

REDUCING RELIABILITY ON INHERITANCE

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ABSTRACT

Primogeniture has been historically practiced through the beginning of human life. It has formed the very basis of Inheritance structure that we see in existence now a days. Concept of Inheritance though beneficial in some ways yet is inherently disadvantageous to many through unequal start in form of access to resources. Based on this point is it even possible to even imagine a structure that halts inheritance structure to a certain point that its almost non-existent? This paper looks at history and present to find out if such a structure existed what was the outcome that it led to. It also addresses common arguments that are floated to support inheritance structure and indicates logically fallacy in those arguments and provides an answer why 'without inheritance' the society can achieve its true productive capabilities. It also looks at various measures and practices that are adopted by countries to tackle the accumulation of wealth problems and critically analyses those positions. In the end the paper will try and point out certain points that must be kept in mind to actually curb the growing reliance of inheritance and why it is best to remove the concept from the society itself.

JEL: K1, K3, K4,

KEYWORDS: Inheritance, Primogeniture, Equal Opportunities, Wealth Tax

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The concept of inheritance² has evolved tremendously throughout history. Since the feudal time inheritance of political power has faded, but the inheritance of economic power remains quite prevalent. Many countries have taken steps to reduce such kind of inheritance through various means like wealth tax, etc., and it has triggered debates on inheritance. However, the concept of abolition of inheritance still remains in the dark, and to understand the underlying principles and arguments on each side, we must appreciate the historical evolution of inheritance and how it came into being.

History sheds light on the birth of the concept of inheritance itself. Inheritance has mostly evolved through Feudal times wherein Nobles and Kings wanted their progeny to succeed them, to keep power within the family, and practice of Primogeniture³ was prevalent in Feudal times. Some people argue that the eldest son has seen the working of the estate and is better equipped to handle it, but these arguments have natural flaws due to which this practice died out in recent times. Cyrus⁴, in his article, quotes many other scholars who opined that the practice of Primogeniture is a way to keep wealth within the family by wealthiest members of society. Reasons for the eldest male receiving the maximum amount of inheritance is due to sacredness⁵ (them being closer to God) and to keep inheritance within the family lineage.

The concept of 'no inheritance' didn't come into picture ever because wealthy families are the ones that have been in power and have had law-making powers in the past and present. They kept the inheritance concept to keep those powers intact as wealth is a prominent factor in getting ahead and maintaining social reputation. It is true because others depend on them for

² Inheritance here refers to what a person is given in large sums as opposed to what he earns during his/her lifetime.

³ Concept of eldest son right of inheriting all of parents property.

⁴ C. Y. Cyrus Chu, 'Primogeniture' (1991) 99 Journal of Political Economy 78

⁵ Sacredness is established through belief in various holy books that Humans are descendants of God and the eldest person is closer to God and has seniority over the rest of the siblings. It is my opinion that this system is related to Wisdom factor also. There are various other reasons for it but none being the conclusive answer.

their income, and they get to decide various social outcomes in life. Throughout times when scales of wealth inequality tipped to extremities, conflict occurred, and the concept of inheritance reduced in some way, but it never got extinguished. For example, the idea of inheritance of political power started fading with the eruption of French revolution, and that is when the idea for democracy came into being. The people who oversee law-making were still wealthy and would never want that wealth to be distributed to others. Hence this 'No inheritance' concept never developed, and it is even harder to imagine since inheritance is practiced throughout history. But is it true that a model based on 'no inheritance' can never be imagined?

The Soviet Union, in its early time, had introduced the working model of no inheritance⁶. It was very elaborate and had answers to many challenges/questions that are usually asked/raised to dismiss the claim of 'no inheritance concept.' The USSR model works on the socialist structure of State and proves that such a concept can be imagined. In 1918, USSR imposed a law stating that any property belonging to a person, be it movable or immovable, will be part of the Russian Soviet government after his/her death.

The State imposed restriction on the amount threshold of 10000 rubles that will not be states property and is enough to provide a kickstart to the next generation but not enough to trigger inheritance. It also gave the right of first refusal to progeny/heir of the family on various property, provided they can pay for it. They also made specific measures to keep ancestral items within the family by attaching a seal of no economic value over that property. This meant that property could never be sold in the free market, provided the item met certain high degree of qualification so that people may not include any property as family heirloom/ sentimental property, etc. They also introduced specific measures like state responsibility to provide for

⁶ Foster-Simons F, 'The Development of Inheritance Law in the Soviet Union and the People's Republic of China' (1985) 33 The American Journal of Comparative Law 33

surviving dependent members and special provisions for early/accidental deaths. The structure also kept in mind that the State should not become the hoarder of property and become the sole owner of all the estates within the State. So, it introduced various provisions for distribution of property to private parties who satisfy the condition that they can generate substantial growth from the property thus acquired through regular purchase. They also introduced an obligatory share in the property to primary heirs of the deceased, which was not to exceed a particular value (10,000 rubles). This obligatory share was done so that deceased can pass some kind of memento to its primary heirs. Unfortunately, the USSR model was never followed because the State never imposed serious measures to make sure of its implementation, which resulted in it being scrapped entirely, and it rolled back to the concept of inheritance.

Over the year's inequality worsened primarily due to the contribution of successive inheritance, which Thomas Picketty illustrates in his book *Capital in the 21st century*⁷. Inequality had come to its minimum point during the second world war, where families lost most of their inheritance in the war, but after that, hoarding of wealth started. Picketty illustrates, despite measures, every country now has a problem of income inequality to a vast extent due to the concept of successive inheritance⁸, and this led to countries adopting specific measures like wealth tax to curb these inequalities. But even today, these measures have mostly failed in various countries like the USA mainly due to multiple reasons like leniency, poor execution, etc. D.W Haslett gives an example of the USA and shows that even though there are measures in place, but the redistribution hasn't been so successful⁹. Hence, imagining a model like USSR might not seem so farfetched today. Since every change has objections, no inheritance model has various objections, and I will answer those objections to justify the

⁷ Picketty T and Goldhammer A, *Capital in the Twenty-First Century* (The Belknap Press of Harvard University Press 2014)

⁸ Passing of wealth from one heir to another so that successive descendant has lot of acquired wealth in their name.

⁹ Haslett DW, 'Is Inheritance Justified?' (1986) 15 *Philosophy & Public Affairs* 122

concept of “No inheritance.” To arrive at a reasonable conclusion, we need to first look at the various objections and possible benefits of the system and form reasoning whether this system is beneficial or not.

Various arguments for and against summarized below: -

<i>BENEFITS</i>	<i>OBJECTIONS</i>
<i>Social Welfare</i>	Capitalism and inheritance go hand in hand
<i>Reduction in income inequality and equal opportunity</i>	Reduction in productivity
<i>No Family breakdown over the inheritance</i>	State body becoming all-powerful due to possession of more significant percentage of wealth
<i>Heavy reliance on skill</i>	Family lineage and attachment
	Right to choose
	Variety of Ways to hold money – overseas, etc

The most common objection towards this concept, according to Tullock,¹⁰ is the conservation of capitalism. The logic being if the inheritance is removed, it will hamper productivity and encourage lethargic behaviour. The reason is people would not want to work efficiently as they would have because their wealth will not pass on to their family lineage, and this would result in an adverse economic outcome. There are some obvious flaws in this argument, which can be seen in the form of a question. Will a person stop working efficiently

¹⁰ Tullock G, ‘Inheritance Justified’ (1971) 14 The Journal of Law and Economics 465

just because they would not be able to pass that wealth? The answer is no because several factors like social reputation and the want of human beings to lead a comfortable life are determining factors for efficiency as well and not a single factor like inheritance. An important observation is that in capitalism, the goal is to increase productivity, but will it be increased because of inheritance? The famous argument of the productivity of a person concerning inheritance provides no answer to the following question. Will productivity increase when two people are starting with unequal opportunities, or will productivity increase when both have an equal start?

Let us take an example of person A and person B. Person A works 8 hours a day to earn an income, and person B whiles away time and lives on family inheritance only. The logical answer here is person A is productive while person B is not, so a capitalist institution needs to make sure person B also works so as to increase overall productivity. Further, the factor of motivation needs to be there to increase productivity, meaning that motivation to achieve something acts as a tool for individuals to strive for something. Motivation will be there if two persons have an equal start and equal opportunity. Haslett¹¹ explains this concept by putting the ideal of a capitalist economy is to have winners and losers but provided they have balanced head starts. He explains that equality of opportunity with equal means helps realize the potential of an individual in the best possible manner. He says if people have an equal start, then every person would be in a better state to realize their productive potential. Then the economy can employ these individuals to increase overall output. It will also increase income parity because the demand for these productive people will be higher, and it will help many people choose an opportunity of their choice, which is the aim of the current world¹².

¹¹ Haslett DW, 'Is Inheritance Justified?' (1986) 15 *Philosophy & Public Affairs* 122

¹² Haslett DW, 'Is Inheritance Justified?' (1986) 15 *Philosophy & Public Affairs* 122

Opportunities arise if you have means for it and means rely on wealth, but since there will be no inheritance, the wealth factor goes away, and opportunity will arise if you have skills for it.

Another common objection is ‘hampering the right of choice’ which essentially means that freedom of a person is being curtailed if he/she cannot choose upon whom the inheritance falls on after his/her death. Halliday¹³ explains this concept using coercion and the notion of expansion of freedom, but there are obvious flaws in his argument, which are mentioned below. To answer this, Haslett¹⁴ says that where freedom is being curtailed, it is also being increased. He says wealth has diminishing marginal utility¹⁵ meaning which, the wealthy won’t derive as much utility from it rather than a person in need. Thus, if wealth is distributed evenly, the utility derived from it will be at the maximum point. With this, freedom will generally increase with respect to the living conditions of most people in society and collectively expand the freedom of maximum people. Also, people who were usually denied resources would have many more opportunities and chances of success in the future and, in turn, feel free. The question here would be which type of freedom would people opt for, freedom of few or freedom of society at large?

It is time to understand which type of model shall work while trying to maximize the gain and reduce the objection of people. I believe that the USSR model was very well thought out and answered most of the objections. For example, it made sure that the concept of private property doesn’t fade away since State is collecting all the wealth; it might become the sole owner of the property. They proposed that within three years, the State had the duty to allocate the resources acquired so that citizens can gain from it. Another common objection is that the State is usually corrupt and heavy reliance on it is not suitable. Still, the concept of State in itself is to be a powerful institution working for the benefits of the citizen. So, the countries

¹³ Halliday D, ‘Is Inheritance Morally Distinctive?’ (2013) 32 Law and Philosophy 619

¹⁴ Haslett DW, ‘Is Inheritance Justified?’ (1986) 15 Philosophy & Public Affairs 122

¹⁵ Diminishing marginal utility means with successive consumption of product the utility derived from it declines.

working on this model will have to become a little socialistic in nature. Further, the model answered the objections of the family heirloom, which should be kept within the family while not giving the advantage to further generations. The concept of property not holding economic value has to be documented with the seal of government on it. This will prevent its commercial use in the market, and the property will only become a symbol of endearment for the family. This method not only keeps sentiment alive but also removes reliance on the inheritance of family heirlooms. The State keeping in mind the welfare of dependents or making particular provision for their comfortable survival rests the arguments related to people who are deceased by accident or in early stages leaving behind dependents and what will happen to them.

It is essential to ban gifts/bequests of considerable value since those are the transaction which increases income inequalities. It is my opinion that there should be freedom with respect to a certain percentage of the amount which is reasonably large, which can be willed away by the person to his choice of charitable institution and rules of acquiring the estate, distribution of the estate, etc. as mentioned above should apply to these institutions which receive properties in the name of charitable purpose. These rules are essential so that the institution in itself doesn't become all-powerful. This is because it creates transparency and allows the citizen to pursue their own philanthropic interests. The transparency should be there with respect to taking wealth overseas to avoid no inheritance laws. The government can oversee these transactions so as to avoid being in a situation where citizens are hoarding wealth in the Swiss bank. Also, with respect to liabilities of a person, the State can clear those, provided that they are not created artificially and are bonafide in nature.

It is pointed out earlier that the 'No inheritance' concept is challenging to sell to citizens of any country. Based on that assumption, it would be apt to comprehend if various taxes existing in the society like wealth tax, estate tax, etc. aimed to reduce inequality be improved

further to satisfy broad principles that are discussed in this paper. Alsott¹⁶ discusses in detail and beautifully, how the various systems can be incorporated to satisfy 'equal opportunity goal,' meaning every person having an equal start in life and then are differentiated based on the choices they make. She proposes that the money raised from the system of taxes should go to State, and the State should utilize these in the form of 'Public Inheritance.' This means that the State spends money on the needs¹⁷ of its citizens like education etc. who are in childhood. She further proposes that Estate taxes and other forms of taxes that bars inheritance should increase considerably¹⁸, but interestingly she puts caveats like a stranger earning a significant amount of gift from someone shouldn't be taxed. Her logic is that the choices a person makes during his/her lifetime should reward them, and the State should encourage morally right decisions/choices. So, there is a distinguishing factor between arbitrary luck and choices. She further proposes to make the taxes more progressive, and there should be a preferential system of taxes wherein one person/relationship may be taxed more than the other.

I find in her article that her taxation system is based strictly on the concept of 'No inheritance.' She wonderfully looks into various forces at play during one person's lifetime and introduced different principles to satisfy the 'equal opportunity and equal start principle.' Refer to Appendix to get a brief idea of how she takes factors like age into consideration, rate of tax into account, etc. If these ideas could be incorporated then, society will be more just and fair. It would increase overall productivity and give people a chance to reach their potential. The USSR and Alsott's model leans heavily on the socialist principle of the State policy, and these can only be imagined if the State is willing to do good. The nature of State in every

¹⁶ Alstott AL, 'Equal Opportunity and Inheritance Taxation' (2007) 121 Harvard Law Review 469

¹⁷ Spending should be in a way that every citizen has equal start.

¹⁸ Sociologists like Giddons, Durkheim & Marx are in favour of increasing inheritance tax considerably. Giddens A, *Europe in the Global Age* (Polity 2007), Durkheim E, *Professional Ethics and Civic Morals*. (Martino Fine Books 2013)

country is to satisfy people's needs and act as a protecting factor and helping hand in times of need. It is sometimes argued that the State is corrupt, and misuse of resources happens. That is why Alsott's model introduces the concept that the State also pays inheritance in the form of 'Public Inheritance' so that the funds raised in the form of taxes aimed at establishing wealth equality would be used only for rudimentary development of children in an equal manner. Hence State will maintain an account of money it generates through taxation on inheritance and spends it through 'public inheritance' on the development of children in the form of education etc. On careful analysis, most of the countries apply taxes to introduce the 'equality' factor, but they are far from it. It is time that the States should start thinking about these principles to incorporate 'equal opportunity' for all.

Principles of 'Equal opportunity,' 'No inheritance,' and 'equal start' have a common flaw in them, which is how to rectify equality between rich paying more and poor paying less.¹⁹ This argument is often raised with sociological jurisprudence, and it creates the following question. Will it be fair within this system that a person earning more has to give more, and a person making less will contribute less? This flaw is accurate and a cause of concern, which should be raised by people supporting the existence of inheritance. Baldwin²⁰ suggests that the real victim in this situation is dead and not in a position to protest. This flaw doesn't affect the equality principle at all; it reinforces it. A person who earns a lot will be able to spend a lot, and a person who earns less spends less. Therefore, their enjoyment varies, but their contributions towards the State don't matter because they are dead and not in a position to enjoy their earnings. State gives a new start to their offsprings who, based on their skills and motivation earn differently, and the cycle continues. Hence this flaw is not a cause of problems within the systems projected above.

¹⁹ Mumford A, 'Inheritance in Socio-Political Context: The Case for Reviving the Sociological Discourse of Inheritance Tax Law' (2007) 34 *Journal of Law and Society* 567

²⁰ Baldwin S., 'The Modern "Droit D Aubaine"' (1905) 14 *Yale Law J.* 129-47

This kind of system is not perfect but requires work, but I believe in the long run, it can be very beneficial and reduces the reliance of future prospects on wealth and increases the chances of those with skill. It will provide an equal opportunity for people and create an income-equal society. In the long run, the benefits of governmental schemes will not be felt by few but by the whole community. The overall productivity and output of the country will be increased, and the skills of people in their respective fields will be of top class and creamed through all the workforce available. Every individual will realize his/her own potential, thereby increasing the happiness of the Nation. I believe that this system is worth a shot since countries are moving towards the goal of equal wealth distribution. Specific objections should not be the sole purpose of not trying something new, especially if it can increase the prosperity of the Nation at large. Since lawmakers are wealthy class, own factors of production, and have determining power of a country's future policy and law. This dream is not likely to be realized in the future any time soon.

Disclaimer:

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APPENDIX

TABLE 1. A COMPARISON OF ALTERNATIVE WEALTH TRANSFER TAXES

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	Tax Base	Rates	Annual or Lifetime
Estate Tax	Bequests + gifts given	Graduated above an exemption per donor	Lifetime
Accessions Tax	Inheritance + gifts received	Graduated above an exemption per recipient	Lifetime
Annual Inheritance Tax	Inheritance + gifts received	Graduated above an exemption per recipient	Annual
Income Tax Inclusion of Inheritance and Gifts	Income from all sources + inheritance + gifts received	Graduated rates and exemption levels applied to all income	Annual

TABLE 2. HYPOTHETICAL TAX RATES

Inheritance	Marginal Tax Rate
\$0 to \$99,999.99	0%
\$100,000 to \$499,999.99	75%
\$500,000+	90%

TABLE 6. AVERAGE TAX RATES ON INHERITANCE AT DIFFERENT AGES, USING ADJUSTED TAX RATE SCHEDULE

	Nancy, Age 21	Larry, Age 31	Sherry, Age 41	Terry, Age 71
Inheritance	\$1 million	\$1 million	\$1 million	\$1 million
Tax	\$750,000	\$655,665	\$551,003	\$0
Average Tax Rate	75%	66%	55%	0%

Source: Alstott AL, 'Equal Opportunity and Inheritance Taxation' (2007) 121 Harvard Law Review 469 <www.jstor.org/stable/40042666>

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