

Uniform Inheritance: The Argument from Liberal Neutrality

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Our main aim in this paper is to contribute to the debate, within liberal egalitarianism, regarding the permissibility of transfers of material resources, from parents to their children, by way of both *intra vivos* gifts and posthumous transfers. By “liberal egalitarianism”, we have in mind a broad tradition of theorising that endorses the freedom of persons to pursue their own ambitions in life or conceptions of the good, while also emphasising the fundamental importance of socio-economic equality.¹ The question we are concerned with involves the relevance for bequests and inheritances of an underlying commitment that many adherents of liberal egalitarianism hold. This is a commitment to liberal neutrality, or, to the idea that political morality, including the political morality around bequests and inheritances, must be interpreted neutrally—that is, without giving preference to some ambitions in life, or conceptions of the good, over others. We want to understand how the liberal-egalitarian tradition should interpret the right to bequeath, and thus the legitimate scope of inheritance, once we take this idea of neutrality seriously.

The question of whether bequest and inheritance are permissible according to a liberal egalitarian view that endorses the principle of neutrality has been addressed in a thought-provoking discussion by Matthew Clayton.² Clayton offers a neutrality-compatible account of inheritance that elaborates on an earlier account briefly sketched by Ronald Dworkin,³ which Clayton alters in some respects. Clayton defends the permissibility of inheritance by showing that this permissibility is sensitive to different people’s ambitions in life, and thus, for that reason, neutral. However, on Clayton’s view, a steeply progressive inheritance tax is still likely justified. The revenues of this inheritance tax, he argues, should contribute to funding all citizens’ equal resource shares.

In this paper we take Clayton’s opening claim that inheritance must be defended on neutral grounds as a valid and valuable starting point, and draw

1. John Rawls, *A Theory of Justice*, Cambridge: Harvard University Press, 1999 [revised ed.]; Ronald Dworkin, *Sovereign Virtue. The Theory and Practice of Equality*, Cambridge: Harvard University Press, 2000.

2. Matthew Clayton, “Equal Inheritance: An Antiperfectionist View”, John Cunliffe and Guido Erreygers (eds.), *Inherited Wealth, Justice and Equality*, London: Routledge, 2013.

3. Ronald Dworkin, *Sovereign Virtue...*, *op. cit.*, pp. 320-350.

on some of Clayton's other helpful insights. However, we raise some doubts about the view he defends, and propose an alternative neutrality-compatible view of inheritance. We argue that, under very ideal conditions, in which parents differ only in their preferences to benefit their children, some parents are permitted, and other parents are required, to save resources and transfer them to their children, so that the members of each generation receive an equal inheritance from those in the previous generation who are parents. Under non-ideal conditions, in which some parents are disadvantaged by unjust inequalities, the view in question justifies a universal equal inheritance entitlement (we call this *uniform inheritance*), on the part of each generation, as under ideal conditions, but this time funded by all taxpayers. So, instead of defending a tax on inheritance in order to fund everyone's fair shares (which do not include an inheritance claim), the proposal we put forward defends uniform inheritance for members of each new generation, funded, in current societies, by all citizens' taxes (whether the taxes needed to fund uniform inheritance are levied on inheritance or on incomes or consumption or savings of parents and non-parents is, for our purposes, a further question).

The paper proceeds as follows. The first Section places Clayton's account of bequest and inheritance in the context of the broader normative debate on this topic and reviews the key parts of his account. The following Section criticises his account, and the last one puts forward an alternative account.

Before proceeding, two clarifications are important. First, throughout, we are talking about inheritance that is not describable as corrective or compensatory, i.e., as a transfer of resources from parents to children that aims to give children what society ought to be giving them to meet their claims of justice, but is not (e.g. their claims to receiving adequate education). That kind of inheritance warrants separate treatment. Second, our discussion does not take into account considerations of efficiency, which may speak for (or against) inheritance indirectly. We focus, instead, on how a neutrality-minded, liberal egalitarian evaluates the merits of inheritance on the assumption that those further considerations are silent on those merits.

Clayton's Approach to Inheritance

This article aims to explore one part of a larger normative debate about bequest and inheritance. This larger debate has grown out a long history of contributions by philosophers and policy-makers across many political cultures.⁴ To locate our contribution, it is helpful to distinguish three concerns that have played a significant role in shaping that debate. One concern is with social efficiency, or, roughly speaking, the idea that social arrangements should be designed in a way that encourages people to engage in productive behaviour. This first concern has been regarded both as a reason in favor of the

4. For an overview of how bequest and inheritance have been debated since the eighteenth century in France, Germany and the United States, see Jens Beckert, *Inherited Wealth*, transl. Thomas Dunlap, Princeton/Oxford: Princeton University Press, 2008.

rights of bequest and inheritance (because these rights incentivise individuals who have children to work and save), and against those rights (because they enable resources to be transferred to persons who use them less efficiently than others).⁵ Another concern is about political power. While the rights to bequeath and inherit have mainly been criticised for enabling concentrations of political power,⁶ a less typical view is that they can have a positive effect on political power, insofar as they enable the emergence of an independently wealthy political class that is unmoved by private interest, and thus able to govern impartially for the common good.⁷ Where Clayton's approach to bequest and inheritance makes its contribution within the broader debate is with respect to a third concern. It seeks to explain the way in which the rights to bequest and inheritance should be shaped by ~~a third concern~~: equality.

To understand Clayton's contribution to this issue, it is helpful to notice a standard form of reasoning about the relationship between equality, on the one hand, and the freedom to bequeath and inherit, on the other. Simply put, this reasoning prioritises equality over the freedom to bequeath because it maintains that this freedom must be curtailed if this is necessary to preserve equality. The contribution that Clayton's approach makes is to show that this standard form of reasoning should be rejected, and that we should endorse an alternative way of thinking about equality and the freedom to bequeath.

Clayton's argument on this matter is driven by an idea that became prominent in the 1980s in discussions of liberal egalitarian political philosophy and which has wide appeal today, namely that political morality must be justified in a way that is neutral—that is, without assuming the superiority of any given ambition people may want to pursue in life or any given conception of the good. According to Clayton, neutrality tells us to design the rights to bequeath and inherit in a way that is *maximally sensitive* to different people's ambitions

5. According to Guido Erreygers, this latter view was held by the Saint-Simonians. As Erreygers writes, "The existing inheritance regulations are an obstacle to the efficient organization of society, is the message which runs through their critique of property rights.": Guido Erreygers, "Inheritance in the History of Economic Thought", in Guido Erreygers and Toon Vandeveld (eds.), *Is Inheritance Legitimate? Ethical and Economic Aspects of Wealth Transfers*, Berlin/New York: Springer, 1997, p 27. Erreygers cites the following passage from the Doctrine de Saint-Simon: Exposition—Première Année: "Le seul droit à la richesse, c'est-à-dire à la disposition des instruments de travail, sera la capacité de le mettre en œuvre" ("The sole right to wealth, i.e., to the disposal of work instruments, shall be the capacity to implement it").

6. One historically very influential proposal that can limit the extent to which bequest and inheritance can concentrate political power was set forth by Eugenio Rignano (Eugenio Rignano, *The Social Significance of Death Duties*, transl. Josiah Stamp, Noel Douglas, 1925). Briefly, the Rignano proposal diminishes the extent to which wealth can be transferred by the number of times this wealth has itself been inherited. For contemporary discussions, see Thomas Nagel, "Liberal Democracy and Hereditary Inequality", *Tax Law Review*, 63, 2009, pp. 113-121, and Daniel Halliday, *Inheritance of Wealth: Justice, Equality, and the Right to Bequeath*, Oxford: Oxford University Press, 2018.

7. A proponent of this latter view is Hegel, who writes of this political class (or estate): "This estate is better equipped for its political role and significance inasmuch as its resources are equally independent of the resources of the state and the uncertainty of trade, the quest for profit, and all variations in property.": Georg Wilhelm Friedrich Hegel, *Elements of the Philosophy of Right*, Allen William Wood (ed.), transl. H. B. Nisbet, Cambridge/New York: Cambridge University Press, 2003 [1820], p. 345.

in life. Here, Clayton adopts a strategy for developing a neutral account of political morality that originates in the work of Dworkin.⁸ As Clayton puts it, Dworkin's "strategy for developing an account of justice acceptable to everyone", proceeds by "elaborating a conception that accommodates or includes individuals' diverse ambitions in the formulation of public policy".⁹

To see why Dworkin's strategy is attractive, we can contrast it briefly with that of another thinker who has adopted a neutrality-based form of liberal egalitarianism, namely John Rawls.¹⁰ Rawls does not identify rights and duties in a way that is maximally sensitive to different people's ambitions in life. Instead, he says that we should identify principles of justice by imagining how these principles would be selected by people from behind what can be called a "veil-of-ignorance" that deprives them of knowledge about their ambitions in life and allows them only to reason in terms of how various possible principles would affect their possession of so-called "primary goods"—i.e., goods that all persons are presumed to want, whatever their ambitions, and that include, for example, various kind of liberties and income. The principle that Rawls says would be given the greatest priority—i.e., the principle that requires equal basic liberties—does not uphold the right to bequeath (this principle upholds other rights, such as, for example, the right of free speech).¹¹ Furthermore, the principle next in order of priority for Rawls—the fair equality of opportunity principle—would seem to speak against the right to bequeath, as that principle prohibits inequalities in opportunities between children due to unequal family circumstances.¹²

One might believe that a view of the right to bequeath and to inherit should give more weight than Rawls' view does to people's actual ambitions, i.e., to what people care about and value, and that it should allow people to fulfil their ambitions of benefiting their children for that reason. On this alternative view, the ambition to bequeath should be accommodated, not because these ambitions are, in some sense, good ambitions to pursue, but rather because respecting neutrality requires that people's ambitions in life, including their ambition to benefit their children, should be reflected in our political morality. It is this rationale that guides Clayton's approach. Clayton sides with Robert Nozick here in noting that "left-wing politics err because they focus exclusively on our interests as recipients of certain goods and fail to attach any weight to our interests as agents whose aims might include benefiting particular individuals who are close to us".¹³ Liberal egalitarians are mistaken if they simply

8. Ronald Dworkin, *Sovereign Virtue...*, *op. cit.*

9. Matthew Clayton, "Equal Inheritance: An Antiperfectionist View", art. cit., p. 105.

10. John Rawls, *Political Liberalism*, New York: Columbia University Press, 2005.

11. But small bequests which do not add up to creating inequalities of opportunity would be permitted on a Rawlsian view. Thanks to an anonymous reviewer for highlighting this. See Alejandro Berrotarán, "Is the Freedom to Bequeath a Basic Liberty?", *Journal of Applied Philosophy*, 39, 2022, pp. 901-914, for the claim that the right to bequeath should be considered a Rawlsian basic liberty.

12. In the last Section (Uniform Inheritance) we argue that bequest and inheritance are not necessarily at odds with equality of opportunity between members of the next generation, so long as all children inherit a comparable amount.

13. Matthew Clayton, "Equal Inheritance: An Antiperfectionist View", art. cit., p. 104.

dismiss parents' ambitions to give to their children as irrelevant in determining whether inheritance is just.

One implication that follows for the rights to bequeath and to inherit is straightforward to understand. We may not appeal to certain kinds of interests that people are supposed to have when arguing about bequest. For example, we may not argue for a right to bequeath on the ground that it enables parents to express love for their children and is, for this reason, part of a valuable life-project,¹⁴ or that it enables parents to maintain an intimate relationship with their children.¹⁵ Nor does neutrality allow us to dismiss a right to bequeath by arguing that it is *not* necessary for expressing love or for maintaining valuable relationship with one's children. These kinds of arguments are inadmissible because they appeal to claims about the nature of the good life and about the value of relationships between parents and children which many people can reasonably disagree with, and which neutrality thus bars us from relying on.

However, there is also a second, more complex, implication of neutrality for how we should think about the rights of bequest and inheritance. Recall what we earlier called the "standard reasoning", according to which equality demands that we curtail the right to bequeath. Clayton suggests, following Dworkin, that this standard reasoning should be rejected because it is not sufficiently sensitive to different people's ambitions in life. If most people's ambitions in life lead them to prefer the opportunity to bequeath to their children, even if this means that equality will be compromised, then we have reasons to uphold the right to bequeath. More specifically, we should uphold this right and supplement it with public policy that is based on a "hypothetical insurance model" that Clayton borrows from Dworkin. We conclude this section by briefly explaining this hypothetical insurance model.

The hypothetical insurance model tells us to redress inequality (for which individuals cannot reasonably be held responsible) with the kind of insurance that people would, on average, wish to purchase for themselves, assuming (a) they all have the same risk of experiencing that inequality and (b) they are each equally placed to purchase that insurance. Assumptions (a) and (b) ensure, respectively, that the results of this model do not favour those who face smaller or fewer risks in life, or, disfavour those who are less able to purchase insurance.

The appeal of the hypothetical insurance model is that it ensures that people are protected against risks in a way that is sensitive to their ambitions in life, including their preferences about the extent to which they should protect themselves against risk. The model thus make people equal *ex ante* of risk, i.e.,

14. Robert Nozick, *Anarchy, State and Utopia*, New York: Basic Books, 1989 [1974].

15. Harry Brighouse and Adam Swift, "Legitimate Parental Partiality", *Philosophy and Public Affairs*, 37, 2009, pp. 43-80. Brake (Elizabeth Brake, *Minimizing Marriage: Marriage, Morality, and the Law*, Oxford: Oxford University Press, 2012) argues that caring relationships are a Rawlsian primary social good, something which everyone has reason to want whatever their plans of life. If we accept this claim, a Rawlsian view would recommend giving everyone access to caring relationships, including that between parents and children. But the further claim that these relationships' value depends on being able to transfer wealth to one's children would still face the challenge of neutrality.

by rendering them equal in their ability to protect themselves against risk according to their own preferences. This contrasts with a so-called *ex post* model of equality, according to which people must be rendered equal after risks have materialised. In effect, the *ex post* model compels everyone to pay for full insurance coverage against, for example, the risk of a given illness, even if people on average prefer a lesser degree of insurance protection against that illness. This restricts the extent to which people can satisfy their preferences about the extent of protection they want against risk.

Clayton, drawing on Dworkin, maintains that the hypothetical insurance model is an appropriate model to use for redressing the disadvantages that some children experience due to unequal inheritance. Any inequalities between children that result from bequest are, after all, inequalities for which children are not responsible. As Dworkin writes, “it is bad luck to be born into a relatively poor family or a family that is selfish or spendthrift” and so, “...if inheritance is, for our purposes, a matter of luck, then we can justify inheritance...taxes in the now familiar way [i.e., by using a hypothetical insurance device]”.¹⁶

Because those who need protection against disadvantage are children, who have a limited capacity for autonomy, it is impossible or inappropriate to rely on *their* ambitions or choices over whether to buy insurance for inheritance. Clayton thus suggests that we ask the following question: “What kinds of protection against disadvantage [including disadvantage caused by inheritance] at different stages of their lives would individuals [who are placed in a just choice situation] choose on the assumption that they will relive their lives from birth to death?”.¹⁷ What this entails is difficult to say with precision, but it amounts, roughly, to this. Of any given brute luck disadvantage at any given stage of life, including during childhood, we must ask what kind of protection individuals would want against it, assuming they would have to bear corresponding duties to provide such protection in case they did not experience the disadvantage themselves. Clayton speculates that the answer that the average person would give for how she would protect herself against disadvantageous inheritance, taking into account both her interest in giving (if she is a parent) and her interest in being benefited (as a child), is that she would prefer a steeply progressive tax on inheritance. This is, according to Clayton, a welcome

16. Ronald Dworkin, *Sovereign Virtue...*, *op. cit.*, p. 347.

17. Matthew Clayton, “Equal Inheritance: An Antiperfectionist View”, *art. cit.*, p. 109. For people’s insurance choice situation to be just, the following conditions must hold, according to Clayton (*ibid.*): “each insurer knows that they have a fair share of resources, and that her society exhibits some inequality of wealth that is not unjust”; furthermore, each person does not know whether “she will be a low or high earner”, nor “whether her parents or friends will be rich or poor.” Moreover, there are assumed to be no inequalities deriving from people’s places in the genetic lottery, and everyone is assumed to have “complete information about the pros and cons of various policies”. Note that Dworkin proceeds differently, asking instead what kind of insurance guardians who we assume are equally placed to buy insurance for their charges would buy, so as to protect the latter against “...the bad luck to be born to parents who can or will leave them relatively little” (Ronald Dworkin, *Sovereign Virtue...*, *op. cit.*, p. 343). We do not discuss the difference between the two views here.

result: here we have a familiar restrictive egalitarian stance, but one that is now justified in an ambition-sensitive way.

The Legitimate Scope of the Hypothetical Insurance Model

Let us suppose Clayton is right that the hypothetical insurance model, and the *ex ante* conception of equality it expresses, can be appropriate for settling some questions regarding what people who are disadvantaged as a matter of brute luck are owed. One might challenge Clayton's conjecture about what agents placed in a hypothetical insurance setting would actually endorse as far as protection against disadvantageous inheritance is concerned, but this is not the reason we disagree with Clayton's approach. Instead, we believe that one should resist resorting to the hypothetical insurance model as the right device to settle the inheritance question. This is because the legitimate remit of the hypothetical insurance model is more circumscribed than Clayton suggests. Specifically, we believe the model may not be used to justify the creation of certain kinds of inequality-creating risks, and this is precisely what it would do if it were invoked to justify unequal inheritance.

To illustrate our concern, consider the following example. Let us suppose our society ensures that institutional transfers, paid for by taxation, are provided to people with disadvantageous talents and health needs, and that a fair competitive market is in place for people to buy and sell goods. Now imagine that some individuals propose that we set up a lottery system in our society, in which greater unearned wealth concentration is allowed for some social positions than would otherwise be allowed, at the expense of social positions at the bottom. The system would give everyone an equal number of lottery tickets and would result in some people ending up at the high end, and others at the bottom end, of a hierarchy of positions. If indeed some people value the opportunity to participate in this lottery, should a neutrality-minded egalitarianism accommodate this ambition, and use a hypothetical insurance model to determine what protection, if any, people should be offered against it? Are any resulting *ex post* inequalities legitimated by the fact that everyone was given an equal chance to protect themselves against those inequalities?

This, we believe, would be a mistaken view of equality. The problem with resorting to the hypothetical insurance model to deal with any inequalities generated by the "inequality lottery" we have just described is the same as the problem with resorting to that model to settle the inheritance lottery; in both cases, that model is being applied beyond its legitimate remit. Resorting to a hypothetical insurance model as an *ex ante* device—which softens and does not necessarily eliminate inequality—is appropriate only under certain conditions. In particular, it must be the case that persons face a risk of disadvantage that is unavoidable. Let us briefly explain this condition.

A risk of disadvantage is unavoidable if, firstly, it is not possible to prevent the factor that causes it. An example would be a natural event that is beyond human control, e.g. a combination of genetic material in a person that creates a risk of serious illness for her. A risk of disadvantage is also unavoidable if,

secondly, the only way of preventing this risk of disadvantage is by doing something that creates a different risk of disadvantage. Consider, for example, the building of a road. Building a road creates a risk of disadvantage, because some people will become victims of accidents on that road (and will, therefore, be worse off than others). However, avoiding this risk of disadvantage by not building that road would only create another risk of disadvantage. For example, it would mean that some people cannot be transported to hospital fast enough to receive emergency treatment they need. So, while building or not building a road is a policy choice that is within human control, creating a risk of disadvantage is unavoidable when making this policy choice.

In situations in which a risk of disadvantage is, by contrast, avoidable, we believe this risk may only be created if people actually consent to being subjected to that risk. Suppose, for example, that two friends, who are otherwise equal in all respects, decide to play poker for money. They thereby create a risk of disadvantage, because one of them is going to lose some money to the other. However, at least within certain limits, the creation of this risk is unobjectionable, because both of them have actually consented to being exposed to this risk.¹⁸

The risk of receiving less inheritance than others is not an unavoidable risk of disadvantage, but a risk that is created by our social institutions. Furthermore, unlike those who end up losing in a game of poker, those who end up receiving less inheritance than others have not actually consented to being exposed to the risk of this disadvantage. Just as with the “inequality lottery” above, appealing to people’s ambitions to justify the creation of a risk of disadvantage and then using the hypothetical insurance model in order to soften that risk thus seems to run *counter to*, rather than to enact, the egalitarian ideal.

Uniform Inheritance

We believe Clayton is right that a neutrality-minded account of inheritance should be more sensitive than egalitarians generally have been towards parents’ ambitions to bequeath to their children. We now argue that there is a way of reconciling sensitivity to this ambition with equality. We do this in three steps. The first argues against an inference generally made by egalitarians, from a commitment to equality among members of the next generation to an anti-inheritance position; this inference, we show, is illicit, as are two other assumptions that could support it. In a second step, we argue for a different way of avoiding inheritance-generated inequalities. Rather than preventing inheritance, we should permit inheritance up to a level that is in line with the ambition of the average parent to bequeath to their children, and oblige all parents to bequeath to their children at that level so as to maintain equality in the

18. Even here, however, if the inequality were very large or led to independently objectionable outcomes (e.g. one of the friend’s basic needs would go unmet), it may need correcting.

next generation. In a final step, we discuss the implications of these claims under non-ideal conditions.

An illicit inference

All egalitarians agree that any inequalities that would arise from allowing parents to transfer their resources to their children at full tax immunities are, at least presumptively, unjust inequalities. It is standard, in the inheritance debate, to move straight from this claim to a condemnation of inheritance as unjust (and thus also to a presumption in favour of prohibiting or heavily taxing it). But this inference, we now argue, is too quick. Inheritance with full tax immunity does indeed inevitably generate inequality amongst the next generation if by “inheritance” we mean, more specifically, a right for each parent to decide how much to bequeath to their children with full tax immunity. This right will almost certainly be exercised in different ways by different parents, resulting in children inheriting different amounts of resources. However, it is possible to construe inheritance differently, namely, as a right, and also a duty, for all parents to bequeath a uniform amount of resources to their children with full tax immunity. Let us call this form of inheritance *uniform insurance*. If inheritance takes this form, it does not generate inequalities between children. It is thus a mistake to infer that inheritance-caused inequality between children necessarily implies that inheritance must be condemned.

Uniform inheritance under ideal conditions

What, if any, are the reasons in favour of this uniform insurance proposal? Consider ideal conditions, in which there are no wealth inequalities between parents, and in which parents differ from each other only in their ambitions over how to spend their justly held resources, including in their role as parents. Under these conditions, there is no reason, within a neutrality-minded liberal view, why we should favour heavily taxing or banning inheritance over uniform inheritance. One reason someone might propose in favour of taxing or banning inheritance is that parents who prefer to bequeath more than other parents *cause* inequality in the next generation. This assumption is often made by egalitarians. Dworkin writes, for example, “people may be taxed on what they give or leave to others because *this one form of expenditure, unlike all others, produces injustice in the next generation*”.¹⁹ But, in fact, *both* sets of parents—both those who prefer to bequeath more, and those who prefer to bequeath less, are *co-causes* of inequality in inheritance. Under ideal conditions, it would therefore be arbitrary to assume that unequal inheritance between all children must be prevented *via* heavily taxing or banning inheritance. Indeed, simply to assume this without further argument would be to display bias in favour of the parents who prefer to bequeath less than others, or to bequeath nothing at all. Uniform inheritance, which permits inheritance

19. Ronald Dworkin, *Sovereign Virtue...*, *op. cit.*, p. 347, emphasis added.

and requires all parents to bequeath the same amount to their children, is, in principle, equally defensible from a neutrality-minded liberal view until further argument is supplied. The uniform inheritance proposal should, therefore, at least be taken seriously.

Here is a simpler way of making this point. The prohibition of inheritance satisfies a preference that some parents may have about how much to bequeath to their children, namely, the preference to bequeath nothing at all. The uniform inheritance proposal satisfies a preference that other parents may have in this regard, namely, the preference to bequeath something to their children. Assuming that all children will be equally affected either way, it is far from obvious why we must necessarily settle on no inheritance rather than some inheritance, or, therefore, on prohibition rather than uniform insurance.

Given that it is not possible to accommodate a diversity of preferences amongst parents about how much to bequeath to their children while maintaining equal inheritance between all children—given that equal inheritance is possible only if all parents bequeath at the same level, be this nothing, very little, or very much—the relevant question is, how we identify the correct level for parents to uniformly bequeath at, and more specifically, how to do this in a way that appropriately sensitive to the ambitions of different parents. Consider two possible answers, which we present in a highly simplified form. We acknowledge that the practical challenges of implementing these two answers are significant and complex and require further discussion.²⁰

One possible answer is to side with the *majority's* preference about how much to bequeath to their children (remember that we are assuming ideal conditions in which there are no unjust inequalities between parents). For example, if a majority of parents want to bequeath nothing to their children, then inheritance is prohibited; if a majority want to bequeath €10,000 to their children, then all parents are required to bequeath €10,000 to their children and may not bequeath either more or less than this amount. The problem with appealing to the majority preference, however, is that it can result in very large numbers of parents having to deviate quite significantly from their preferences about bequest. For example, if 51% of parents prefer to bequeath nothing to their children, whereas 49% prefer to bequeath €20,000, setting the required level according to the majority preference (i.e., prohibiting insurance) would mean that 49% of parents must deviate broadly from the kind of bequest they would like to leave for their children. This would be concerning from within an ambition-sensitive view.

20. For example, a great deal of parental wealth lies in the appreciation in asset values (e.g., houses). Wealth in this form cannot easily be transferred at a uniform level set for all parents, and provisions such as special remortgaging plans would be needed to enable parents to discharge their bequest obligations. A further issue concerns how to handle the timing of inheritance; if the uniform bequest scheme allowed children to receive inheritance at different times in their lives, uniform bequests would be very unequal in their effects (e.g. one child inherits when they are about to go to university and are thus strongly in need of money; another when they are 50 and economically settled). Again, provisions would need to be put in place to ensure that all children are paid at the same time, e.g. at the onset of adulthood. We are grateful to an anonymous reviewer for alerting us to these important points.

In light of this, a different approach to setting the uniform inheritance level seems more plausible. This would be to adopt the *average* preference about how much to bequeath to children, where the average preference is arrived at by adding up each preferred level of bequest and dividing the sum by the number of parents. Were uniform inheritance set according to the average preference in the example just given, it would be set at €9,800. One concern with this approach, admittedly, is that *all* parents in our example—both the 51% and the 49%—would have to deviate from their preferences about the level of bequest they leave for their children. However, the average approach still seems more plausible because, rather than causing a significant sacrifice of ambition for 49% of parents, it spreads that sacrifice more thinly across all parents. We submit that this makes this average approach superior, but we acknowledge that there are further complexities here that we cannot examine; our conclusion in favour of the average preference approach is, then, provisional.

Assuming we may extrapolate conclusions about the average parental preference about bequests under ideal conditions from parents' preferences about bequests in the real world, we believe that, under ideal conditions, an ambition-sensitive account of the legitimacy of inheritance would support inheritance at least to some degree. This is because we assume that the average preference amongst parents is that they leave at least some amount of bequest for their children, rather than nothing at all. To ensure equal inheritance for all children, all parents would thus be required to bequeath at this level and prohibited from bequeathing in excess of it.

So far, we have been discussing inheritance on the assumption that there are no unjust inequalities between parents and that parents differ only in their ambitions. Let us now consider two complications. The first complication is this. Even under ideal conditions, parents can permissibly differ in their ability to bequeath to their children. A plausible liberal egalitarian view allows adults to be unequally well off in ways that reflect their exercises of choice or their ambitions, provided that these have occurred under fair background conditions. It allows that some people end up wealthier than others, for instance, if they prefer to work more and enjoy less leisure than others, or invest in more lucrative skills, or prefer higher-paid, albeit more stressful careers—provided, of course, that others had fair opportunities to do the same. What implications does this permissible inequality between parents have for the uniform inheritance proposal? Does it imply that less wealthy, leisure-loving parents can reasonably complain about a uniform inheritance proposal if it requires them to work harder than they prefer in order to save up enough to bequeath the required amount to their children?

The answer to this question is: “not necessarily”. Within a neutrality-minded view, leisure-loving parents do not have a claim to deviate from bequeathing at a uniform level to work-parents on the ground that a leisure-loving life-style is, in some sense, superior to a work-loving life-style. However, there is a separate reason for why a neutrality-minded view might allow leisure-loving parents to contribute less towards ensuring that all children inherit the same. It may be the case that the *average* parent would prefer an arrangement

that gives parents some degree of freedom to choose between a leisure- and work-loving lifestyle, without this causing their child to inherit less than others. Such an arrangement could retain uniform inheritance for all children, but, instead of requiring each parent to contribute the same amount towards funding uniform inheritance, it would instead require that parents fund uniform inheritance through a progressive income tax. This would ensure uniform inheritance while relieving pressure on leisure-loving parents, and it would be neutral, assuming that the average parent would indeed prefer some degree of freedom to choose between a leisure- and work-loving lifestyle.²¹

The second complication is this. It is possible, even under ideal conditions, that some parents may not be able to bequeath to their children at the level required by uniform inheritance because they used up all of their savings on themselves. What measures should the uniform inheritance proposal include to address this problem?

It should include both a prospective and a remedial measure. The prospective measure is to compel all parents to save up a sufficient amount of funds to enable them to leave their children with the universally required level of bequest. The uniform inheritance proposal will, for this reason, limit the discretion parents have to pursue their ambitions. But this is, we believe, unavoidable, given that all children must inherit an equal amount. Once the average preference for bequest is set, it is regrettable, but not unreasonable, if some parents must constrain their ambitions by saving more than they prefer to secure equality for their children. This prospective measure must be supplemented by a remedial measure, because both for epistemic and practical reasons, it may not be possible to implement a compulsory savings scheme so that each and every parent ends up saving enough to leave their children with the universally required level of bequest. When some parents do not save enough, others will therefore have to remedy this by contributing the shortfall.

A remaining question concerns this remedial measure. Who exactly must remedy the shortfalls in bequests that will inevitably occur even under ideal conditions? Is it the whole community that must remedy those shortfalls, including people who do not have children themselves, or is it only other parents? Under ideal conditions, we believe it is only other parents who must remedy those shortfalls. The reason for this is that the need for all children to receive an inheritance arises only because other parents prefer bequeathing to their children. We must recall that we are not talking about an inheritance that is required to meet children's rights. Accordingly, we do not assume that children have a right to inherit, or a claim to receive inheritance; they only have a right to not be worse off than others *if* inheritance is permitted. Given that inheritance is not morally required, as such, but is required merely as a result of the fact that the average parent prefers their children to inherit, it seems reasonable to require parents to ensure that it is uniformly provided to all children.²²

21. We are grateful to [name omitted] for pushing us to consider this issue.

22. By contrast, where the morally required costs of children are concerned, one of us holds that non-parents have an obligation of fairness to share them with parents under certain conditions. [reference omitted].

Treating all ambitions fairly under non-ideal conditions

Let us now shift our focus and ask how the details of the uniform inheritance proposal should be worked out for non-ideal conditions. These are conditions under which some parents are less able to bequeath to their children than other parents for reasons that cannot be reduced to their own choices or ambitions. They are conditions in which some parents, for example, lack the income-earning skills of other parents for reasons beyond their control.

The fact that some parents are in this way disadvantaged in their ability to bequeath may encourage some to think that inheritance should simply be prohibited under non-ideal conditions. However, we believe that this is a mistake. Inheritance under non-ideal conditions should still be set in line with the average preference for it under ideal conditions. To prohibit bequests under non-ideal conditions would be unjust to disadvantaged parents, as well as other parents, for they, as much as other parents, may well prefer being able to bequeath to their children over being prohibited from doing so. The correct response to their disadvantage is rather to redress it so that they are in a just position to bequeath to their children.

An ambition-sensitive view would identify this redress by using a hypothetical insurance model that works roughly as follows.²³ We start by assuming that a uniform inheritance level is set in line with the average preference for this level under ideal conditions. We then ask to what extent the average person would insure against any disadvantages they might experience in being able to bequeath at the uniform inheritance level. (Notice that the “average preference” is here being appealed to once more, this time to identify redress for disadvantage.) More specifically, we can assume that people would receive insurance protection against being unable to meet the uniform inheritance requirement in return for an obligation to pay for that protection, *via* tax contributions, in the event that they should turn out not to be disadvantaged. Furthermore, we must assume that they would decide what kind of insurance protection they would want if they were deciding this matter under fair hypothetical circumstances. These would be circumstances in which they do not know the risks that they each individually face of experiencing a disadvantage in their ability to bequeath to their children, and thus assume that they face the same risks as everyone else.²⁴ Using a hypothetical insurance model along these lines to identify the redress for parents who are disadvantaged in their ability to bequeath allows us to preserve the overall ambition-sensitive nature of the uniform inheritance proposal, because it allows us to set the level of required redress in a way that is sensitive to people’s preferences about the

23. Note that using a hypothetical insurance model is appropriate for this purpose because the risk of disadvantage we are now addressing—namely, the risk of being less able than other parents to bequeath to one’s children—is an unavoidable risk, in the second of the two senses in which we earlier said that a risk can be “unavoidable” (see Section 2, The Legitimate Scope of the Hypothetical Insurance Model). It is difficult to see how one could re-arrange the basic structure of society to prevent this risk without thereby causing some other risk of disadvantage. 24. ~~Reference omitted~~ argues we should make use of the hypothetical insurance mechanism in this way to justify sharing other costs of children with less well-off parents.

extent to which they should protect themselves against risk—in this case, the risk of being unable to meet the uniform inheritance requirement.

The overall picture that emerges under non-ideal conditions is one in which there is still a uniform inheritance requirement. Furthermore, the same compulsory and remedial measures that enforce that requirement under ideal conditions continue to apply. However, now some parents—those who are unable, through no fault of their own, to meet the requirement at hand—are also provided with redress for that unchosen disadvantage. The result is that all children inherit an equal amount but in a way that is as sensitive as possible to the ambitions that parents have in bequeathing to their children.

Conclusion

Our aim in this article has been to explore whether inheritance is permissible for egalitarians who believe the state should be neutral between the different ambitions that people pursue in life. One answer to this question, defended by Clayton, allows parents to bequeath at their own discretion and then softens the inequality that inevitably arises in the next generation by appealing to hypothetical insurance. We have suggested that this approach is problematic because it exposes children to an avoidable risk of disadvantage to which they have not consented. In light of this problem, we defend an alternative answer, uniform inheritance. All children must receive the same level of inheritance from their parents, and this level is set according to the average preference among all parents. This proposal does not expose children to an avoidable risk of disadvantage while being sensitive to the preferences different parents have for how much their children should inherit. We have made some initial suggestions about how this proposal could be implemented under both ideal and non-ideal conditions. However, this article has only given an outline of the uniform inheritance proposal; more work remains to be done in filling out its details.*²⁵

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RÉSUMÉ

Héritage uniforme : l'argument de la neutralité libérale

Supposons que nous acceptions les principes de liberté et d'égalité, et que nous croyions que la morale politique doit être sensible aux aspirations des individus, c'est-à-dire à ce à quoi ils tiennent et donnent de la valeur, sans présupposer de la supériorité de telle ou telle de leurs différentes conceptions du bien : que devrions-nous penser de la légitimité (*permissibility*) du legs et de l'héritage ? Cet article soutient que dans le cadre de ces contraintes, nous pouvons justifier un dispositif d'« héritage uniforme ». Celui-ci autorise l'héritage jusqu'à un niveau correspondant à l'aspiration du parent moyen de léguer à ses enfants, et oblige tous les parents à léguer à leurs enfants à ce niveau afin de maintenir l'égalité dans la génération suivante. L'héritage uniforme est justifié si l'on suppose que la plupart des individus préfèrent avoir l'opportunité de léguer à leurs enfants, tout en protégeant l'égalité entre les enfants.

ABSTRACT

Uniform Inheritance: The Argument from Liberal Neutrality

Suppose we accept the principles of liberty and equality, and also believe that political morality must be sensitive to people's ambitions, that is, what people care about and value, without assuming the superiority of any one of their different conceptions of the good. What should we think about the permissibility of bequest and inheritance? This paper argues that within these constraints we can justify a "uniform inheritance" scheme. This scheme permits inheritance up to a level that is in line with the ambition of the average parent to bequeath to their children, and obliges all parents to bequeath to their children at that level so as to maintain equality in the next generation. Uniform inheritance is justified assuming that most people prefer the opportunity to bequeath to their children, yet also protects equality among children.

