Egalitarianism, Inheritance, and Taxation: On Daniel Halliday's *The Inheritance of Wealth**

COLIN M. MACLEOD
University of Victoria

ABSTRACT

This paper offers a critical response to Daniel Halliday's recent book *The Inheritance of Wealth: Justice, Equality, and the Right to Bequeath*. It explores how background institutional arrangements affect the justification of any right of persons to bequeath wealth and suggests that the right to bequeath is weaker and more qualified than Halliday allows. The paper also examines the variety of egalitarian justice that Halliday adopts in the course of developing his novel treatment of inheritance taxation and raises some concerns about Halliday's formulation and interpretation of egalitarian justice. The egalitarian credentials of the Rignano scheme of inheritance proposed by Halliday are probed and the normative significance of the coercive dimension of inheritance tax is considered.

Keywords: inheritance, luck egalitarianism, relational egalitarianism, Rignano, taxation.

1. INTRODUCTION

Daniel Halliday's *The Inheritance of Wealth: Justice, Equality, and the Right to Bequeath* (2018) makes a valuable and much welcome contribution to political philosophy in a number of ways. It brings into sharp focus issues about inheritance and intergenerational justice that have not, in contemporary discussions, received the attention they deserve. It provides an interesting and helpful overview of the intellectual history of discussions of inheritance in political philosophy that gives special attention to the

* Many thanks to Ryan Tonkin for discussing the themes in Halliday's book with me and making many insightful observations.

views of early liberal writers such as John Locke, Adam Smith, William Godwin, Thomas Paine and J.S. Mill. At the heart of the book is a novel account of the manner in which an egalitarian conception of justice should understand the significance of inheritance. This account seeks to draw upon elements of both luck egalitarianism and relational egalitarianism in a way that can have broad appeal to those who hope that some synthesis of the compelling facets of these putatively antagonistic views can be achieved. Perhaps most strikingly, Halliday illuminates and defends a little-known approach to the taxation of inheritance due to the Italian early 20th century philosopher and social theorist Eugenio Rignano. In developing an egalitarian justification for a Rignano scheme of inheritance taxation, Halliday provides a subtle and interesting account of the manner in which inequalitarian effects of inheritance arise and can be compounded through time. The book is stimulating, informative and provocative. It deserves careful attention from political philosophers generally but especially from those interested in matters of justice and taxation.

There are many fascinating parts of Halliday's analysis with which one might engage but my focus in these comments will be quite selective. I want to concentrate primarily on his diagnosis of the challenge that inheritance poses to an expressly egalitarian conception of justice and his views about the merits of a Rignano scheme of inheritance taxation for addressing injustice generated via inheritance. By way of framing my discussion, I shall start with a few remarks about how puzzles about justice, inheritance and taxation seem highly dependent on specific features of the broader institutional context in which they are located. I suspect that Halliday will agree with much of what I have to say. So, these preliminary remarks are not designed as criticisms. However, I think they may help to set up some points aimed more directly at some of Halliday's arguments that I wish to raise.

2. SOCIAL INSTITUTIONS AND INHERITANCE: HOW IMPORTANT IS THE RIGHT TO BEQUEATH?

The first observation I want to make is that the degree to which inheritance poses a significant challenge for egalitarian theorizing depends a great deal on the character of institutional arrangements that provide the background for discussion. Consider for, instance, the normative importance of a right to bequeath wealth to one's children and the seemingly related right to confer advantages on them with the wealth one has. In a context in which access to decent life prospects for one's children is not reliably secured by well-functioning public institutions then parents may

understandably view opportunities to confer advantages on their children as extremely important. For instance, in a society that does not provide universal health care, first rate public education available to all, good public day care, affordable safe housing, good recreational facilities, paid parental leave and tuition free university education then parents will be highly motivated to protect their ability to secure their children's access to these goods via their own resources. Against such a background, protecting the prerogative of parents to bequeath wealth to their children and to confer advantages on them might seem allied with demands of justice that require that children have reliable access to these such goods and opportunities. However, in a society in which there is excellent and generous public provision of these goods and opportunities, the normative significance of inheritance or the prerogative of parents to confer advantages on their children will be much more modest. For instance, given dramatic educational hierarchies in the United States, American parents have reason to save for their children's education in a way that Finnish parents do not. Given the absence of decent public health care, American parents have reason to prepare for health emergencies in ways that Canadian parents do not.

In some parts of his discussion, Halliday seems to suppose that egalitarian theorizing about the inheritance of wealth must proceed against a background in which institutional arrangements that facilitate social hierarchy and economic segregation are taken for granted. Consider the case of education. Halliday is aware that the unequal provision of education contributes to economic segregation and he acknowledges that institutional reform of education can play a role in mitigating unjust inequalities. However, he is skeptical that institutional reform can effectively combat economic segregation. Indeed, part of the rationale for his focus on the inheritance of wealth as a source of unjust inequality is the putative inefficacy of institutional reform. He says "It is at least *often* true that wealth has a way of finding ways around attempts to make it less crucial in determining the life prospects of those who do and do not possess much of it" (2018: 111). However, in the case of education much of the evidence for this claim is drawn from the limited success of educational reforms in the U.S. to substantially reduce troubling class inequalities. Yet I am not confident that egalitarians have much to learn from the American example about the limited power of institutional reform simply because the very modest institutional measures that have been taken fall well short of the sorts of measures many egalitarians think are appropriate. I, for instance, believe that justice requires institutions that provide children with access to equally excellent educational resources and opportunities (Macleod 2012). Realizing that form of educational justice would require

changes to educational institutions and policies that go well beyond anything currently on the political agenda in America. And even the sufficientarian conception of educational justice defended by relational egalitarians such as Anderson (2007) and Satz (2007) requires massive restructuring of American education of a sort that would substantially reduce, though not fully eliminate, educational inequalities.

Of course, wealthy parents in current circumstances can purchase better education for their children either by sending their children to private schools or living in neighbourhoods with public schools that are well resourced. Similarly, the children of wealthy families can consider post-secondary education without worries about how to manage the high costs of such education which children from poor families face. But I contend that egalitarians genuinely committed to combatting unjust inequality would favor institutional reforms that are much more radical than any considered by Halliday. Such reforms would be designed to eliminate many of the main avenues through which the wealthy can currently secure unjust advantages for their children. For instance, Adam Swift argues that egalitarians should favor the elimination of advantage conferring private schools (Swift 2003). To this, one might add the proposal that post-secondary education should be tuition free. And so on. I readily concede that given the current political climate, such proposals appear radical and perhaps utopian. But I think serious consideration of them - rather than the modest tinkering with highly unequal structures that currently counts as reform - is important not only to egalitarian theorizing about justice in general but also to Halliday's project of exploring the egalitarian significance of inheritance. The degree to which inherited wealth can be used to circumvent egalitarian institutional reform depends crucially on the character of those reforms. For instance, if, as Halliday allows, one of the main means through which wealthy parents can confer unfair educational advantages on their children is by buying private education, lessons, tutoring and so on, then one way of addressing this is to: (1) eliminate or highly circumscribe private education and (2) ensure that public schools have excellent and well-provisioned music, sports and tutoring programs (Macleod 2012).

These remarks are not intended to challenge the normative importance of thinking about inheritance taxation against the background of the highly unequal and unjust circumstances that we currently face. And Halliday does not think inheritance taxation is an egalitarian panacea or that institutional reform is unimportant. However, in gauging the role that inheritance taxation can play in combatting economic segregation, I worry that he underplays both the egalitarian significance of other institutional

reforms and the way in which the normative significance of any right to bequeath wealth is a function of background arrangements. On the latter point, for instance, Halliday allows that “first-generation inheritance may be a valuable means of promoting upward mobility” (2018: 154). Viewing the matter that way seems to treat the inevitability of significant class hierarchy as part of the rationale for defending a right to bequeath wealth to children. In my view, egalitarian theory should retain a more comprehensive concern about the existence of hierarchical class structures and the ways they unfairly constrain the life prospects of so many (Macleod 2002). So, even if, as Halliday allows, inheritance permits some poor children to escape poverty that fact, itself, can provide only a very limited and context specific defense of the right to bequeath. The general point is this: against the background of genuinely egalitarian institutional arrangements that reliably secure equal and good life prospects for persons, the right to bequeath significant resources to family members in the name of securing them access to crucial goods does not seem very important. Indeed, to the degree that protecting a right to bequeath disrupts egalitarian provision of basic resources then egalitarians should favor a highly restrictive conception of legitimate inheritance. Permitting modest inheritance of items that primarily have sentimental value and promote valuable affective connections between family members fits within an egalitarianism that permits expressions of parental partiality that secure family goods, such as intimacy (Brighouse and Swift 2014). But a stronger right to bequeath – one that permits substantial transfers of wealth between family members – lacks egalitarian credentials.

3. ECUMENICAL EGALITARIANISM?

This brings me to some questions about the broader character of Halliday’s conception of egalitarian justice. His ambition is, I think, to advance an ecumenical form of egalitarianism that draws on facets of luck egalitarianism and relational egalitarianism. I am broadly sympathetic to this project partly because I think some depictions of the contrast between luck egalitarianism and relational egalitarianism are overdrawn. However, I am not entirely sure how Halliday’s ecumenical egalitarianism should be interpreted with respect to the degree of inequality in the life prospects of individuals it tolerates. Here I wish to raise a couple of points.

The first concerns Halliday’s diagnosis of the flaws of what he dubs naïve luck egalitarianism. He argues that the animating concern of luck egalitarianism to extinguish the effects of arbitrary differences in people’s circumstances on distribution leads to implausible conclusions. He says:

"If I inherit my grandfather's old beer tankard, which has minuscule financial value, and you inherit nothing at all, that is still an unequal distribution of inheritance. Distribution has been sensitive to circumstance rather than choice, so it is unjust" (2018: 77). I agree that no sensible egalitarianism should be concerned about such trivial cases of inheritance even if they can be represented as arising out of brute luck. However, I am less sure that a luck egalitarianism that seeks to extinguish the ill effects of brute luck on the life prospects of people has reason to be concerned with such differences. That Halliday inherits a tankard from his grandfather and I do not has no plausible bearing on our respective opportunities to lead good lives and our comparative life prospects. So, if we accept that the arbitrary differences in the circumstances of people that we care about from an egalitarian point of view are those that have a significant impact on people's life prospects – i.e., their access to key goods such as health, education, income, leisure time, and housing– then differences in trivial holdings of resources that principally have sentimental value will not constitute unjust inequalities. However, differences in inheritances that generate arbitrary inequalities in the important life prospects should occasion egalitarian concern. So, I am inclined to think that Halliday's attempted *reductio ad absurdum* of luck egalitarianism misses its target.

The second point I wish to raise concerns the degree to which Halliday's view actually embraces any distinct relational egalitarian view. Whereas most relational egalitarians wish to reject the idea that justice is in any fundamental way concerned with extinguishing the ill effects of brute luck, Halliday seeks to retain the luck egalitarian concern with brute luck and yet restrict its focus. The idea that he seeks to extract from relational egalitarianism is its concern about economic segregation and group hierarchy. He follows relational egalitarianism in holding that some kinds of group hierarchy offend equality. He says: "Society is unjust when certain groups possess an arbitrary enjoyment of privileges and status that places them hierarchically above other groups" (2018: 152). Yet he retains the luck egalitarian impulse to extinguish some effects of brute luck but modifies its putative scope. "Inheritance is unjust when it allows some people to enjoy brute luck advantage, but the specific kind of brute luck advantage is understood in terms of group membership" (2018: 152).

One matter that Halliday is surprisingly silent on in this context is whether or not his view leads to a form of sufficientarianism. Relational egalitarians such as Elizabeth Anderson typically insist that providing all citizens with the social and material conditions in which they can meaningfully relate to one another as equals does not require distributive equality (Anderson 1998). Suitably egalitarian social relations can exist on

this view even if there are significant social and material inequalities between groups providing social institutions supply an adequate social minimum. This view does not require eliminating arbitrary access to privileges and status enjoyed by some groups. For instance, there is no requirement that educational opportunities for children of all economic classes be equal (Anderson 2007). Relational egalitarians hold that the rich are free to confer significant advantages on their children by sending them to fancy private schools and elite universities providing the caliber of education open to poor families is above a decent threshold. In this way, relational egalitarianism tolerates arbitrary inequalities in the life prospects of persons. The life prospects children from poor families will generally be worse than the life prospects of children from rich families. Halliday needs to clearly indicate whether or not his view tolerates such arbitrary inequalities. If it does, then the scope for acceptable inherited inequalities is much broader than the impulse to eliminate brute luck on economic segregation initially suggests. If it does not, then the sense in which Halliday's position constitutes a departure from traditional luck egalitarianism is less clear.

In response, Halliday might place emphasis on his focus on “group difference rather than differences that obtain between isolated individuals” (2018: 152). I agree that many injustices in the life prospects of persons track their affiliations with social groups and that we should be attentive to unjust group hierarchies. But I am not persuaded that the concern for group-based hierarchy should or can supplant a parallel concern with the life prospect of persons considered as individuals. After all, our concern for group-based hierarchies is ultimately a concern about the impact such hierarchies have on the life prospects of individuals. Moreover, some arbitrary differences in the life prospects of persons viewed as individuals can be unjust even when group based economic segregation is not directly at issue. For instance, an arbitrary decision of middle-class parents to leave all their wealth to one child and leave another child with nothing can have a significant impact on comparative life prospects of the children even if it does not contribute to or exacerbate group-based economic segregation. It seems reasonable to allow that an injustice can arise in this kind of case. And this seems consistent with some parts of the book. Thus, early in the book Halliday says: “the egalitarian complaint with inherited wealth is that it helps keep the life prospects of individuals unjustly dependent on being born into families that possess substantial wealth” (2018: 4). My point here is not to insist that Halliday is really a (naïve) luck egalitarian in disguise. Little if anything turns on the labels of positions. Rather I would like to know whether Halliday's ecumenical egalitarianism embraces some variety of sufficientarianism or whether it is more comprehensively

egalitarian in its concern to eliminate arbitrary differences in the life prospects of persons. The stance he takes will, I think, significantly influence what kind of inheritance tax scheme be justified. As it stands, his view seems equivocal.

4. INHERITANCE TAXATION AND EGALITARIAN JUSTICE

I now want to turn to some questions about Halliday's discussion of taxation. He contends that a Rignano tax scheme that taxes older wealth at a higher rate than newer wealth has an important egalitarian virtue that traditional forms of progressive taxation of wealth lack. The key to Halliday's egalitarian case for a Rignano scheme lies in his interesting analysis of how wealth permits parents to confer advantages on their children and how the capacity of wealthy parents to confer advantages on their children compounds over successive generations of wealth. Halliday identifies three main mechanisms through which wealth permits parents to confer advantages on children. First, there is the factor of time: rich parents can reduce participation in the labour market and can spend more time helping children acquire valuable nonfinancial capital. Second, wealth facilitates positional purchasing power: rich parents can buy expensive lessons etc. for their children that confer competitive advantages on children over poor children in the pursuit valued social and economic positions in society. Third, there is proximity to a reference point. In the identification and pursuit of positional goods, the conduct of the wealthy sets a standard for consumption that others seek to follow. This phenomenon can trigger counterproductive arms races for goods. For example, in educational markets a mad race for competitive advantage is generated and shaped by the cues provided by the expenditures of the rich. Halliday argues that the advantages that accrue to wealth are compounded via the social and cultural capital to which those families who have enjoyed wealth for successive generations have ready access. Simplifying somewhat, families with *old wealth* can confer greater overall advantages on their children than families with the same nominal amount of *new wealth* can confer on their children.

On Halliday's compounding hypothesis, bequests from 'older fortunes' are more disruptive to egalitarian objectives (e.g., of limiting the degree parents can confer unfair advantages on their children) than bequests from newer fortunes. For example, a bequest of say \$1,000,000 to an heir from an old fortune permits the heir to confer more advantages on their children than the bequest of \$1,000,000 from a new fortune permits the heir to confer on their children. We might say that being raised as an heir

to an old fortune is more advantageous than *being raised as an heir* to a new fortune.¹ Now the Rignano scheme, precisely because it targets older wealth, seems preferable to progressive taxation when it comes to the objective of mitigating the inegalitarian effects of compounding. Indeed, Halliday claims that that “any degree of compounding counts in favor of a Rignano scheme over traditionally progressive inheritance taxes” (2018: 142).

However, whether this claim is true or not depends on whether a Rignano tax scheme is presented as a strict alternative to progressive taxation or a supplement to it. Halliday often talks as though it is an alternative but early on in the book he allows that a Rignano scheme can be seen as a supplement to progressive taxation: “This book seeks to resurrect an alternative or supplementary proposal about how to calculate the tax liability of intergenerational transfers: inheritance should be taxed not simply in accordance with how much wealth is actually passed on but also in accordance with the wealth’s age, assuming this can be measured” (2018: 2). Note, however, that as a technical matter, a Rignano tax scheme on its own need not have better egalitarian effects, even in the face of compounding, than a progressive scheme. After all, a very modest Rignano tax that imposed, say, a 1% tax on first generation inheritance and 2% tax on second generation inheritance would do less to mitigate the inegalitarian effects of inherited wealth than a progressive tax that began at a rate of 50%.² So, if Halliday’s advocacy of a Rignano tax scheme is to succeed on egalitarian grounds it is best viewed as a possible supplement to progressive taxation of inheritance.

Setting aside this technical matter, we might wonder how appealing a Rignano scheme is from the egalitarian position championed by Halliday. Here I think Halliday’s analysis may ignore some relevant possibilities. To see this, consider the following: Suppose we distinguish between the *expressive facet* of inheritance (e.g., in conveying sentiments of familial love, passing along social and cultural artifacts such as the treasured beer tankard or the family bible) and the *advantage conferring facet* of inheritance (e.g., the ways in which inheritance on Halliday’s view helps to maintain economic segregation). It is very likely that the real monetary value of the expressive facet of inheritance would be quite low. The expression and maintenance of familial intimacy etc. does not depend on large expenditures. Parents can more than adequately express their love to their children and realize valuable family goods without bequeathing (or promising to bequeath) large sums of money to them. So, suppose we identify some rough amount of inheritance that is meant to ensure

¹ I owe this formulation of the point to Ryan Tonkin.

² Thanks to Ryan Tonkin for this example.

adequate opportunity for people to secure expressive goods – e.g., \$50,000 – and inheritances of cash and assets up to that amount are not taxed. How should we treat any inheritance above that? Halliday seems to assume that we qua egalitarians concerned with economic segregation must choose between either: (a) progressive taxation (b) a Rignano scheme or (c) a hybrid scheme. But, on the assumption that there are arbitrary and problematic wealth disparities whose ill effects we wish extinguish, then surely an egalitarian should favor taxing inheritance above \$50,000 at 100%. After all, Halliday's egalitarian is trying to eliminate the impact of inherited wealth on economic segregation and permitting inheritance above \$50,000 only serves to perpetuate such segregation. (Now one might raise questions about incentive and productivity effects of taxation. But I want to bracket them for the time being both because it is not clear that such a tax would diminish productivity and because I want to focus solely on the egalitarian rationale for inheritance tax.) All this is compatible with old wealth transfers having (due to the compounding effect) worse effects on economic segregation than new wealth transfers. Yet the point remains that both old and new wealth transfers contribute to economic segregation. So, shouldn't an egalitarian try to stop both to the greatest extent possible? In this scenario, the Rignano scheme does not seem to have distinctive egalitarian advantages over a simpler but more aggressive tax.

5. TAXATION, COERCION AND JUSTICE

Now, one might reject such a tax scheme because one rejects the egalitarian conception of justice on which is grounded. But it seems that Halliday's own variety of egalitarianism justifies a more radical scheme of inheritance taxation than he considers. A different reservation about the scheme might be located in concerns about the putatively coercive character of taxation. Perhaps such a high tax strikes some as too great an exercise of the state's coercive power to acquire and redistribute the resources of the wealthy. In a number of places, Halliday notes the coercive character of taxation and he seems to treat it as a factor relevant in assessing the legitimacy of tax schemes (2018: 184-5, 208-9). I am not entirely sure how important Halliday thinks coercion is in this context. Halliday notes the important point made by Murphy and Nagel (2002) that it is a mistake to treat pre-tax income as entitlement that is threatened by taxation. On the Murphy/Nagel view, just taxation is not an infringement or limitation of rights of ownership rather it is a means through which the just entitlements of persons to resources can be realized. (This is emphatically not to say that current tax regimes succeed in securing the just entitlements of persons.) But if we take the

Murphy/Nagel point to heart, then the idea that just taxation is coercive in a way that is, even *prima facie*, troubling seems mistaken. In the context of the inheritance of wealth, the error here is to confuse *possession* of wealth with *entitlement* to wealth. Those who bristle at the taxation of their wealth tend to view their wealth as something to which they have established a justice-based entitlement, that is, as something they justly own. Taxation of wealth so construed appears, at best, to be a kind of coerced beneficence. The state coercively takes *my* wealth and directs it to projects that the state views as valuable in helping people with fewer resources. However, if just taxation of wealth is itself integral to securing a just distribution of resources (as Halliday's overall view seems to hold) then it is more fruitful to think of wealth that is taxed away as merely possessed by the wealthy rather than owned by them. But once we view wealth taxation in this way then it is hard to see how coercion poses a special justificatory problem for taxation. The point here is that any system of property will be coercive in some fashion. But that fact both usually goes unnoticed and does not usually trouble those who worry about the fact that taxation is coercive. A simple analogy can illustrate the point. Suppose I find your wallet containing a large sum of money and suppose the money is, given the reasonable scheme of property in place, justly yours. Justice requires that I return it to you and the mere fact that the wallet is my possession does not generate even a *prima facie* entitlement to keep it. Suppose I am reluctant to return your wallet. Then the state may justly force me to hand it over. Yet the coercive enforcement of your property right in this instance is not likely to strike us as problematic. No special justificatory issue about state coercion arises. The general point is simply that a scheme of just property is coercive in a way that parallels the coercive character of just taxation. Contrary to what is sometimes thought, there is no extra or special form of state coercion involved in just taxation. Halliday is not, of course, hostile to just taxation. Indeed, he is concerned to combat misguided hostility to inheritance taxation that many citizens harbor. But I wonder whether his emphasis on the seemingly special coercive aspect of taxation already concedes too much to those who have reservations about the taxation of inheritance.

6. CONCLUSION

In the foregoing remarks, I have tried to identify a few issues about which Halliday and I may disagree. But the points of potential disagreement are not profound and they are dwarfed by the points of agreement between us. There is much to be learned from careful study of Halliday's stimulating book.

BIBLIOGRAPHY

- Anderson, E., 1999: "What Is the Point of Equality?", *Ethics*, 109: 287-337.
—2007: "Fair Opportunity in Education: A Democratic Equality Perspective", *Ethics* 117: 595–622.
Brighouse, H. and Swift, A., 2014: *Family Values*, Princeton: Princeton University Press.
Halliday, D., 2018: *The Inheritance of Wealth: Justice, Equality and the Right to Bequeath*, Oxford: Oxford University Press.
Macleod, C., 2002: "Liberal Equality and the Affective Family" in *The Moral and Political Status of Children*, D. Archard and C. Macleod eds., 212-230, Oxford: Oxford University Press.
—2012: "Justice, Educational Equality and Sufficiency" in *Justice and Equality*, C. Macleod ed., 151-175, Calgary: University of Calgary Press.
Murphy, L. and Nagel, T., 2002: *The Myth of Ownership: Taxes and Justice*, New York: Oxford University Press.
Satz, D., 2007: "Equality, Adequacy and Education for Citizenship", *Ethics* 117: 623–48.
Swift, A., 2003: *How Not to Be a Hypocrite: School Choice for the Morally Perplexed Parent*, (Routledge).