

VALENTIN DE FORONDA: LIBERTY, PROPERTY, AND SECURITY

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An eminent figure of the Spanish Enlightenment, Valentin Tadeo Echavarrri de Foronda (1751–1821) summarizes in his works the expectations and the disillusionment of a generation balanced between ideals of liberal reforms and the claims of restoration. Born into a noble family in Vitoria (Basque Country, Spain) in 1751, he was a member of the *Real Sociedad Bascongada de Amigos del Pais* (Elorza 1965), which contributed greatly to the diffusion of the new economic and philosophical theories in the Iberian Peninsula. He traveled in England, France, Italy and Holland and these experiences deeply influenced his life and political views. As a diplomat, he represented the Kingdom of Spain in the United States (J. De Onis 1948, 1967; M. Benavides 1991), and during that period in Philadelphia he was elected as a member of the *American Philosophical Society* (Spell 1936). He was persecuted for his ideas after the revocation of the Liberal Constitution of 1812 and even spent a year in prison (1814). The sentence was converted to ten years of exile in Pamplona, but the punishment was cancelled after the promulgation of the new Constitution in 1820. The following year he died at the age of seventy.

Though unfortunately not well known internationally, his translations of Bielfeld, Condillac, and Rousseau were the starting point of a renewed culture in Spain during the *Ilustracion* (Elorza 1970). Even though his reflections can be considered a revisited repetition of the

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ideas of the main French, Italian and English philosophers, he had the merit of developing and disseminating their teachings to a broader public.¹ His style is so clear and direct that his fame persists in Spanish intellectual history. It would be regrettable if we did not present more completely his valuable, wholehearted attempt to give a functional structure to the liberal theories in such a way that they could shape the general approach to social issues.

It is evident, especially in the *Cartas sobre los asuntos mas exquisitos de la economia politica y sobre las leyes criminales* (1789–1794), that his main purpose is to introduce into the Spanish system those reforms which are considered the most useful for the well-being of the entire nation in assuring both a correct functioning of the rules and peace. In the first place, in his philosophical structure there is the assumption that reason is the common denominator to which every man has to submit unconditionally. He does not hesitate to affirm repeatedly that “the authority has to humble in front of reason” (Foronda 1784, p. 185). This particular aspect is mainly developed in the legal theories, in which he accepts the contemporary arguments of Cesare Beccaria and the French Encyclopedists, in order to give a serious guarantee to the condemned on the basis of a precedent law in a reasonable length of time. In this way he tries to humanize an ancestral penal procedure by modifying, not only the relationship between political power and the citizens, but even the socio-cultural structure of a collapsing jurisprudence (Scandellari 1996).

Concerning this latter point, he maintains that sentences must be public and that everyone must have the right to petition so that calumny will not prevail over the truth. He suggests, in fact, that his country adopt *habeas corpus*, safeguarding individual freedoms and legally limiting arbitrary state power. Frequently, this authority is contradictory, especially when it condemns someone to the punishment of infamy, putting him out of society and giving him no other chance but isolation and crime. This is not only pernicious for the condemned himself but for the entire community because—as it has been briefly shown—the concept of honor has not only a legal connotation but pervades all aspects of social life. His detailed reasoning leads to the conclusion that infamy cannot be established by the law (*ibid.*, p. 188).

¹“Foronda was one of the first to popularize the new economic ideas in Spain. He advocated commercial and industrial laissez-faire and opposed all measures contrary to free trade, the pole star which ought always to be kept in sight” (Higgs 1926, p. 120).

From the same point of view, he hotly attacks the practice of confiscation. Demonstrating again his interest and knowledge of the common law and Anglo-Saxon legal tradition, he affirms that this law should be abolished precisely because it affects not only the guilty but also his innocent family, causing even more deleterious effects (*ibid.*, pp. 194–95). Foronda is, moreover, convinced that the use of pardon should be reduced “because each pardon is a derogation of the law and where the legislation is good, the pardons are not other than crimes against the law” (1784, p. 198). Like Montesquieu, he calls for a clearer division between legislative and executive power since, at the time, the power of pardon stayed only in the hands of the sovereign who could use it exclusively in the name of his prerogatives as final judge (*ibid.*).

Another aspect worth mentioning in his legal theory is the concept of time. Punishments must be imposed swiftly following the trial because—reaffirming Beccaria’s teaching—the more immediately after the commission of a crime a punishment is inflicted, the more just and useful it will be. It will be more just because it spares the criminal the cruel and superfluous torment of uncertainty, which increases in proportion to the strength of his imagination and the sense of his weakness, and because the privation of liberty, being a punishment, ought to be inflicted before condemnation for as short a time as possible (Beccaria 1778, chap. 19).²

Adopting and commenting on these statements, Foronda expresses the necessity of reasonableness as a fundamental axiom for every policy. This means specifically that the state should not look after the inessential matters, since the resulting, powerful disequilibrium would hinder the natural movement of society,³ the prosperity of which is based on the *rights of property, liberty and security*.⁴ To these basic principles all law must conform. Foronda gives a precise description of these unalienable rights:

For right of property I intend that prerogative, granted to the man by the Author of the nature, of being owner of his person, of his

²In his version, Valentin de Foronda seems to translate literally the words of Beccaria. He argues, in fact, that “cuanto mas vecino este` del delito, sera` tanto mas justo y util: porque ahorra al culpado el tormento cruel y superfluo de la incertidumbre de su suerte, que crece en razon de la fuerza de su imaginacion, y del sentimiento de su debilidad; y porque siendo una pena la perdida de la libertad, no puede ser impuesta antes de la condenacion, sino en tanto que lo exija la necesidad” (Foronda 1784, p. 198).

³“para entorpecer el movimiento de la Sociedad” (*ibid.*, p. 202).

⁴“los derechos de propiedad, libertad y seguridad son los tres manantiales de la felicidad de todos los Estados” (*ibid.*, p. 6).

initiative, of his talents and of the fruits of his labour. For right of liberty I intend the faculty of using, as you want, the acquired goods and of doing all what does not violate the property, the freedom and the security of the others; and for right of security I intend that there can not be any force which oppresses me for any title and that I can never be a victim of the caprice or the rancour of the governors. (ibid., p. 9)

Foronda vigorously explains the risks of tyranny and despotic concentrations of power. The only way to avoid this political and social drift is not to abandon those three principles, which are a secure dike against that innate and unlimited “itch to command.”⁵ His concerns are directly connected to the development of individual freedoms against extreme and unlimited forms of political coercion.

Concerning his purely economic perspective, Foronda expounds his ideas in many publications, letters and articles, with many changes in different periods (Smith 1959, p. 443). First of all, it cannot be denied that he shows a great admiration for mercantilism and the Physiocrats, as expressed in the *Disertacion sobre lo honrosa que es la profesion del comercio* (1778). In this work he uses a mathematical metaphor to affirm that “commerce attracts the people in direct proportion to the mass” (ibid., p. 444), identifying, with too much emphasis, the growth of the population with the wealth of a nation. This initial, mercantilist perspective gives way to a narrower and unconditional adoption of *laissez-faire* in the manner of his teachers Hume, Quesnay, Mirabeau, Necker and Smith (ibid., p. 451).

He attributes this delay in the acceptance of the “true economic lights” (ibid.) to the negative influence of Colbert’s ideas, which had been considered for a long time prophecies, or were at least a commonly accepted superstition. In his nascent approach to the liberal ideas, he does not hesitate to criticize in the Physiocrats the fact that they degrade the artisans, the manufacturers and the merchant “with the humiliating name of sterile and unproductive class” (Smith 1959, p. 451). These mistakes could be attributable to the novelty of economic science, “which is more recent than the experimental physics” (ibid.). As for constitutional law, the foundations of any good economic governance are the secure rights of property, liberty and security. The end of any government, in fact, is the happiness of the people, and it is impossible to achieve these goals without those “sacred principles.”

⁵“El prurito que tienen los hombres a mandar no conoce limites” (Foronda 1784, p. 13).

It has been demonstrated that in despotic countries the development of arts, industries and talents is blocked and stagnant because nobody wants to work when there is no profit or personal advantage to be had. Exclusive privileges are another cause of economic and moral bankruptcy, and they are the polar opposite of the principles of property, liberty and security. According to Valentin de Foronda, no sector or group should be favored and encouraged to the detriment of the community. Besides, it would be impossible for the government to know if, in the long-run, this aid would be useful or not. If this state aid is granted to a certain enterprise, the only effect would be to create a perfect monopoly which is free to behave aggressively and sordidly. Such privilege should not be accorded to a new enterprise, which should expand by its own; if it can, aid is unnecessary, and otherwise the need for aid demonstrates that the enterprise is poorly adapted to the country's economic conditions. No entrepreneurial activity should be helped because, in the shadow of such protection, people are less likely to think to innovate or improve products (Barrenechea 1985, pp. 205–24). In a noncompetitive environment, human nature tends to be indifferent and manage carelessly, causing an infinite series of other evils.

This aspect is also treated in depth in his critiques of the guilds, in which he saw a complex of tyrannical and extravagant statutes. This “protected microcosm” violates the natural order and impedes access to some occupations to which there should be no obstacle, but rather access according to one's talents and personal predispositions. This entry barrier is even worse when it consists of many and expensive years of apprenticeship and of an excessively planned division of the productive processes between secretly allied guilds (Barrenechea 1984, chaps. 3–4). This behavior is a sort of exclusion to other, more qualified competitors. In this way, the prices are always monopolistically shifted upward, generating a false market and radically changing the natural proportions resulting from genuine competition (Barrenechea 1999, pp. 529–67). Against the theory that the guilds protect the consumers from frauds and adulterations, Foronda argues that, in the short-run, this statement could have validity but, in the long-term, it is absolutely unreasonable because the consumer cannot be overcharged and defrauded for a long time.

He also claims that price-fixing heavily detracts from individual liberties because no governor or state can influence prices as pure competition does—giving to the things a value which does not depend only on the scarcity or abundance but also on their necessity, the desire to possess them and the means to do so (Smith 1959, p. 454). For this reason he defines competition as “the impartial judge” which does not surrender to any whim. In contrast, taxes and price interventions—instead of

reducing poverty and famine—are the main causes of the shortages and connected crises, which are frequently stimulated by an irrational system of tariffs and duties on importation and exportation. Fiscal impositions, in fact, are a general violation of “the rights of liberty and property because they put certain restrictions on the ability of the citizens to buy and sell the fruits of their industry to the foreigners” (ibid.). Referring to Say’s Law, he explains that an oppressive and tyrannical state can impose or even dictate the price only by upsetting the real equilibrium between supply and demand.

If every country in the world simultaneously adopted the same protectionist measures on prices, blocking the natural commercial flows, it would result in disaster, and the consequences of this political shortsightedness would be baleful. Strictly connected to this argument is the personal fight against the state privileges which, without justification, enrich some parasitic classes by unfairly burdening the whole nation with heavy taxes and fees. Regarding fiscal policies, Foronda belonged to that generation⁶ which tried to remodel the approach to the revenue collection systems by indicating new and innovative methods. He accepted the earlier views of Uztariz, whose *Theorica y Practica de Comercio y de Marina* (1724) was the main reference text for the reformers and politicians of eighteenth century Spain. According to this treatise, crises of commerce were due to a bad regulation of customs duties and to excessive taxation which particularly charged the so-called “*estado llano*,” the productive middle-class (Guasti 2000, pp. 77–128).

Subsequently, in the wake of Forbennais, Campomanes, Alcalà, Ulloa and Arriquibar, he considered the duties on the consumption goods a sort of “mortal opium,” and the primary cause of smuggling and illicit traffic. On the other hand, as Smith and others have maintained, luxury taxes are more proportional to social status. But the most dangerous ones are duties on agricultural goods, because farmers do not apply the same quantity of labor and capital in different lands whose fertilities change depending on the geographical conditions. This argument led to a bitter critique of the Physiocratic project of an agricultural land-register (*cadaster*). The system of land units would be artificial and would not represent the frequently changing conditions of production. He was, moreover, convinced that the abolition of the provincial custom duties

⁶We have to remember Uztariz, Torres y Velasco, Aznar, Ulloa, Campillo y Cosío, J. Patiño, Aguirre, Campomanes, Arriquibar, Santa Cruz, Zavala, Carvajal and, closer to the Foronda’s point of view, Loynaz, Cabarrus, Arroyal and Caañamo. For an interesting essay on the reforms in Spain during the 18th Century, see Maravall (1967, pp. 53–82).

(*Rentas provinciales*) would be very useful and were necessary to avoid impeding the natural flows of goods and national wealth. Finally, the only way to invest public money properly would be in the construction of new streets, bridges and channels which would reduce immensely freight charges and other transportation costs.

In his reflections on money, Foronda strongly doubts that an interest rate reduction imposed by the state could be helpful to the national economy because it usually happens by raising the supply of money and results in high inflation. He held that politicians do not take into consideration that “money is neither the origin nor the measure of the prosperity of a nation. For a universal convention it is a good which represents all the others. For this reason a bigger quantity of money could be dangerous” (Smith 1959, p. 455).

At the conclusion of this brief essay on the social philosophy of Valentin de Foronda, it cannot be doubted that he had the distinction of making liberal economic and political ideas more accessible (Colmeiro 1880, p. 88) and that his thought deeply influenced many political philosophers in Europe and in Latin America (Rosti 1996, chaps. 1–2). His ideas, in fact, were a starting point of many constitutionalists and reformers during the first years of decolonization from the Spanish Empire (Lopez 2005, pp. 1–12).

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