On the Problem of Inherited Wealth in Political Philosophy: Replies to Fleischer, Wolff, Barry, Braun and Macleod*

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ABSTRACT

This is a response to five critical commentaries on my 2018 book *The Inheritance of Wealth*, these being the papers in this symposium from Miranda Perry Fleischer, Jonathan Wolff, Stewart Braun, Nicholas Barry, and Colin Macleod. After a brief review of some recent empirical data on inherited wealth, these replies concentrate on some central themes discussed by these authors. These include the question of how to connect inheritance with the longstanding theoretical efforts to properly interpret and contrast luck-egalitarian and relational-egalitarian theories of justice; the role of the concept of solidarity in evaluating tax policy; questions about how an inheritance tax would impact differently on the middle class versus the very wealthy; and the case for furthering the defense of a 'Rignano Scheme' on which second- or third-generation inheritance is taxed at a higher rate than the transfer of newly created wealth.

1. INTRODUCTION

I thank each of the symposium's participants for their charitable and yet forceful criticisms of the arguments I sought to develop in the book, and I thank the editors for their efforts in putting the symposium together. Further thanks are due to everyone involved for persisting with this work despite the unusually demanding conditions that have emerged while this symposium was being written.

Each critic is successful, I think, in bringing attention to questions that either received inadequate attention in the book or were omitted (perhaps

* I am grateful to participants in the Tax Research Seminar Series at Melbourne Law School in July 2020, for helpful discussion on a draft of these replies.

wrongly) from it altogether. I hope that the arguments in their papers will help attract some new researchers to the topic, particularly in political philosophy. Given the wealth of ideas that the critics have raised, I can't cover everything in these replies. I shall concentrate on where I might add something valuable in response.

I will begin with a few remarks about empirical work on inheritance that has appeared in the relatively short time since the publication of the book. This will help me at certain points with some of the rejoinders below. Recently reported data seems to confirm some already apparent trends, such as the rising importance of getting an inheritance in terms of life prospects of a recipient and the continued tendency for inherited fortunes to be unequally distributed. In Great Britain, inheritance in future decades is set to reflect the unequal distribution of wealth in the prior (i.e. bequeathing) generation. Of adults currently aged 30-40, around 20% can expect to receive no more than £10,000, whereas 25% can expect to receive at least £300,000, with the top 10% expecting £530,000 or more. While this unequal distribution of inheritance may be quite stable, the economic impact of inheritance may be increasing. For those fortunate enough to expect an inheritance, the trend is for inheritances to account for a larger portion of overall income than in the past.¹ This may reflect the relative stagnation of wages and salaries, with inheritance becoming more important as a result, though there is some sign that inheritances will be higher for those who enjoy higher earnings from the labor market. Those who earn the least are also likely to inherit the least.

Given these trends, it can come as a surprise to hear that inheritance is often found to have an equalizing effect on the overall distribution of wealth. This is largely due to inequality in the parental generation being smaller than that among the children's generation: Intergenerational transfers can do something to bring the larger inequality in the recipient generation closer to the smaller inequality among the parents. To say that inheritance has an 'equalizing effect' still has some potential to mislead or conceal important considerations: While inheritance may be reducing wealth inequality in terms of the relative share of total wealth (as reflected in the Gini coefficient), it may yet widen inequality in terms of the overall dispersion of wealth. In other words, inheritance can still 'widen the gap' by driving a concentration of increasingly higher levels of wealth in a small sector of the population. Britain's office of national statistics reports that

¹ For more details, see the recent report from Britain's Institute for Fiscal Studies: Bourquin, Joyce & Sturrock (2020).

the top 10% own 45% of the nation's wealth.² It is also worth noting that the equalizing effect in terms of relative share appears to be occurring by way of landing some wealth in the middle of the distribution, something that can cause a decrease in relative inequality without really helping those at the bottom.³ Some people – typically those from families without much wealth – inherit little or nothing.

On the whole, though, the data suggest that an inheritance tax could work to worsen overall wealth inequality by taking wealth away from the middle class (something I described in the book as a 'feudalizing' effect.) A seemingly obvious rejoinder may be that these facts merely count in favor of making any inheritance tax progressive, perhaps with relatively high exemption thresholds, rather than favoring an abandonment of inheritance tax altogether as a device for promoting equality.

Overall, a plausible view is that inheritance may be doing something to enable families to retain relatively modest quantities of wealth accumulated in the parental generation, in an era of relatively slow economic growth and poorer opportunities for the next generation to accumulate wealth through other means. By and large, philosophical positions on the value of equality have attached significance to such factors. But the data should remind us that the role played by inheritance in driving enduring inequality is not entirely straightforward. It is worth remembering in any case that statistics about the impact of inheritance on wealth inequality do not by themselves settle questions about inheritance and justice. Whatever reasons may be given for regarding wealth inequalities as unjust when they are large, these will be tempered by considerations about people's right to bequeath wealth and any corresponding entitlement to receive an inheritance. Much also depends on the normative significance attached to inequalities in wealth compared with distinct inequalities in terms of other metrics (income, opportunities, or the more abstract metrics proposed in philosophical writings on inequality). Any plausible view is likely to depend not just on the role of inheritance in shaping wealth holdings but on the role played by wealth transfers in the more complex web of mechanisms through which people's life prospects are actually shaped, notably the distribution of educational and labor market opportunities, and the distribution of non-financial capital associated with that.

² Wealth shares are reported for deciles but not percentiles. See fig 4. At <https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth/bulletins/totalwealthingreatbritain/april2016tomarch2018>

³ For a fuller explanation of these facts, and most of the claims in this paragraph, see Elinder, Erixson, & Waldenstroem (2018).

2. BARRY AND MACLEOD ON BACKGROUND JUSTICE AND LUCK EGALITARIANISM

The contributions from Nicholas Barry and Colin Macleod have some important points of overlap, largely because they seek to defend luck egalitarianism and its application to inherited wealth. I shall address their criticisms together.

A first question is whether egalitarians really need to engage with the problem of inherited wealth at the level of ideal theory. Macleod suggests “the normative significance of the right to bequeath is a function of background arrangements” (Macleod 2020: 34). The idea here is that a right to transfer wealth to children is somewhat easier to defend, while subject to difficult questions about how strong it might be, only when exercising this right serves as a sort of corrective against the failure of the state to respond adequately to what an egalitarian conception of justice would require. In anything approaching an ideally just egalitarian society, there would be fewer reasons to see the practice of inheritance as valuable. Ideal conditions of equality may yet be fragile enough that they could be eventually undermined by inheritance if it were not restricted under such conditions.

Should egalitarians view the problem of inherited wealth as only raising difficult questions under non-ideal conditions? I suspect this question is more complicated than it looks, due to difficulties in specifying exactly what counts as “background justice”. Macleod seems to have mind the direct provision of goods and services by state institutions, or else the payment of subsidies and grants that help make such goods and services affordable to people who lack substantial prior wealth. Background justice remains absent so long as “access to decent life prospects for one’s children is not reliably secured by well-functioning public institutions...for instance...universal healthcare, 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” (Macleod 2020: 32).

Macleod’s claims are representative of what egalitarians typically say about general requirements of justice. One problem, though, is in working out how strong these requirements are so as to determine whether any requirement governing inheritance should not also be given the same primary status. I think this remains an open question, at least until a much more specific, and likely controversial, account of background justice is put forward. Illustrative here is the problem of how strongly to construe a right to housing, which Macleod includes in his list of background requirements.

Evidence suggests that intergenerational wealth transfers are often decisive in enabling young adults to acquire a mortgage, particularly in regions that witnessed high growth in house prices in recent decades alongside stagnating wage growth.⁴ For many parents, it is desirable to transfer wealth so that one's children can afford to get onto the property ladder. One view is that these conditions already indicate an absence of background justice. But this is not obviously plausible. Certainly, there is nothing strange about regarding some control on inflation (and associated phenomena, like the cost of borrowing) as being a matter of justice, particularly when it attaches to the cost of important goods like homes. But it is not obvious that an egalitarian requirement of access to "affordable, safe housing" should even be construed as a requirement about ownership, as opposed to conditions that make long-term renting more attractive and stable. If background justice requires the promotion of home ownership, then there may be a role for 'middle class' inheritance to play, though likely alongside measures that make home ownership more feasible for those who do not inherit. If background justice does not require this, then Macleod's position on inheritance is more plausible. This is a hard question to answer, and considerations may pull in both directions, perhaps guided by further work on the status of housing as a distinctive good.⁵

Talk of background justice also conveys something about some injustices having a sort of greater urgency or priority over others. This is another point of complexity quite apart from that of gauging the strength of any requirement assumed to have background status. Here it is helpful to consider Macleod's requirement of equal access to education.

In Australia, there has been no inheritance tax for several decades, but there has been a substantial amount of skilled migration. To simplify matters somewhat, this has led to a situation in which middle class migrant families often purchase private education to compensate their children for falling outside a peer group composed of individuals who stand to inherit non-trivial amounts of wealth thanks to Australian ancestors who invested in housing. (Other points bear on any egalitarian evaluation of private education in specific societies, for example the fact that private education is not quite as exclusive in Australia as it is in other countries, such as Great

⁴ Here I follow the discussion in Koeppe (2018).

⁵ The amount of political philosophy that analyses entitlements to housing is surprisingly quite limited. But according to Katy Wells (2019), the kind of considerations that ground a right to housing may only create an entitlement to relatively long-term rental leases as a sole occupant, falling short of ownership. If there is a right to home ownership, then I suspect that this may be in tension with the sort of egalitarian views about background justice to which Macleod subscribes, as the provision of free care and healthcare in old age may obviate the role of an owned home in freeing up cash upon 'downsizing'.

Britain, which might mean egalitarians can view it as less objectionable.) In this case, it is unclear which out of inequalities due to inheritance and inequalities in access to education is most accurately described as more 'background'. It may be that some parental pursuit of private education plays the role of a corrective against the inequalitarian presence of inheritance. This would contrast with Macleod's view that it is rather inheritance that might allow some parents to do something about the fact that the state has failed to create proper equality of access to education. My point is not that egalitarians are *wrong* to insist on demanding requirements about equal access to educational resources. What I dispute is whether these requirements should have primacy over ones to do with the regulation of inheritance. On the assumption that egalitarians might have a problem with both private education *and* inheritance, it is not obvious which should be regarded as the more primary injustice, or indeed if it is right to assume that either has any sort of priority over the other.

In sum, I think that the idea of background justice is difficult to understand with sufficient precision to show that discussions of inheritance owe their urgency largely to the non-ideal conditions that most societies are in relative to the demands typically made by egalitarians. If I am right about this, then I think egalitarians will need to view inheritance as a practice that they need to think carefully about in its own right, and as something whose study can shape an understanding of what an ideally just society would look like in the first place. Questions about the relationship between equality and inheritance therefore deserve some parity with questions about equality's relationship with education, healthcare, and housing and other goods whose distribution is relevant to the pursuit of justice.

Both Barry and Macleod raise questions about the book's stance on the much-discussed distinction between luck egalitarian and relational egalitarian conceptions of justice. What I suggested in the book is that relational and luck egalitarian ideas can work together in such a way that relational egalitarian ideas constrain the application of a luck egalitarian principle. What this means (roughly) is that while inheritance has the effect of making people better or worse off than each other as a matter of brute luck, these effects are unjust only when inheritance also works to create the kinds of group differences such that being born into one group rather than another comes to be a substantial source of one's advantage or disadvantage. This is one way of combining an endorsement of both the idea that injustice consists in the unequal distribution of brute luck disadvantage and the idea that it consists in the presence of certain kinds of hierarchical group difference. One implication of this approach is that

small inheritances will tend to not count as unjust because, while they are a matter of brute luck and a source of some inequality, they do little to cause or maintain hierarchical group difference in the manner that large inheritances may do given sufficient time. This, I suggested in the book, was a theoretical advantage of my view.

Barry and Macleod want to hear more about which of the luck-egalitarian and relational egalitarian elements in my view is “primary” (Barry 2020: 56), and whether my attempt at combining two strands of egalitarian thought is ultimately “equivocal” (Macleod 2020:37). They are right to sense that no answer to this question can really be reconstructed from what was provided in the book. Defenders of luck egalitarianism may remain unpersuaded that their view needs constraining.⁶ Proponents of relational egalitarianism, too, might wonder why the views need to be combined. Should not inheritance be regarded as unjust only to the extent that it plays some causal role in maintaining or exacerbating social hierarchy, independently of the fact that it may reflect unequal brute luck?⁷

While I continue to see an attraction in combining elements of luck egalitarian and relational egalitarian ideas, regrettably I won’t offer any more expanded account here of which of these ideas, if either, should be considered dominant in their joint application to the problem of inherited

⁶ I should make one comment, though, on Macleod’s question about whether my endorsement of a relational egalitarian element “leads to sufficientarianism”. Macleod correctly notes that some relational egalitarians endorse a sufficientarian principle with respect to the distribution of certain goods like education. To my mind it is unclear whether relational egalitarians who take this approach must necessarily apply a sufficientarian principle to *all* goods or to the wealth distribution overall. But even for goods like education, relational egalitarians might resist the sharply sufficientarian approach taken by authors like Elizabeth Anderson (which Macleod seems to take as representative). The range of ways in which sufficiency thresholds might be formulated are gathered together in Shields (2020). I might add that it is not obvious to me that relational egalitarianism strictly entails a commitment to sufficientarianism in general, as opposed to for some specific goods. But I agree with Macleod that sufficientarianism about the wealth distribution in general would likely have rather permissive implications for the right to bequeath, as the bulk of the inheritance flow is concentrated among those who occupy the higher positions in the wealth distribution.

⁷ This leaves things open as to what should be said about large inequalities within sets of people occupying the same position in a class hierarchy. Such inequalities, by definition, do not extend between hierarchically separated groups. Macleod raises the interesting case of “an arbitrary decision of middle-class parents to leave all their wealth to one child and leave another child with nothing” (Macleod 2020: 36), which would plausibly make no difference to the presence of social hierarchy but nevertheless seems unfair and could probably be classified as unjust on luck egalitarianism. One view is that in such cases, both children will still benefit somewhat from whatever non-financial capital their parents might also have possessed, which might prove harder to withhold from one’s children even when a formal wealth transfer is withheld. It is interesting to note that inheritance taxes might be defended partly as a means of preventing parents from being able to have the power of disinheriting offspring, something which might be used to objectionably influence a child’s life choices.

wealth.⁸ What I will do, instead, is address Barry and Macleod's contention that luck egalitarianism can work perfectly well on its own, without the help of any independent commitment to elements of relational egalitarianism. Central to this issue is whether luck egalitarians can find some non-arbitrary reason for not viewing small inheritances as unjust. Both Barry and Macleod seem to think that small inheritances make no difference (rather than just a small difference) to the overall distribution of advantage and disadvantage. This is evident in what they say about one of the book's examples, namely, the inheritance of a beer tankard. On this, Barry writes "it seems highly possible that inheriting a beer tankard would fail to increase a person's quality of life, which would mean that the beneficiary would not enjoy any advantage over others, and that luck egalitarianism would not classify the inheritance of a beer tankard as an injustice." (Barry 2020: 53) Similarly, Macleod claims that such inheritance "has no plausible bearing on our respective opportunities to lead good lives and our comparative life prospects" (Macleod 2020: 36). The inheritances that matter, according to Macleod, "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" (Macleod 2020: 35).

Now, I should emphasize that the debate is not really about beer tankards or any other single example, as I imagine Barry and Macleod would agree. We can simply stipulate that there are some cases where an individual receives a small but non-zero benefit in ways that render them marginally better off due to brute luck than individuals who do not receive a small inheritance of this sort. This creates (by stipulation) a small degree of brute luck inequality. It is not enough to disqualify this category of cases by suggesting that actually there is *no* disadvantage because the benefit is merely "sentimental" (Barry 2020: 55), or that the disadvantage, though real, does not have a "significant impact" or is not crucial in securing access to relevant "key goods". These rejoinders are unsatisfactory: Either an inequality is created or it isn't. And when it is, luck egalitarians need some way of explaining why small differences don't matter in spite of them reflecting a difference in circumstance or luck rather than choice. I described this problem in the book as the difficulty of getting a qualitative principle to do the ultimately quantitative work of saying why small (but

⁸ See for example Kasper Lippert-Rasmussen (2015), on which I relied in the book, which deflates the concern that the two approaches express incompatible ideals rather than simply having different intellectual histories. I might also repeat the observation in the book that historic discussions of inheritance, such as R.H. Tawney's, seem to combine elements of what would now be labelled luck egalitarian and relational egalitarian approaches. This is not necessarily attributable to confusion or sloppiness, even if authors like Tawney had a less fine-grained taxonomy of egalitarian ideas than that now used by political philosophers.

non-zero) inheritances don't matter from the point of view of justice. I don't see anything in the criticisms from Barry and Macleod that really explains how there is a valid inference from any version of the choice/circumstance distinction to the claim that small (but non-zero) cases of brute luck disadvantage either do not matter or somehow do not occur. Of course, it is *intuitive* to say that small cases don't really matter, but the task for a philosophical conception of justice is to vindicate these intuitions by providing an explanation of why they are right, or else show that such intuitions must be revised.⁹

Prolonged discussion of how to distinguish tiny injustice from the absence of injustice may seem scholastic or tangential to what really matters. But both luck egalitarian and relational egalitarian approaches have an easy time saying what's unjust when it comes to the profound and egregious examples. It is on the more 'minor' cases, like the inheritance of small fortunes, where philosophical disagreements get worked out in such a way that the advantages of one approach become clear. I continue to maintain the position I took in the book, which is that the easiest way of discounting inheritances whose benefit is minor but non-zero is to rely on their being of no consequence when it comes to the persistence of social hierarchy or what I called 'economic segregation'.

3. BRAUN ON SOLIDARITY AND COMMUNITY

Stewart Braun raises interesting points about the relationship between taxation, inheritance, and community. While largely sympathetic to my attempts to characterize economic segregation as morally objectionable, Braun's criticism is that a stronger or more comprehensive diagnosis could be secured with the help of the concept of solidarity. (In addition, I should say that Braun's comments on Marx are valuable in filling a gap in the book's attempt to give some sense of the history of the debate, particularly in the 18th and 19th centuries.)

Braun's approach embodies a more aspirational than remedial account of why justice might require economic integration. Whereas the liberal egalitarian approach places emphasis on preventing the sort of objectionable hierarchies associated with conditions of segregation, appealing to solidarity puts the focus on what is attractive about integrated

⁹ There are other ways in which luck egalitarians might try to disqualify cases involving small inheritance. Chapter 4 of the book discussed some possibilities that might be used to move away from what I called the "naïve" luck egalitarian commitment to an unqualified choice/circumstance distinction. Barry and Macleod, however, don't suggest which of these approaches, if any, they find attractive.

communities. In other words, the difference is that on liberal egalitarian rationales (such as that in the book), the ills of segregation consist largely in the fact that “some persons suffer from a lack of opportunity and status compared to others”. This might omit some sensitivity to “the good of community”, both in terms of commitment to a shared goal and the development of self that is made possible by one’s membership of community. One worry I have about solidarity as a concept in political philosophy is that it is rather hard to pin down exactly what is distinctive about it beyond the idea that it is aspirational where other approaches have more of a remedial character.¹⁰ This might account for why these other diagnostic approaches are more frequently endorsed in egalitarian political philosophy.

Braun, though, is helpfully precise about what solidarity means to him and how it is related to the regulation of inheritance and bequest. Under conditions of solidarity, citizens secure an ability to relate to one another in ways that shift their orientation away from, as Braun puts it “an exclusive focus on the self and toward a broader more comprehensive, shared goal” (p5). Perhaps most importantly, Braun maintains that “the taxation or regulation of bequest may...be constructively understood as a commitment to communal solidarity because privately controlled wealth is re-invested back into the community” (p2). Unregulated bequest is incompatible with all this because of the way in which it allows the rich to be, as G.A. Cohen would have put it, “out of community with the poor”: By rejecting an inheritance tax, wealthy inheritors are complicit in maintaining the situation of the poor, perhaps especially so given conditions such as those we now seem to be living, under which those who do not inherit have fewer alternative means of wealth accumulation than might have been enjoyed during periods of faster wage growth and more affordable higher education.

Braun’s claims about inheritance and solidarity are interesting and retain a genuinely aspirational dimension even if Braun does not adopt everything that Marx or Cohen might have wanted to defend on grounds of the value of community. More could be said about why the taxation of inheritance might be especially solidarity-promoting. After all, arguably it is true of all taxes that they involve privately controlled wealth being re-invested back into the community. Perhaps what makes inheritance tax different from the likes of income and consumption tax is that there is more of a demographic divide between who pays it and who doesn’t. Or perhaps (in addition) it matters that receiving an inheritance has little to

¹⁰ That being said, influential statements of relational egalitarianism contain an aspirational element. Alongside the negative aim of “ending oppression”, egalitarians aim “to create a community in which people stand in relations of equality”. See Anderson (1999: 289).

do with what one has already done or not done to promote community. One pays income and consumption taxes partly as a consequence of choices that can impact on community, not least one's choice of profession. But this cannot easily be said of inheritance taxes, at least if construed as a tax on recipients who have done nothing to create that inheritance.¹¹

It is also worth registering at least one specific case where the enjoyment of inheritance may have led some to engage in behavior that is anti-community. During parliamentary debates about how to approach the problem of negotiating Britain's exit from the European Union, much was made of a supposed trade-off between regaining 'sovereignty' and retaining some degree of the access to markets and trade deals that Britain had enjoyed as an EU member state. Anna Soubry, a Conservative MP and former Cabinet Minister, suggested that other Conservative MPs were in a position to prioritize the 'sovereignty' side of this tradeoff only because they were protected from the negative economic fallout by not needing to trouble themselves with getting a job. As she put it: "Nobody voted to be poorer, and nobody voted leave on the basis that somebody with a gold-plated pension and inherited wealth would take their jobs away from them".¹² This case may illustrate the way in which large inheritances ensure that some people end up having no skin in the game when it comes to exercising influence over the sorts of institutions on which others remain dependent for their material prosperity. The possibility of diagnosing an injustice here may indeed be more apparent on the analysis proposed by Braun than on the more liberal egalitarian analysis of segregation I made use of in the book.

4. WOLFF ON INEQUALITY AMONG THE OLDER GENERATION AND TAX AVOIDANCE

Jonathan Wolff agrees with the book's central causal claim that "inheritance is a mechanism by which segregation is created and transmitted" (p5), at least in the context of Britain. But he's skeptical that a Rignano scheme would do a great deal to combat what he takes to be the worst aspects of this. Wolff notes that much of the differentiating effect of inheritance is likely to be within a "modal range" (p9) covering a relatively large portion of the population whose members inherit between £25,000 and £500,000, and for whom receipt of inheritance comes typically around retirement

¹¹ As explained in the book, a Rignano Scheme offers one way of preserving an incentive to create new wealth through the way in which it imposes higher tax liability on the transfer of older fortunes that have been inherited at least once already.

¹² Hansard, 16 July 2018, Vol 645, column 83

age. For Wolff, a principal effect of these inheritances is to compound an existing divide between people who can expect a comfortable retirement in which they receive an industry or private pension after paying off a mortgage, and people who must continue to pay rent on a home and rely on what's left of the state pension.

It may be that the recipients in the modal range are among those whose inheritances account for the equalizing effect of inheritance when the entire wealth distribution is taken into account. However, recall from what was said earlier, such effects might be regarded as unjust when those who receive are compared with peers in the same age group who already have poorer prospects and who are further left behind by the fact that they stand to get no inheritance either. This is a reminder of how an equalizing effect overall might be compatible with the widening of more 'local' inequalities within the lower regions of the wealth distribution. Such cases force us to ask whether justice would be promoted by reducing this divide between poor and comfortable retirees, which a larger inheritance tax would probably serve to do, or whether there is something wrong with viewing these local inequalities in isolation, when we might attend to the wealth distribution as a whole. I will not try to settle this question, but I will say something about how a Rignano scheme might bear on these modal range inheritances.

Wolff notes that most of Britain's retirement age population are inheriting first generation bequests. Even if they were not, the boom in housing values during the late 20th and early 21st centuries may have done enough to ensure that this wealth, when bequeathed, would be treated largely as 'new'. Either way, a Rignano scheme would probably not impose much tax liability on inheritances within the modal range. This might count against the Rignano scheme's ability to address the way in which first generation bequests can compound injustice that is already around for reasons other than inheritance. But there remains the question of what happens next. By definition, a Rignano scheme is an idea for the long term: Inheritors in the upper part of the modal range will probably not consume all of what they receive before their death, and probably won't be able to do much to expand it either. And so, these modal inheritances will in due course become second generation. This is where the Rignano scheme would begin to have an impact. This is to concede, in effect, that a Rignano scheme would not address the "inequality of the retired" (p10), which Wolff plausibly believes we should be concerned about. But a Rignano scheme still offers a way of addressing what knock on effects there are of this inequality.

Wolff moves on to ask what is to be done about the very wealthy, who in

Britain possess a large share of the overall wealth. Here Wolff relies on the suggestion that the super-rich, perhaps some upper subset of the top 10%, are just too good at avoiding tax for a Rignano scheme to have much effect. Here, many would agree with Wolff that “the very wealthy are likely to find ever-more sophisticated forms of avoidance”. But how much follows from this claim? In assessing this position, the key question is not whether a Rignano scheme would or would not stimulate tax avoidance given the remote possibility of “global harmonisation” of inheritance taxes. I agree it would, other things being equal. What’s key is whether a Rignano scheme would stimulate enough successful avoidance as to result in a net loss to revenue, or to make it under-perform relative to some alternative like strictly progressive inheritance tax, annual wealth tax, or other measure aimed at capturing the wealth of the uppermost decile. Once we are in the territory of claims like a Rignano scheme “could even reduce overall tax take if wealth is moved offshore” it’s important to pay some attention to what sort of wealth is possessed and how moveable it is. Wealth that is in land and buildings cannot, by definition, be moved offshore. The Office of National Statistics¹³ reports that financial wealth, the most liquid and moveable category, accounts for less than a quarter of the wealth owned by the top decile. The remaining categories of wealth that is ‘physical’ or ‘property’ are harder (in some cases impossible) to get out of the country they’re in. Of course much of this wealth can in principle be sold for cash, but in general it is hard to spend down a large fortune by way of consumption rather than re-investment in other wealth (though perhaps more geographically mobile wealth, or by way of purchasing physical property that is already overseas). In light of these considerations, I think it is not settled that a Rignano tax, or in fact any other tax that imposes greater liability on the wealth of the top decile, would be avoidable to such an extent as to defeat the case for having it, relative to other proposals for combatting extreme wealth concentrations.

While Wolff seems to have the movement of wealth offshore most in mind, it is not the only mechanism through which the wealthy can practice tax avoidance. One increasingly common practice is for the wealthy to create personal foundations, which enjoy favorable tax liabilities, or in some cases private companies, primarily for the purpose of ensuring that a legal person other than themselves can serve as the owner of wealth. Such organizations can even be used to employ one’s children in return for little or no work, which is one way to keep the transfer of wealth within the family. And the fact remains that a company or foundation can simply be immortal, which is the best way to avoid an inheritance tax. Moreover, the

¹³ See note 3, above.

fact that one's homes and contents have been transferred to one of these alternative legal persons does not stop one from living in them and carrying on in much the same way as if the transfer had not happened. Overall, the practice here is one of transferring property rights while retaining powers of control: While a personal foundation may be the legal owner of wealth, its primary controller can remain the principal beneficiary. Control rights can thus work just as well for a wealthy individual as property rights would have, with the cost of making the necessary arrangements relatively minimal given the amount of tax that might have been avoided.

The good news is that there are pathways to addressing the ability to get control rights over another legal entity's property to mimic property rights that one might have held in that same property. Foundations and companies are, after all, artificial entities and are the product of laws rather than merely a device to avoid the application of laws. Independent work, for example, on the regulation of foundations has already laid out some of the details as to how reform can do much to undercut efforts to turn them into tax shelters for high net worth families.¹⁴ This is not to say that further avoidance strategies can't be devised. There may well be an arms race between the design of tax law and the capacity of the wealthy to find ways around it. But we needn't be fatalistic about tax avoidance so long as we can find arguments to be optimistic about scope for wider reforms.

I'll close with one further disagreement I have with Wolff concerning the philosophical background, particularly the question of why political philosophy has for at least half a century given much less attention to inheritance than to many other topics about distributive justice. Wolff suggests that the justice-based case for or against restricting inheritance has been (rightly or wrongly) seen as "derivative and relatively straightforward", having been regarded merely as "a consequence of a broader theory of justice". Some philosophers might have felt this way but I think many have not. The question of inheritance may *appear* straightforward on some views, such as the Nozick style libertarianism that Wolff mentions, though even here there was always a vexed question about how to correct for historic injustice like slavery and colonialism, which indeed helped establish many of the large inherited fortunes still being passed down in Britain. However, my own view is that the implications of theories of justice for inheritance are, on closer inspection, harder to establish than even the authors of these theories might think they are. This is often due to ways in which designing a theory to solve one perceived problem may have hidden effects for how, or whether, that theory is able to handle the regulation of

¹⁴ See for example Reich (2019: ch.4).

inheritance (see especially the discussion of Kok-Chor Tan's institutional luck egalitarianism in the book's 4th chapter). I register this disagreement with Wolff not to develop any substantive dispute about appraising the recent history of political philosophy, but to again emphasize my earlier point that there is still philosophical work to be done in philosophy on inheritance. Working out what existing theories are actually committed to on inheritance, as opposed to what they appear committed to on superficial readings or based on what their proponents actually suggest in fleeting or footnoted remarks, is where such work can start.

5. FLEISCHER ON THE RIGNANO SCHEME

Miranda Perry Fleischer observes that the book, being a work in philosophy, shies away from many important questions relating to the actual design of a Rignano scheme as a piece of tax legislation. This is a generous way of alluding to the way in which works in political philosophy are not usually very attentive to the intricacies of tax codes, even if philosophers routinely presuppose that taxation has a role to play in promoting or impeding justice. Much of Fleischer's paper is expansive of the book's arguments and would be of great use to philosophers even ones not especially sympathetic to the idea of a Rignano scheme. Deferring to Fleischer's insights on how to take a Rignano scheme forward at the level of tax design (much of what she says about accessions tax and rate structures should be illuminating to philosophers), I shall touch on some of her points that are more critical of the book's arguments, or which focus on political feasibility.

In the book I rely quite heavily on an account of how the advantages associated with wealth possession (principally non-financial capital) compound down the generations. Granting that wealth gradually attracts valuable non-financial capital over time, there is a question about whether a Rignano scheme is properly sensitive to how fast this process occurs. Fleischer observes that "if Grandfather dies at 90 [bequeathing to Mother], Daughter could be as old as 40. Mother may be able to help Daughter buy a house or start a business, but much of Daughter's path is set by this point." (p3) In other words, the point is that much advantage has been conferred by Mother on Daughter well before Daughter gets her second-generation inheritance by way of actual wealth transfer following Mother's death. One could take this as a point against the Rignano scheme, i.e. as a reason to view it as coming in too late to address intergenerational transmission of advantage. One might thus favor the taxing of first-generation inheritance after all, as per any standard progressive inheritance tax, since this would reduce Mother's ability to benefit Daughter.

The quick (though concessive) way of responding to this concern is to note that a Rignano scheme need not give first-generation transfers a free pass, so long as it taxes them at a somewhat lower rate than subsequent transfers. Whether or not first-generation inheritance should proceed tax-free depends on weighing whatever might be said in favor of the tendency for non-financial capital to be accumulated quickly, versus what other considerations count in the opposite direction. The case for favoring no taxation of first-generation transfers at all may owe much to Fleischer's suggestion that political considerations (in the sense of what people might actually vote for) may carry the day. Political narratives against inheritance tax repeatedly appeal to the idea that such taxes unjustly burden people who wish to bequeath to their children what wealth they have newly created by a lifetime of hard work and saving that has enabled them to accumulate a modest fortune having started with nothing. A Rignano scheme is a very intelligible way of making it clear to voters that anyone whose bequest fits this popular vision will not be taxed, while increasing awareness that second generation (or older) inheritance is still very much a real phenomenon. Any politician trying to denounce a tax that can be framed as burdening people who are merely passing on what wealth they have sat on since they themselves inherited it will have a hard job, one would think, of being as successful as prevailing political narratives have been in entrenching the unpopularity of traditionally progressive inheritance taxes. The objection remains, however, that a first-generation bequest can still be extremely large and therefore raise a question about why it should incur no liability at all, particularly when large enough to dwarf plenty of second-generation transfers.

More could be said about the relationship between the basic Rignano idea of 'progressivity over time' and the role of exemption thresholds. It is worth noting that the Rignano scheme is basically an idea about the tax rate changing from one generation to the next, with the exemption threshold presumably being held constant. But this could, in principle, be reversed: Perhaps all intergenerational transfers are taxed at a rate of, say, 50%. At the same time, first generation transfers may have an exemption threshold of \$2,000,000, with this dropping to \$500,000 at the second generation, and then \$25,000 at the third generation. This would be another way of achieving progressivity over time with respect to the effective tax rate. I am not aware of this idea having been discussed before, and it was not anticipated by Rignano himself, or any of the detailed contemporary discussions that emerged in the early 20th century. Fleischer notes rightly that "the devil is in the details" (p4), and she then goes some way towards dealing with them. Indeed it is for tax specialists, like Fleischer, to have the more authoritative say on this.

Once again I thank Fleischer, Wolff, Braun, Barry and Macleod for their fair-minded but illuminating criticisms, not all of which I have been able to address here.

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