



A Libertarian Perspective on Inheritance Tax: How to Take into Account All Freedoms in an Unequal World

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Abstract

Using a Nozickian libertarian framework, I put forward three amendments to the French inheritance taxation system. Firstly, in order to respect people's right to self-ownership and the products of their labour, I propose to allow disinheriting children of the deceased and to impose no inheritance tax at all on wealth earned by the deceased. Finally, I discuss that unfettered inheritance might create very unequal economy distributions that threaten poorer individuals' political freedom, and I contend by extension, their right to self-ownership. To address this, I introduce a third amendment: a 100% tax on wealth that was already inherited.

Keywords: Inheritance; Libertarianism; Inequality; Freedom

In this essay, using a Nozickian libertarian framework, I will outline the French inheritance taxation system and propose three amendments. First, using people's right to self-ownership, I will argue that inheritance of earned wealth is a just transfer that shouldn't be interfered with by redistributive efforts. I will thus propose that parents be allowed to disinherit their children, and that wealth earned be subject to no inheritance tax. I will then consider Haslett's (1986) objection that the economic freedom of third parties might be infringed upon by unfettered inheritance and will dismiss it by arguing that worsened and limited options do not make for a reduction in freedom. I will finally consider a stronger threat to the justice of unfettered inheritance, namely the infringement on political freedoms caused by highly unequal wealth transformations. In response to this objection, I will introduce a third amendment to the taxation system: a 100% inheritance tax on wealth that was already inherited.

For the purposes of this essay, I will consider inheritance taxation *insofar* as it is a redistributive tax. No tax is inherently redistributive, as funds raised can be used for a variety of government functions, but inheritance tax especially is often conceived of and discussed as a redistributive tool in legislative philosophical and political discussions. This distinction is moreover important because if inheritance is just and creates fully just distributions, then any redistributive interferences on it cannot be justified by the sake of justice.

The French tax system is a somewhat complex one, and it is interesting to note one of its unique features: it is impossible for parents in France to disinherit their children and the latter are owed up to three-quarters of their parent's estate (Notaires de France 2019). Then, direct-line legatees are allowed to receive up to 100,000 euros tax-free. This includes any monetary or large gifts in kinds (such as houses) made in the fifteen years preceding death. Inheritances above this threshold are taxed in six progressive brackets, ranging from 5% on the inheritance between 100,001 and 108,072 euros to 45% on anything above 1.9 million euros (Droit Finances 2019) The tax-free allowances go down the more distant the relationship to the deceased is, while the percentage tax goes up. For example, people with no family relation to the deceased pay a 60% tax on the total value of what has been bequeathed to them.

I use a Nozickian libertarian framework (Nozick 1974) to evaluate this taxation system and put forward my amendments. Under such a framework, the French system is in my opinion unjust, because it fails both to respect to a large enough degree the freedom of individuals to exercise their right to self-ownership and private property by taxing the wrong kind of money, and also fails to address the infringement on the political rights of poorer individuals created by the existence of dynastic wealth.

The two first modifications, namely allowing individuals to disinherit their children and eliminating the inheritance tax on money that was earned by the deceased are meant to protect, to the fullest degree possible, the right of individuals to enjoy and voluntarily transfer their wealth.

Nozick's libertarian framework has that people have an inalienable right to self-ownership (Cohen 1995: 68), which implies that people own themselves and also their talent. The latter, Nozick claims, further translates into the ownership of the product of these talents, wealth. Many readers will object here that wealth is not the product of labour and talent alone, but also of unearned background economic conditions, the institutional framework provided by the government, as well as luck, leaving individuals entitled to only part of the product of their labour (Fried, 1995: 244). These considerations may indeed weaken an individual's claim to the surplus created by the association of their labour, talent, luck and conditions, but it does not follow that society at large and other people's claim to this surplus is stronger than the individual's. The state's claim to part of this surplus is, I submit, also weakened by the consideration that this surplus is created by talent, labour and luck exogenous to the state. From the weakened claim of an individual to the surplus of their labour follows the conclusion that they are not entitled to keep all of the surplus at hand, but merely a majority, as they have a stronger claim than the state's. This consideration renders inevitable some appropriate level of income taxation (set at no higher than 50%) but, crucially for our present purposes, implies that once this appropriate taxation has taken place, no further taxation is justified, as the state's fair share has been met.

It follows that, as individuals have a right to an appropriate share of what they earn through their talent and labour, they have a right to trade it, to transfer it, as long as the transfer is voluntary and non-fraudulent. This implies that any amount of inheritance, as long as it satisfies these criteria, produces a just distribution and should not be interfered with in a redistributive manner.

Illustrating this, imagine your mother, who earned a fortune of 5 million pounds as a talented professional, and has been taxed at, say, 40% to reflect the aforementioned contributions of the social and economic background to her success, leaves you said money. Under my libertarian framework, she has an unqualified right to this money, and her holding it is just.

She also has a right to transfer it, as she has done, and the inheritance transaction is just. There was justice in the original possession, and justice in the transfer: you having inherited 5 million pounds must therefore be just (Nozick 1974: 151).

From the justice of the distribution created by the just transaction between your mother and you it becomes clear that the state should impose no inheritance tax on earned wealth. Redistributive interventions such as inheritance tax can indeed only find groundings in an unjust distribution, which we do not observe here. Allowing individuals to disinherit their children is also justified by individuals' right to the products of their talent, as forcing them to bequeath wealth to their children makes for an involuntary transaction.

I must however consider an objection which could justify some inheritance taxation: the claims of affected third parties. Haslett's (1986) objections to inheritance offer here some important considerations.

The argument holds that just and free transactions between two people can impact other people down the line, without them having participated in the transaction, a situation which could be qualified as unjust. Haslett argues that even if your mother bequeathed the money to you in a just fashion, you having inherited it is still unjust because it affects other people's economic freedom.

Inheritance, he asserts, creates concentrations of wealth in society, which is problematic because it creates distorted economic power balances and skews the forces of supply and demand towards the wants of the rich rather than the needs of the majority, by making rich people's "dollar votes" count to an inordinate extent in determining the orientation of production in the economy (Haslett 1986: 136). Following from these considerations, the situation in which you inherited could still be unjust in that it may be part of a trend that impacts the economic freedom of people who weren't party to the transaction. For example, the concentration of wealth could cause price-levels to rise, or production in society to focus overly on goods tailored to the very rich, ignoring the needs of poorer people, perhaps reducing their purchasing choices.

Faced with this objection, I have no choice but to admit the situation is neither a pleasant one, nor a good one. I am also at a loss on how to deny that wealth concentration caused by inheritance can plausibly cause such economic imbalances.

However, while it may be an unpleasant situation, it is not an unjust one. This is because even though the choices of less wealthy people may have been negatively impacted, their freedoms haven't been infringed upon. As Nozick argues "A person's choice among differing degrees of unpalatable alternative is not rendered non-voluntary by the fact that others voluntarily acted within their rights in a way that did not provide him with a more palatable alternative." (Nozick 1974: 263)

As an example of this point, imagine you are marrying A, whom I prefer (Nozick 1974: 269). This means that if I wish to marry, I now have to marry B, who was my second choice. Here, you have without a doubt limited and worsened my options, but it would be difficult for me to argue that your wedding to A, which was within your legitimate rights, was unjust and undermined my liberty. It becomes clear that the situations at hand may not be pleasant whether you are inheriting 5 million pounds and changing the economic dynamics of society or marrying the love of my life, but they are not unjust. I therefore believe that Haslett's economic freedom objection does not pose a serious issue for unfettered inheritance transfers.

Rather, I see a more serious peril to the justice of unfettered inheritance in the threat that it poses to poorer people's political freedoms and power. It is indeed more serious because even with the controversially thin conception of freedom the libertarian framework affords, it cannot be readily dismissed if substantiated. I contend that within a state that exercises democratic power over its citizens, the right to self-ownership which forms the basis of my discussion must entail large political rights and freedoms, and certainly the ability within reason to influence the states' agenda. This is because the right to self-ownership entails individuals' immunity against the non-consensual loss of their natural rights. (van der Bossen 2019). For people to truly be free to dispose of themselves as they wish, to *own* themselves, they must also be able to dispose of their natural rights as they please, such as their right to travel freely, to labour freely or to defend themselves. Disposing of their natural rights as they please necessarily entails the ability to give them up but necessitates this ability to be realized under consensual terms.

A state that exercises power over its citizens necessarily requires of them to give up some of their natural rights, especially such as relating to the acquisition of property or individual's rights to defend themselves against others in the manner they see fit. For individuals to grant the state some degree of influence over them, and to give up their natural rights in a consensual fashion, it is required for them to be able to control, or influence to a reasonable degree which rights they consent to give up, to whom and for which purpose. In a democratic state this requirement entails reasonably large political freedoms, such as the ability to influence political representatives, and have opinions and beliefs reflected in the state's agenda.

If such political freedoms are not made available to a large enough extent to individuals, and individuals' political control is reduced, then their right to self-ownership is violated, as they are not free to choose to a reasonable degree how they dispose of themselves within the state.

It moreover seems that a very unequal economic distribution does indeed pose a threat to political freedoms. Evidence suggests that the policy preferences of wealthy individuals in all areas are much better represented in states' agendas than the preferences of poorer individuals. In fact, studies from the United States show that "constituents at the 75th percentile of the income distribution have almost three times as much influence as those at the 25th percentile on senators' overall voting patterns, and several times as much influence on specific roll call votes" (Bartels 2002: 3).

This implies that high concentrations of wealth create channels of political expression that aren't accessible to poorer individuals, thereby reducing their political freedom and violating their right to self-ownership. It is also important to note that this is not akin to the economic freedom objection, as this is not a case of being faced with reduced and worsened options, but rather not being able to truly choose between options, as they do not have access to the channels that would allow them to choose between political agendas.

What I am confronted with here is a tension between the freedom of individuals to transact economically and their freedom to transact with the state politically. This is where my third amendment to the French taxation system comes into play: instituting a 100% tax on wealth that was already inherited by the deceased. Such a tax would limit the accumulation of wealth over generations and limit the appearance of dynastical classes of wealthy and unduly influential people over several generations, while preserving the right of individuals to pass on the wealth they have earned themselves. Moreover, the longer a family has been wealthy, the more political influence it is able to exercise because its channels of influence are more entrenched; such a tax solves this issue. Naturally, the balance of 0 and a 100%

taxation on earned and inherited wealth respectively leaves several doors open for skewing political dynamics. Firstly, it still allows an individual to accumulate extremely large amounts of wealth during their lifetime affording them large amounts of political power, and secondly this individual would be able to pass this large amount of wealth onto their children, who could then in turn benefit from undue political influences. It is important to note, however, that most wealth presently owned is inherited, not earned, and it has been estimated that the share of inherited wealth in total wealth reached nearly 75% (Piketty 2014: 402). Taxing wealth that was already inherited at a 100% would therefore still have a profound effect despite the fact that individuals are able to earn extremely large fortunes. In sum, the event in which such an individual is still able to pass on large amounts of wealth to a descendant is still made less problematic by the proposed tax set up because it limits wealth concentration dynamics to one generation.

This tax of course represents a compromise in a libertarian framework and would be rejected by more ardent defendants of absolute transactional freedom. I am also aware that, perhaps contrary to what could be expected of a libertarian argument, it will probably yield higher tax levels on wealthy estates than the current set-up, at least for the first generation. However, I believe it is the most justifiable of solutions, because individuals have arguably a stronger claim to money that they have earned as the fruit of their talents than they have over (legitimately) inherited wealth. Thus, taken together, my amendments both respect the freedom of individuals to dispose of the fruits of their labour as they wish, and start to address the infringement on political freedoms and therefore individuals' right to self-ownership caused by highly unequal wealth distribution. This solution, naturally, isn't a perfect one. Disentangling inherited from earned wealth will prove difficult and it doesn't address income concentrations stemming from earned wealth. It is however a solution that I believe maximally respects the freedom of each individual to dispose of themselves as they wish in a democratic state.

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