

COMMENTARY

A voluntary inheritance tax

As my colleague Rod Hill (Telegraph-Journal, August 23, 2018) recently pointed out, the issue of inheritance (and that of its possible taxation) is inherently linked to the maintenance of inequality from one generation over the other – and basically to a skewing of the playing field of life from the start. Debates on these issues are complex and center on values and concepts that are at heart of liberal democracies. Should our laws focus on promoting equality of opportunity and social justice, or the individual freedom to bequeath and the individual right to dispose of one's property?

From the Enlightenment to World War I, French social theorists were much interested in the questions that are still with us today. Montesquieu (1689-1755), who himself inherited a large estate and fortune from one of his uncles, remarked that “Natural law commands to fathers to feed their children, but does not oblige them to make them their heirs” (my translation). Clearly, the author of the Spirit of the Law (1748) squarely sided with the view that inheritance laws are appropriate for society to maintain an equilibrium.

Another French philosophe, Jean-Jacques Rousseau (1712-1778), went further in his egalitarian view. He held that, while inequality is unavoidable, placing limits on the inheritance of wealth is necessary for society. For Rousseau the legislator not only can, but also must, regulate the (intergenerational) transfer of wealth through laws in a manner that reduces social inequality in society.

During the tumultuous French Revolutionary period (1789-1799), the Count of Mirabeau (1749-1791) went even further with his rejection of testamentary freedom based on the idea that it promotes “inequality in the ownership of domestic goods”. According to Mirabeau, property was to be limited to a lifetime and then reverted to society (the State) upon a person's death.

Closer to us in time, but only a little less extreme, was the view of Emile Durkheim (1858-1917), one of the Fathers of sociology. To reduce inequality, he proposed the discontinuance of inheritance, which he considered an archaic, and perhaps even immoral, practice. In the view of Durkheim, the surplus from one generation to another should not revert to the State but instead to a form of intermediary social institution that no longer exists that he called “corporations” (akin to professional guilds), which would manage and redistribute these surpluses.

So, clearly, ideas about taxing, restricting or abolishing inheritance have been floated by Western social thinkers for nearly 300 years and probably more. In the current socio-political atmosphere where “tax” is a dirty word that politicians avoid pronouncing as much as possible, it is unlikely in my estimation that we will see any significant legislative reforms in the direction

promoted by the authors mentioned above. In the meantime, those of us who care about this problem still have a choice. It is possible for each of us to enjoy the testamentary freedom of privately disposing of our wealth by choosing to include as beneficiaries in our will some charitable institutions (a form of intermediary social institution). We might choose to do this in the hope that such institutions will be able to contribute to correcting social inequalities in the future instead of reproducing them.

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