



## Ethics of Inheritance

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# ETHICS of INHERITANCE<sup>1</sup>

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## *Abstract*

Both in the U.S. and in France, inheritance is probably the main factor of wealth concentration among the richest part of the population, and of its intergenerational reproduction. In so far as wealth is an opportunity, a reform of inheritance tax could be a mean to ensure a fairer distribution of opportunities in the society. Many reforms of inheritance systems have been conceived at least since Bentham. The identification and the analysis of ethical properties of reforms as the ones designed by Mill, Rignano, Solvay, Huet and Haslett show that the latter is certainly the one which most satisfies the requirements of an ethics of inheritance.

*Key words* Bequest, equality, opportunity, tax, Haslett's quota.

Inherited wealth is generally quite unequally distributed: it is nearly as unequally distributed as wealth (generally considered) and a great deal more unequally distributed than income. Inheritance is probably the main factor of wealth concentration among the richest part of the population, and of its intergenerational reproduction<sup>2</sup>. In the United States, inheritance is primarily responsible for the fortunes of no less than sixty-seven percent of men who qualifies as “ultrarich”. In countries like France, inherited wealth accounts for a large part of all wealth

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<sup>2</sup> Thus, more than half of American citizens who have died rich (the top 1%) have received a sizeable inheritance. The 10<sup>th</sup> edition of World Wealth Report underlines the stake of intergenerational transfers of wealth and inherited wealth: 90% of HNWI (High Net Worth Individuals) have between 1 and 5 million dollars; this wealth is 19% inherited wealth.

possessed (generally estimated at around 40%) and represents the largest descending monetary transfer: three times as much as wealth received in the form of *inter vivos* gift for example<sup>1</sup>. In general, transfers of property by means of inheritances and gifts also play a very important role in the processes which determine the distribution of income and wealth. Therefore the problem of distribution lies, for an important part, in the accumulation of wealth, especially through inheritance.

Nevertheless, inheritance taxation remains a problematic issue. This taxation engenders a feeling of spoliation which impedes any attempt at reform. While inheritance is the main origin of the intergenerational reproduction of inequalities, no government will attempt to reform inheritance taxes – except in order to reduce them. The figures above however justify an inheritance tax reform and, moreover, require to treat of the inheritance tax issue not only as an economical question but also as an ethical one. In this way, the bequest issue appeals for an “ethic of inheritance”. In fact, the values of freedom and equality – linked to the issue of inequality generated by inherited wealth –, the interpretation of equality, and the status of the family are among the main factors that influence the way one looks at inheritance. Furthermore, the unequal distribution of inherited wealth and bequests is a crucial vector of the inequality of opportunities. In fact, if one was born with a nice estate, one’s opportunities are far greater, *ceteris paribus*, than those of the poor who was provided with barely for subsistence in his childhood. For these reasons, the question of inheritance and inheritance tax is not one which can be tackled only by purely ‘economic’ arguments.

The current debate which opposes defenders of a reform of the right to inherit (Rawls, Haslett) and defenders of a limitation of the right to bequest (Nozick) brings about older propositions to reform inheritance system. Our aim will be to demonstrate that in so far as inheritance is not only an economical or fiscal issue, ethical arguments should be used to assess these propositions. In this investigation, the concern for a reduction of inequality of opportunities will play a crucial rule since inheritance is the main vector of intergenerational reproduction of wealth concentration. In other words, our point will be to identify the inheritance reform the most able to promote equality of opportunities. To lead this investigation, we will firstly analyse the main ethical claim defending the right to bequest: bequest is motivated by altruism. Then we will discuss some objections often raised against reform of inheritance tax. Finally we will demonstrate why a reform of the right to inherit (i.e. to receive) bequests is more

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<sup>1</sup> A. Masson and P. Pestieau (1997), “Bequests Motives and Models of Inheritance: A Survey of the Literature”, in G. Erreygers & T. Vandevelde (eds.), *Is Inheritance Legitimate ?*, Heidelberg, Springer, 1997, p. 57.

relevant and practicable, considered from an ethical point of view, than a reform of the right to bequest.

## 1. Is bequest altruistic?

Some authors such as Philippe van Parijs suggest that the prohibition of bequest, advocated by Roemer, “amounts in fact to make egoism as the only legitimate motivation of action”<sup>1</sup>. The political attempts to reform inheritance tax often raise a feeling of spoliation. The latter is motivated by the conviction that State should not intervene in private issues and by a longstanding idea that bequest was essentially an altruistic attitude, which expresses the desire to help one’s own children at a particular moment of their life and which reflects filial feelings<sup>2</sup>. The stereotyped representation of inheritance corresponds to the model based on pure altruism, i.e. on parental love and filial piety. On these grounds, it seemed illegitimate to impose limits to altruism. Nevertheless, this traditional image of bequest and of its motivation as strictly altruistic seems wrong. In the American literature of the seventies and early eighties, altruism was the dominant hypothesis. Since then there has been a gradual change of opinions concerning the leading bequest model<sup>3</sup>.

In fact, there are at least three kinds of bequest. Bequest can be (1) accidental or unplanned bequests, (2) voluntary or planned bequests, (3) capitalistic or entrepreneurial. When the bequest is voluntary, its motivations can be altruistic, paternalistic, “retrospective”, either grounded on mere exchange, or on various strategies<sup>4</sup>. This specification, quite remote from the traditional and popular picture of bequest, is specifically relevant because it allows us to identify (i) the vector of the bequest, (ii) the kind of relations existing within the family, (iii) the structure of preferences, (iv) the kind of information held by each member of the family, and finally (v) the characteristics, in terms of capabilities or life expectancy, of the family members. Let us describe the properties of these various kinds of bequest. Which motivations each one has in each case?

(1) When the bequest is accidental – and, therefore, unexpected – it does not express any desire of the parents but only their concern for themselves (i.e. precautionary savings) and a preference for deferred consumption. (2) When the bequest is voluntary and planned, it could be motivated by altruistic reasons but also by strategic or paternalistic reasons. (3) The “capitalist or

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<sup>1</sup> P. Van Parijs, *Qu'est-ce qu'une société juste ?*, Paris, Seuil, 1991, p. 61.

<sup>2</sup> See G. S. Becker and N. Totes (1986), “Human capital and the rise and fall of families”, *Journal of Labor Economics*, 4, part 2, SI-S39.

<sup>3</sup> See G. S. Becker (1993), “The economic way of looking at behavior”, *Journal of Political Economy*, 101.

<sup>4</sup> A. Masson and P. Pestieau, “Bequests Motives and Models of Inheritance...”, p. 54.

entrepreneurial” bequest is the result of an accumulation for its own sake. The person who initiated this accumulation is the main beneficiary of it<sup>1</sup>. Hence and although accidental bequests are typically limited to the consumer’s life cycle, voluntary bequests are essentially based on *family* considerations. Finally, capitalist bequests generally have a horizon that extends over the lifetime of the wealth holder. They are not primarily motivated by family considerations – even though the dynastic family is used as the channel allowing for the perennity of the estate.

In this way, it is obvious that (a) not all bequests are motivated by altruism and (b) that among bequests that express familial concerns, not all bequests are grounded on generosity and filial solidarity. For instance, among the voluntary bequests and voluntary gifts, some are the result of an “exchange strategy” which can be in some case fair but, in other cases, unfair for some of the members of the same family. The level of altruism decreases gradually from altruistic and paternalistic bequests to bequests motivated by an “exchange strategy”. For example, in the first case, when they make decisions on consumption and savings, parents take into account their children’s preferences while anticipating their income and future needs. But when the bequest amounts to an exchange, it is less altruistic: parents take care of their children until they reached adulthood and promise to leave them an inheritance (often their work tools). *In exchange*, children promise to look after their parents once they reach old age, or even earlier in the event of failing health. Finally the strategic bequest is a step further remote from an altruistic bequest. In the procedures of a game-theory approach<sup>2</sup>, strategic inheritance brings parents at the beginning of retirement face to face with their children who are just starting their working lives. The parents want each of their children to help them and pay additional attention to them. They extract the maximum from each of their children under the threat of disinheriting them.

These analyses obviously show that bequest can not be considered as an expression of altruism nor of filial devotion solely. It is not possible to invoke bequest motivations – not even altruism – in order to prohibit any limitation of inheritance. Moreover, we are also convinced that not all kinds of motivations are equally valid and respectable from an ethical point of view<sup>3</sup>. For this reason, an ethical approach is relevant to the legitimacy of inheritance tax, and not only an economic one.

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<sup>1</sup> See the results exposed in the table 3.1 by A. Masson and P. Pestieau, “Bequests Motives and Models of Inheritance...”, p. 58-59.

<sup>2</sup> See Bernüeim and al. (1985), “The Strategic Bequest Motive”, *Journal of Political Economy*, 93.

<sup>3</sup> On this point, see E. Schokkaert, “Bequests and Inheritance Taxation: A Comment”, in G. Erreygers & T. Vandevelde (eds.), 1997, p. 131.

## 2. Limitation of the right to inherit vs. limitation of the right to bequest.

### 2.1 The right to bequeath an item should not be a transferable right.

The reform of inheritance tax is an old issue. Several models of inheritance tax have been proposed. Bentham, for example, proposed to widen the scope of the law of escheat, in combination with a limitation of the power to bequest<sup>1</sup>. Nozick, for his part, suggested that the bequest has to be limited to one passing that cannot be repeated. This sets the principle according to which *the right to bequeath an item is not transferable by bequest* but adheres only to the original earner or creator<sup>2</sup>. What people have not earned themselves, cannot be passed on by inheritance. Nozick's proposal, as he advocated in *The Examined Life*, constitute a simplified version of the Rignano-Solvay proposal.

In his first book<sup>3</sup>, Eugenio Rignano (1870-1930) proposed to consider the right to bequest according to the "origin" or "age" of the property involved. What is now known as the "Rignano principle" stipulates that the higher the number of transfers a piece of property has been subject to, the lesser the power of the owner to dispose of it by will. In other words, the rate of inheritance taxation levied at each transfer of property increases with the number of transfers, and after a limited number of transfers reaches the level of 100%. That is, when a man dies, his possessions have to be split up into different parts according to the number of times his possessions have been transferred (by means of inheritance or gift) to reach its present state. This means that a distinction is made between the goods and money which constitute the own savings of the deceased (0 transfers), the goods and money which he had inherited from other persons and which came from their own savings (1 transfer), the goods and money which he had inherited from other persons who in their turn had inherited them from others (2 transfers), etc. This reform comes down to the introduction of a new principle of progressiveness in inheritance taxation, i.e. the principle of an *inheritance tax progressive through time*. It obviously imposes limitations to property transfers. In fact, one of the aims of the alternative property regime, designed by Rignano, is to de-cumulate private fortunes fairly rapidly, so as to prevent the creation of large differences in private wealth.

At the same time, the Belgian industrialist Ernest Solvay (1838-1922) formulated a similar proposal: the inheritance tax should be made progressive with the number of generations

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<sup>1</sup> He brought up the law of escheat, i.e. a law of feudal origin, which stipulated that in the absence of legal heirs an estate becomes public property.

<sup>2</sup> By analogy, the right to vote and citizenship are also rights that are not transferable.

<sup>3</sup> E. Rignano (1901), *Di un Socialismo in Accordo colla Dottrina Economica Liberale*, Torino, Fratelli Bocca Editori.

between the original creator of property and its present owner<sup>1</sup>. In the same spirit, François Huet (1814-1869) proposed to change property rights in accordance with the distinction between ‘self-created’ property and ‘inherited’ property: property which has been accumulated by its owner may be bequeathed freely, but property which has been inherited by its owner will be confiscated by the State when the owner of it dies<sup>2</sup>.

All of these proposals are relevant for our issue, firstly because the legal and fiscal frameworks in which these transfers take place have not changed drastically since the beginning of the 20<sup>th</sup> century, nor have the arguments used in the inheritance tax debate of the 1920s<sup>3</sup>. Secondly, it seems more relevant, from our point of view, to concentrate on a limitation of bequest – rather than on an abolition of inheritance – because the former can be implemented more immediately and with less constraints. From this prospect, Rignano/Solvay proposal – and Haslett’s one as we will see later – are the more conclusive. Finally, the introduction of a differential treatment for ‘earned’ and ‘inherited’ wealth involves important ethical issues we should explore to set an ethics of inheritance.

## **2.2 Objections to reforms of inheritance system.**

### **a) Inheritance assessed from a “personal” and an “impersonal” standpoints.**

There is a strong opposition to any limitation of bequest. The obstacles are either psychological, human, due to the desire of wealth accumulation and personal choices, or related to incentives. Most of the time, reforms are perceived as an injustice from the part of the State against individuals. Wealth is generally understood as the result of individual merit or of family deserve lead on several generations. Nevertheless we have to take into account the negative externalities resulting from the practice of allowing unrestricted gifts and, especially, the negative externalities in the field of opportunities, inequalities of wealth and so on, perpetuated by this practice.

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<sup>1</sup> E. Solvay (1897), “Etude sur le progrès économique et la morale sociale”, *Annales de l’Institut des Sciences sociales*, 3(6).

<sup>2</sup> F. Huet, *Le Règne Social du Christianisme* (1853), Paris/Bruxelles, Firmin Didot Frères/Librairie Polytechnique Decq. The interest of Huet’s proposal for equality of opportunities is that everything which is confiscated by the State, in a given year, is then equally distributed among all the young people of a given age, so that all dispose of a certain amount of ‘basic capital’. For more details, see Huet (1853), pp. 263-303; Ferrero (1990), pp. 3-5; Cunliffe (1997); Cunliffe & Erreygers (2003).

<sup>3</sup> In the mid-twenties there was, in the British Policy Debate, a lot of support from economists for some aspects of the Rignano proposal.

Any possible answer to objections against reforms of inheritance tax requires to know whether such a reform is (aside from its public support) justifiable. A solution is provided by the distinction between “personal” and “impersonal” standpoints<sup>1</sup>. In this framework, one of the main objections to inheritance tax reforms is that the institutional settlement of a limit between “personal” and “impersonal” spheres prohibits the legitimate expression of preference for one’s own family. Nevertheless, firstly it is not ineluctable to believe that the privilege to bequest to one’s own children the means of an independent life reflects familial devotion, which absolutely does not depend on State’s competences. Secondly, we could expect that this belief will change with time and along inheritance reforms, and that one day it will not go without saying that one is rich because his father was rich. Individual values will change if they face new situations<sup>2</sup>. In this respect, our goal is not to abolish the action of priority and preferences bestowed to one’s family but to restrict their effects to the personal sphere and to limit its effects on wealth concentration and on the general distribution of opportunities within the society. In fact, we believe that the scope of the priority given by the family to its members should be institutionally defined.

Nonetheless the personal standpoint has to be taken into account. Indeed, one of the advantages of a reform of inheritance – as Rignano/Solvay’s one – rather than a mere abolition of inheritance is that it considers the “familial preference” (the concern for one’s own family). In this perspective, F. Huet’s proposal should also be considered. An inheritance tax of 100% on the goods inherited from the grandfathers and, as Rignano suggests, a progressive tax (according to time) is a way to conciliate the requirements of personal and of impersonal standpoints. An excessive impartiality is not imposed on individuals. These kinds of proposal take into account the fact that, most of the time, the affective links are stronger between parents and children than between grandfathers and children. These proposals also avoid the capitalistic bequest, while preserving the familial and economical resources, belonging to the restricted familial sphere.

#### **b) The incentive objection.**

Another sharp objection to a progressive inheritance tax is that it will reduce people’s incentives to be productive. Against this critic, several arguments are relevant but one is particularly crucial. Empirical studies<sup>3</sup> suggest that people with no children to inherit their wealth

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<sup>1</sup> See T. Nagel, *Equality and Partiality*, New York, Oxford University Press, 1991, p. 12.

<sup>2</sup> Albert Hirschman defended the thesis of values cycle between a focus on the public and a focus on the private (A. Hirschman, *Shifting Involvements*, Princeton, University Press, 1982).

<sup>3</sup> See D. C. McClelland, *The Achieving Society*, Princeton, NJ (Van Nostrand), 1961, pp. 234-5, and S. Fiekowsky, *On the Economic Effects of Taxation in the United States*, Cambridge, MA (Harvard University), unpublished dissertation, 1959, pp. 370-1.



are certainly no less productive, on average, than those who do have children. People are motivated to be productive for many reasons other than merely that of leaving their money to their children. These reasons include, for instance, supporting one's children well while they remain dependent but, as well, saving for old age and enjoying their wealth by spending it on themselves. A fundamental reason for being productive is success and, thereby, gaining respect from others as well as self-respect. Many business executives, lawyers, engineers or research scientists try just as hard to "win".

But our opponents will still argue that even if a broad reform on inheritance tax would not decrease productivity by decreasing people's incentives to be productive, it will decrease productivity by decreasing people's incentives to save and invest. As D. Haslett underlined it, in the case of abolishing inheritance, no one really knows for sure in fact how – if at all – these reforms would affect savings and investment. There are reasons to believe, however, that the effect may not be serious. The economic structure is always such that as much of society's new-capital savings and investment today is corporate savings and investment, which will be unaffected by these reforms. Conversely, much savings and investment by the rich takes the form of trading in previously-issued stock, and therefore does not create new capital. We cannot assume that any given percentage drop in overall savings and investment by the rich will necessarily result in the very same percentage drop in new-capital savings and investment. Moreover – and the argument is here conclusive – even if inheritance is abolished or if a high inheritance tax is set, people must continue to save for the future anyway, since no one knows for how many years and in what state of health, they or their spouse may have to live off these savings.

Likewise, it is plausible that *even* the abolition of inheritance will give rise to an important countertendency, often overlooked, in the form of increased savings and investment<sup>1</sup>. With no or less prospects for inheritance, the need for people to save for their own future will be greater than ever, and, accordingly, so too may be their savings. Even if inheritance is abolished, many, especially the ultrarich, will continue to hang on to their fortunes merely from pleasure, power,

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<sup>1</sup> Considering the case of an abolition of inheritance, D. Ascher shows that even if it results in an unacceptable decline in investments, there would be better ways of reinstating the previous level of investments (see M. L. Ascher (1993), "Curtailling inherited wealth", *Michigan Law Review*, 89, esp. pp. 102-11; and D. G. Duff (1993), "Taxing inherited wealth: A philosophical proposal", *Canadian Journal of Law and Jurisprudence*, 6, esp. pp. 10-3, 28-37). For a detailed answer to the savings and investment objection, see D. Haslett (1994), chap. 6.

and prestige. Finally, governments have many measures at hand that can be used to motivate more savings and investment<sup>1</sup>.

### **c) The economical and social interdependence.**

In response to the economic argument we should recall that, in the majority of cases and maybe in all cases, the wealth some people benefit is a result of the cooperative social structure. The profits generated by the capital and the wealth accumulation depend on the social structure to which everyone participate. Therefore a redistribution of property or a redistribution of these profits at least seems justified. This argument has been often pointed out, for example by J. Wedgwood, when he observed that “for a good deal of property is not the result of the owner’s effort or thrift; and not all that is the result of his efforts represents an economic service to the community”<sup>2</sup>. Rawls also underlines this economic conjunction and the fact that in a well-ordered society, the profits produced by the exploitation of individuals’ talents should be redistributed. This requisite is summarized in the “principle of solidarity of talents”, which considers “the distribution of natural talents as in some respect a common asset and to share in the greater social and economics benefits made possible by the complementarities of this distribution”<sup>3</sup>. In fact, the talents can be exploited by their holders only in the framework of a society, that is, in the framework of a set of social conventions and institutions.

## **2.3 Advantages of Rignano/Solvay’s proposal.**

Some of the main objections to an inheritance tax reform are now put aside. The next step is to suggest the best way to design this reform. It requires to consider: (i) the beneficiaries of the transfer; (ii) the resources transferred; (iii) the bequest at stake and, in particular, the capitalistic bequest in so far as we know that while accidental inheritance touches all classes of society, capitalistic bequest concerns only the well-to-do.

(i) Any inheritance reform should answer the first question: “who is concerned by inheritance?”. Most of the proposals we known distinguish between the bequeathers. In the same spirit that Rignano, Solvay and Huet’s proposals, the American Richard T. Ely (1854-1943), for

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<sup>1</sup> D. Haslett, for example, suggests to use the amounts collected from abolishing inheritance to subsidize investments or, if the amounts thus collected are insufficient, to use instead amounts collected from ordinary taxes (D. Haslett, “Distributive Justice and Inheritance”, in Erreygers & Vandeveldel (eds.), 1997, p. 146).

<sup>2</sup> J. Wedgwood, *The Economics of Inheritance*, Harmondsworth, Penguin Books, 1939, p. 260.

<sup>3</sup> J. Rawls, *Theory of Justice*, Cambridge (MA), Harvard University Press, 1971; 6<sup>th</sup> ed., 2003, p. 87. In fact, “no one deserves his greater natural capacity nor merits a more favorable starting place in society” (p. 87).

example, wanted the inheritance tax to be progressive, graduated according to the degree of relationship and to the amount inherited. He even suggested that “the state or the local political unit – as town or city – must be recognized as a co-heir entitled to a share in all inheritances”<sup>1</sup>. In general, we can admit – as a result of common sense and of a concern of a well-understood partiality – that surviving spouse and children should benefit from a special treatment regarding the capitalist bequest. By the way, the personal point of view will be taken into account<sup>2</sup>.

(ii) Secondly, we have to consider the resources transferred. As we have seen before – in particular in Rignano’s model – it seems relevant to distinguish between: ( $\alpha$ ) property which an owner has accumulated as a result of his or her own efforts (i.e. ‘self-created’ property) and ( $\beta$ ) property which he or she has inherited from others (i.e. ‘inherited’ property). The Rignano proposal is meant to encourage individuals to work and save. To achieve this aim individuals have the right to own and bequeath private property, but only insofar as it is necessary and sufficient to make people work and save<sup>3</sup>. The possibility to bequest the accumulated goods, acquired by work, thus reply to the disincentive objection and to the objection advocated the merit one had in his life and the legitimacy to keep the results of his work. For these reasons, Rignano’s proposal, which differentiates the right of bequest according to the ‘origin’ or ‘age’ of the property to be bequeathed, is one of the most interesting. But in this reform, the impersonal standpoint prevails<sup>4</sup>.

#### **2.4 Why should we prefer an inheritance reform rather than a bequest reform?**

Even if the reform of the progressiveness of inheritance tax according to its origin seems to be one of the best ways to reform inheritance tax, we ought to consider an alternative option which takes more into account the personal standpoint, i.e. a reform of the right to inherit (i.e. to receive) bequests. This reform has the advantage not only to fight wealth concentration but also to enhance equality of opportunity. This “limitation of the right of inheritance” is stood up by Mill who was nevertheless a defender of private property and bequest<sup>5</sup>. Mill advocated high and

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<sup>1</sup> R.T. Ely (1891), “The inheritance of property”, *North American Review*, 153, pp. 54-66. This measure is grounded on the following principle: “All inheritances of every sort should be taxed, provided the share of an heir exceeds a certain amount” (p. 61).

<sup>2</sup> Mill, for instance, also recognized the claims of children to the property of their parents as “real and indefeasible” but he did not consider that the children of the deceased should always inherit the whole estate.

<sup>3</sup> E. Rignano, *Di un Socialismo in Accordo colla Dottrina Economica Liberale*, p. 63.

<sup>4</sup> A strict imposition of the impersonal point of view would be implemented through a mere abolition of bequest.

<sup>5</sup> J. Mill (1888), *Principles of Political Economy*, London, Longmans, Green and Co., 1965, p. 225.

progressive inheritance taxation<sup>1</sup>, explicitly, to reduce wealth inequalities or, at least, the greatest one<sup>2</sup>. Mill suggested to set a limit on what any one may acquire by the mere favor of others. For this reason and from an ethical point of view – as we will see later –, it seems to be the most relevant inheritance reform. Unfortunately, Mill never specified precisely how high the maximum amount of property a person would be entitled to acquire by inheritance. While Mill did not assume the originality of his own proposal<sup>3</sup> and did not propose any precise solution to establish a threshold beyond which the individuals would not be allowed to receive any bequest or any gift, Haslett, more recently, ventured a figure.

In fact, D. Haslett – taking into account a principle of distributive justice and a concern for equality – proposes a social policy which is a lifetime inheritance (i.e. gift and bequest) quota rather than an inheritance tax<sup>4</sup>. This quota firstly is “to be set at an amount that is small enough to break up large fortunes yet large enough not to impede most giving and receiving among people of ordinary means”, but a giving and receiving not likely to create dramatic inequalities of opportunity that have a major effect upon how justly wealth is distributed. For any given country, Haslett estimates that “an amount somewhere around the current, average (i.e. mean) value of the estates of all people in that country who die over age twenty-one might be appropriate”<sup>5</sup>. In the United States, for example, Haslett suggested in 1997 that the quota might be of \$100,000.

Haslett adds several restrictions to his proposal. Thus are excluded, from the obligation one has to report all gifts and bequests received each year: (a) unlimited gifts and bequests between spouses<sup>6</sup>; (b) secondly, “everyone is to be able to support, as luxuriously as they please, their minor children and other genuine dependants”<sup>7</sup>. (c) The final exception to the quota concerns unlimited gifts and bequests for genuine charitable organizations or purposes. But once one’s reportable gifts and bequests, throughout one’s lifetime, reach the quota, then one is no longer eligible to receive further reportable gifts or bequests from anyone.

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<sup>1</sup> J. Mill, *Principles of Political Economy*, pp. 811-2.

<sup>2</sup> J. Mill, *Principles of Political Economy*, p. 226. Rawls suggests to introduce – through the distribution branch – a taxation of inheritance and income at progressive rates, but also to impose a number of inheritance and gifts taxes and to set restrictions on the right to bequest (see *Theory of Justice*, p. 245). As suggested by Meade, Rawls recommends to apply the progressive principle at the beneficiary’s end (J. E. Meade, *Efficiency, Equality and the Ownership of Property*, Londres, Allen & Unwin, 1964, p. 56 sq.).

<sup>3</sup> Mill was aware of the fact that the public might not be prepared to accept all aspects of his reform proposal at once.

<sup>4</sup> D. Haslett, “A Reply to Bracewell-Milnes”, in Erreygers & Vandeveld (eds.), 1997, p. 216.

<sup>5</sup> Another, perhaps better, benchmark for the amount of a country’s quota is the average (i.e. mean) *net wealth* of all individuals in that country over age twenty-five. In any case, once the amount of the quota is set, it should then be ‘indexed’ so as to change automatically with (very substantial) changes in average wealth throughout the country.

<sup>6</sup> In order to prevent marriages for purposes of avoiding the quota, this unlimited exception may have to be qualified. A relevant way of doing so is to evaluate prior to marriage, each person’s assets.

<sup>7</sup> D. Haslett, “Distributive Justice and Inheritance”, pp. 147-148.

The Haslett's quota presents several advantages. (α) First, the quota would break up the fortunes of the ultrarich people<sup>1</sup> and would disperse the estates of the wealthy – more widely than a quota on how much any given person may give<sup>2</sup>. In fact and since a strict lifetime inheritance quota precludes people from receiving huge sums of wealth through inheritance, it will certainly result in a distribution of wealth more equally. (β) Secondly, a quota goes a long way toward avoiding the potential savings and investment objection<sup>3</sup>. (γ) Moreover this quota will not prevent the passing of family heirlooms, homesteads and small family businesses from one generation to the next as argued by opponents to an inheritance abolition<sup>4</sup>. In this way, Haslett's proposal avoids the objection which emphasizes family and filial links or feelings. (δ) Finally the quota will avoid some of the insidious loopholes that a progressive inheritance tax will necessarily face.

This proposal might be associated to other propositions. For example we could imagine that only some kind of goods could be bequest (for instance houses, in a limit of a precise valuable amount) and other not<sup>5</sup>. The individuals would be allowed to choose the goods they will bequest and the goods they will not. This clause will also be a mean to take into account the personal standpoint. Finally the limit on the value which can be inherited could be introduced from the existing inheritance tax in country as the United States, Great-Britain or France. But the main difficulty remains to set the maximum amount which could be transferred.

### **3. How an inheritance reform can enhance equality of opportunity?**

#### **3.1 Dispersing wealth.**

The assessment of reforms of inheritance tax in the prospect of an “ethics of inheritance” ought to refer not only to the balance between personal and impersonal standpoints, involved in these reforms, but also to their ability to correct inequalities of opportunities due to morally

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<sup>1</sup> Gifts and bequests are mainly concentrated among the richest households. In the United States today, inheritance is primarily responsible for the fortunes of no less than sixty-seven percent of the “ultrarich” people. Based upon DGI-Insee, 1987 French estate data, the share of total bequest of the bottom decile is 0,7% while the total share of the top 10 decile is 51,2%. The proportion is more than half among the top 1% of the bequest distribution. This privileged group (the top 1%) accounts for 19% of total bequests, but for more than 54% of the total amount of gifts while the bottom decile receive 0,1% of this total amount.

<sup>2</sup> We recall that the share of inherited wealth, in total saving, amounts to 40%.

<sup>3</sup> See D. Haslett, “Distributive Justice and Inheritance”, p. 149. For instance, for those who know a number of eligible people to whom they want to leave some wealth, the quota provides more motivation for savings.

<sup>4</sup> This is especially true if this quota is combined with regulations that (1) give first opportunity to purchase them to family members who have been designated by the decedent in his or her will, and that (2) also give these same family members lenient, long-term credit terms.

<sup>5</sup> With a specific care to the survival spouse and the minor children.

arbitrary factors. But in this perspective, we face a major difficulty: on the one hand, the bequest is not compatible with equality of opportunity but, on the other hand, an inheritance tax reform could enhance inequality of opportunity rather than diminishing it. Therefore, we will now demonstrate how restriction on inheritance tax could enhance equality of opportunity or, at least, enhance equity in choices for a great diversity of life prospects.

The equality of starting points or of initial endowments involves, practically, the prohibition of any kind of gifts because there is no difference between inheriting a company at the age of 40 years old or at birth<sup>1</sup>. In fact, inequality of opportunity is strongly associated with inequalities of wealth. In some respect, “wealth *is* opportunity”: “those who inherit large fortunes have, as a result, significantly more opportunities than those who do not”<sup>2</sup>. Do high progressive inheritance tax – as designed by Rignano – or a restriction on the right of inherit – advocated by Haslett – are adequate devices to enhance equality of opportunity?

If bequests and gifts are allowed, we have to recognize as legitimate inequalities which result from previous inequalities of opportunities, and the more inheritance there is, the less equal people’s opportunities will be. But, from an ethical point of view, people do not deserve to profit differentially from the luck of the birth lottery, which distributes valuable assets (skills, parents, citizenship, etc.) in an arbitrary and highly unequal way. In this respect, an inheritance tax reform helps equalizing starting points: an excessive concentration of wealth in the hands of very few people will impede the implementation of equity of opportunity<sup>3</sup>.

Furthermore even if people have justly earned (under conditions of equal opportunity) their estates, it does not follow that they have the right to exacerbate differential opportunities in the next generation by distributing their estates to favoured individuals. We should here not only consider the current allocation of opportunities but their distribution in the future. The requirement of equality of opportunity *for the next generation* may well trump such a right. Secondly, even if inheritance tax is not the best mean, on its own, to guarantee equality of opportunity, it is obvious that the actual inheritance practices, at least in France, largely contribute to the

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<sup>1</sup> The average age at which inheritance is received during a given year is around 48 in France (see L. Arrondel, A. Masson and P. Pestieau, “Bequest and Inheritance: Empirical Issues and France-U.S. Comparison”, in G. Erreygers and T. Vandevelde, 1997, p. 101), while gifts are naturally received earlier: at 38 on average (Laferrère, 1988 and 1991).

<sup>2</sup> D. Haslett, “Distributive Justice and Inheritance”, p. 141-142. Huge fortunes are often put in trust, not for children, but for grandchildren. These funds then become available to the grandchildren upon their reaching age 21, enabling them to get their inheritance at the start their careers after all. This device is common among rich Americans.

<sup>3</sup> For this reason, Meade suggests to impose a high and progressive tax on gifts received during one’s life (see J. E. Meade, *Efficiency, Equality and the Ownership of Property*, p. 54-58). Rawls also underlines the importance of preventing excessive accumulation of property and wealth (*Theory of Justice*, p. 63) because the fair equality of opportunity and freedom are put in jeopardy when inequalities of wealth exceed a certain limit (p. 246).

reproduction of social inequalities<sup>1</sup>. Both in the U.S. and in France, inheritance is probably the main factor of wealth concentration among the richest part of the population, and of its intergenerational reproduction. Therefore, some limitations on the amount individuals are entitled to receive during their life should be settled.

Precisely, the more efficient way to spread huge fortunes could be – as Haslett suggests it – to institute a ceiling for how much a person can, throughout his or her life, receive from all sources. By the way, great fortunes<sup>2</sup> would tend to be broken up – whether by increased personal spending or by this tax – and, thereby, it will bring about a more equal distribution of wealth *in the next generation*. Haslett's quota will then achieve greater equality of opportunity by spreading fortune among more people.

As we have seen above, the quota is set at the average value, today, of an adult's estate at the time of his or her death<sup>3</sup>. It will conveniently contribute to a wealth fragmentation and to an improvement of equality of opportunity because most people know at least five people for whom they really care and who will not yet have received any, or much, of their quota – children, grandchildren, great grandchildren, friends, close relatives, the children of close relatives, loyal employees, and the like<sup>4</sup> – that is at least five times the value of the average estate. Therefore with this measure we can expect that, in the next generation, wealth become more equally distributed. If everyone profit from this redistribution, the reform would greatly increase the opportunities for self-realization and individual welfare, and for example opportunities to pursue one of the higher-paying occupations, such as doctor, lawyer, business entrepreneur, and so on.

This argument – focused on the long run – is also an answer to the objection according to inheritance tax reform as negative effects on the distribution of educative opportunities. Some economists as Becker and Kothkoff<sup>5</sup>, and others as Bracewell-Milnes<sup>6</sup>, emphasize that a direct correlation between an increase of inheritance tax and an improvement of equality of opportunities seems problematic, because restrictions on the amount of material wealth parents can donate or bequeath to their children will lead them to spend more on the education of their

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<sup>1</sup> See L. Arrondel and al., “Bequest and Inheritance: Empirical Issues and France-U.S. Comparison”, in Erreygers & Vandeveld (1997).

<sup>2</sup> The persons who will be affected by the quota are the ultrarich, who have literally millions at their disposal, and the moderately rich.

<sup>3</sup> D. Haslett, “Distributive Justice and Inheritance”, p. 149.

<sup>4</sup> It will also be a device to develop others kinds of relationships with persons close to us. The necessity to find, at least, five persons to whom bequest will expand a kind of benevolence far away from motivations inherent to capitalist bequest.

<sup>5</sup> See G. S. Becker, *A Treatise on the Family*, Cambridge, Harvard University Press, 1991; L. J. Kotlikoff, *Generational Accounting, Knowing Who Pays, and When, For What We Spend*, New York, Free Press, 1992.

<sup>6</sup> B. Bracewell-Milnes, “The Hidden Costs of Inheritance Taxation”, in G. Erreygers & T. Vandeveld (1997).

children<sup>1</sup>. And education is more important for success in life than an inheritance received at the age of 45. We can argue that even if any constraint on inheritance will induce rich people to spend more on the education of their children and will increase, *in the short run*, inequalities, *in the long run*, this taxation could increase equality of opportunity or, at least, reduce these inequalities. Only in the long run will inheritance tax lead to a fairer distribution of wealth and hence to more equality of opportunity.

### **3.2 From family to community.**

#### **a) Strengthen social links.**

Even if the Rignano/Solvay proposition tries to balance personal and impersonal points of view in reforming inheritance tax, it gives a priority to the impersonal point of view. On the other hand, Haslett's proposal is more attractive because it largely preserves the expression of personal standpoint and offers some relevant ethical properties.

The dispersal of assets and wealth induces by Haslett's quota is a mean to share social and economical benefits of natural skills and capacities of all participants to the social structure and is a device to correct the arbitrary distribution of skills among them. In fact, without the social cooperation, those better situated would not obtain the greater advantages they actually enjoyed. By this way, Haslett's quota – as the Rignano/Solvay proposition – will contribute to implement the Rawlsian principle of “solidarity of talents”.

But contrary to the Rignano/Solvay proposal, the wealth dispersal produced by Haslett's quota could lead to a valorization of social links and could also avoid the exclusive focus on family relationships. The current inheritance system discloses an obvious lack of community between citizens. Even if today it is possible, in some States, to bequest his wealth to others persons than his relatives, a child can not be disinherited and the taxes imposed on this atypical bequest are very high. The obligation to bequest beyond the restricted family sphere will change the way one will consider other members of the society and probably give rise to kinds of generosity far different from the ones associated to capitalistic bequests. For example, the most privileged could improve educative and health opportunities or well-being of children from less advantaged strata of society.

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<sup>1</sup> M. Friedman, *Capitalism and Freedom*, Chicago, University of Chicago Press, 1962, p. 163-5.



## **b) Familial links.**

Moreover, a reform of inheritance system will induce an evolution of family links. One of the perverse consequences of current inheritance systems is to give a pre-eminent importance to material assets in what is hung from parents down to children. In fact, many people seem to view what parents can give to their children primarily in terms of wealth. But there are far more important things that parents can give to their children, such as their time and love, skills, capacities and values that will enable their children to succeed in life on their own. By reforming drastically inheritance system, perhaps parents will then concentrate more on giving their children not mere wealth, but what is more important to experience, the deep satisfaction of succeeding on their own: love, capacities, values and strength of character. The implementation of Haslett's quota, for example, will reinforce the fact that the most important part of this bequest is immaterial. By this way, the ability the parents will demonstrate in providing properly their children to face life will be fairly assessed. This will contribute to contradict the common idea according to it is fair and admissible that one is rich because his father was rich.

## **Conclusion**

The prior examination of some reforms of inheritance tax was aimed to draw the main lines of an ethics of inheritance, devoted to reduce equalities of opportunity and especially the ones involved in current inheritance tax systems. Our approach was ethical rather than economical. Its objective was not to abolish the familial preference but to limit its social effects and especially its undesirable consequences on wealth and opportunities distributions. From this point of view, two propositions of inheritance reform are particularly relevant: Rignano/Solvay's proposition and Haslett's quota, in so far as they redesign the scope of influence of the familial preference. The reforms considered – which would introduce radical transformations of current inheritance tax systems – have the advantage, without requiring from individuals an excessive impartiality, to relieve two of the worst consequences of these systems: the reproduction of social inequalities (especially of wealth inequalities) and the lack of sense of community between citizens.

If inheritance is not only an economical topic – as we showed it – but should give rise to an ethics of inheritance, ethical arguments plead for the implementation of Haslett's proposal, i.e. a quota on the amounts people are allowed to receive from bequests and gifts during all their life. In fact, Haslett's proposal would certainly contribute to reduce inequality of opportunity in so far as opportunities are conditional to wealth. This reform also seems to be the most able to induce and develop a deeper sense of community.

For sure, an inheritance tax reform is not the only device needed for increasing equality of opportunity<sup>1</sup>. Reforms that make educational opportunities more available for all, that equalize health care and provide every family with access to at least bare necessities, are also needed. But Haslett's quota has the advantage to promote equality of opportunity by breaking down wealth concentration but also to take into account the "personal standpoint" without implacably imposing the "impersonal standpoint". For these reasons and especially because of its ethical properties previously exposed Haslett's quota could be the most attractive reform of inheritance system.

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<sup>1</sup> Because inequalities are consequences of several parameters as the familial, cultural and social environment, of the education, etc.

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