

Hmm, I suppose that to say that fairness means people have needs met assumes that needs MUST be met. You are certainly correct that this creates a slippery slope. What if I need to be healed of cancer? Is it the government's job to ensure that I am healed? Is it unjust for me to die or just sad? What if I need to lose weight? Should the government enforce laws that regulate soda consumption? I think you prove your put well, after which you must send in the….clowns?

Greg Forster
September 25, 2012 at 10:51 am

The classic formula for justice used to be "give to each his due." Long time since we had any sense of that, though.

Need should guide our voluntary charitable repsonse to people, but giving people what they need shouldn't be elevated to the level of what is just or fair. As soon as people have a justice claim to resources, you're not helping people in need but turning them into clients; they come under the control of whoever is in charge of seeing to it that justice is done (i.e. the state).

Reply

Michael Hintze

September 25, 2012 at 12:18 pm

There is an old bromide that well illustrates the problem with any attempt to impose "fairness" as a standard for judging the appropriateness or desirability of a policy prescription in a public policy (or any other) debate: "Beauty is in the eye of the beholder." Or, and perhaps more appropos of our current social milieu, "One man's terrorist is another man's freedom fighter."

Both examples illustrate the inherent problem with any non-objectively describable standard for judging whether a proposed policy prescription is right or wrong, correct or incorrect, desirable or undesirable. That inherent problem is the fact that neither describes anything that is universally accepted and subject to repetitive verifiability, neither is subject to a binary true/false test.

In most areas of our daily lives, we live with verifiably objective standards. We are either traveling at or under the posted speed limit or we are not, the butter we purchased at the store weighs a pound or it does not, the milk is either a gallon or it is not, the dirt purchased to spread in the garden is either a cubic yard or it is not. In each case, in any dispute between interested parties, there is an objective and verifiable standard to use to determine whether one party has fulfilled its obligation to the other.

As Dan Kelly has correctly pointed out, "fairness" is not an objectively verifiable standard, and therefore, cannot be used as a test of any public policy. Is there such a standard? I submit that there is, and that the standard is set by the free operation of the marketplace.

In any free-market exchange, both (or all) parties must profit by the exchange. Each must get something he or she values more than that which is being given up. There is no economic exchange that results from a zero-sum transaction in which one party's gain is the other party's loss. Nor does an economic exchange take place between parties who value the other party's goods or services precisely the same as its own.

How may this concept be applied to public policy? By asking the question, "Will all parties to this policy have gained by its implementation?" In other words, has each party affected by the policy, including the government entity issuing the policy, gotten something it values more than what it has to give up?

Let's do a thought experiment to test my assertion. Except for those persons who intend to commit criminal acts, I feel safe in asserting that each person benefits from government providing police protection. I also feel I am on safe ground in asserting that under normal circumstances, each person would value his or her own life more than he or she would value anything else. It matters not what others may think of the value of the person's life, the person himself or herself will place an almost infinite value on staying alive. Consequently, it must be true that each law-abiding person benefits to an equal degree from the existence of a police force.

If my assertions above are correct, then how can we determine the proper method of taxing those who benefit from the existence of that police force? I submit that each person should pay a prorata share of the cost, because each

person gains a prorata share of the benefit. Each person then receives something he or she values more than the cash amount of the tax paid, i.e., the security of person provided by the police.

But if one person, through the taxing power of the government, is forced to pay more for the provision of a police force than that person's prorata share, and another person pays nothing toward the cost of providing that same police force from which he or she benefits, the first person is not receiving full value and does not gain more from paying more. Conversely, the second person receives a benefit without a cost, and has consequently engaged in legalized theft of the first person's property.

At this point, you may be saying to yourself, "Okay, I understand that one person is paying more than value received, while the other is receiving value for which that person has not paid, but how is government disadvantaged by having some pay more while others pay nothing?" The answer is that government loses in three ways by its heretofore unchallenged approach. First, it receives less revenue than it would under a prorata tax plan, because a) those who have to pay will take steps to reduce the amount of their payment, and b) those who don't pay will use more of the police service's time than those who do, and finally c) government loses the goodwill and consent of the governed without which it cannot function in a republic–and that is the costliest result of all.

Reply

Geoff

September 25, 2012 at 1:03 pm

There you go again, Dan. Ever the optimist. You are still as kind and gentlemanly as when we first met. But you are banging your head against the wall by trying to educate serial "Taxers."

You see, when it comes to obsessively seeking greater tax payments from high earners, the Taxer's appeals to "fairness" are but subterfuge. The Taxer has no interest in fairness at all. So your scholarly lessons for the Taxers in our midst, however concise and brilliant, are about as useful as suntan lotion on a submarine. You cannot educate those who won't be educated – who don't even use with any sincerity the term that you define for them. But you are too kind to expose their real motives. I am not so kind.

Envy. Pure and simple. The Taxer is not content with what he has. He wants more. He sees people with more and he resents them. He wants them to have less. Getting more is either impossible or too hard, so he devises policy arguments to take from them that gots. "Fairness" has nothing to do with it. The Taxer will never be satisfied until he is no longer envious. But "envy" doesn't sell and he is smart enough to know that.

By contrast, one with a pure fiscal motive, devoid of envy, would ask: what is the most effective way to raise the taxes needed to fund governmental expenditures? The problem is, if the Taxer actually studied the issue coldly, analytically and responsibly, he might not like the answer. There's a good chance his envy would be left unattended. All dressed up and nowhere to vent. And that just wouldn't do. Cue up the fairness soundbite again.

Reply

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