Prospects for Furthering the Rignano Scheme: Replies to Fleischer, Wolff, Barry, Braun and Macleod

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Note to MLS readers: Thanks for your help! This manuscript focuses on replies to just Miranda Perry Fleischer and Jonathan Wolff (the other three are more 'philosophical' and yet to be written). Fleischer is the sole lawyer in the symposium, so her contribution would be of greatest interest to MLS members. Though not a lawyer, Wolff's contribution resembles Fleischer's as being an attempt to evaluate the effects of a Rignano scheme on the wealth distribution. The discussion is largely from a political science perspective but as lawyers you may well have a critical angle, particularly on his claims about tax avoidance and 'the 1%'. I have 8000 words in total, so have kept this draft to less than half that, so as to keep space for the remaining three symposium contributions and/or to take up any points you think important.

I thank each of the symposium's participants for their careful contributions. In different ways, each participant brings attention to questions that either received inadequate attention in the book, or were omitted from it altogether. By adding both breadth and depth to what I covered in the book, and raising some effective criticisms of its arguments, the symposium ought to promote further work on inherited wealth. I hope that it will help attract some new researchers to the topic, which is still rather under-populated. Given the wealth of ideas that the critics have raised, I can't cover everything in these replies. I shall concentrate on where I actually have something to say in response.

I shall begin with Fleischer, who is right to register that the book, being a work in philosophy, shies away from most questions relating to the actual design of a Rignano scheme as a piece of tax legislation. This is a rather generous way of alluding to a limit of competency. Fleischer's contribution corrects for this and would be of great use to philosophers even ones not especially sympathetic to the idea of a Rignano scheme. Deferring to Fleischer's insights on how to take a Rignano scheme forward at the level of tax design (much of what she says about accessions tax and rate structures should be illuminating to philosophers), I shall touch on some of her points that are more critical of the book's arguments, or which focus on political feasibility.

In the book, I rely on an account of how the advantages associated with wealth possession (principally non-financial capital) compound down the generations. Fleischer raises some points about the plausibility of this story, and I imagine she is not the only reader who might want to see more detail here. Granting that wealth attracts valuable non-financial capital over time, there is a question about whether the a Rignano scheme is properly sensitive to how fast this process occurs. Fleischer observes that "if Grandfather dies at 90 [bequeathing to Mother], Daughter could be as old as 40. Mother may be able to help Daughter buy a house or start a business, but much of Daughter's path is set by this point." If Grandfather's bequest is first generation, then the tax doesn't kick in until Daughter eventually bequeaths to her own offspring. At 40, Daughter's path may well be set but her own children will probably be young enough to benefit from a private high school, support through college, subsidy of an internship at a prestigious company, and so on. One could take this to favour the taxing of first generation inheritance after all, or view it as counting in favour of taxing second generation transfers in view of Daughter's offspring having already benefitted and thereby less entitled to an untaxed cash transfer later. Perhaps the best way of putting this is that intergenerational wealth transfers will have an effect on whoever is young when the recipient receives the wealth, be this the recipient themselves or their offspring. And insofar as the benefits still compound over time, this is something that a Rignano scheme remains sensitive to. How immediately effective it is in offsetting the compounding is, however, a matter of whether the taxed second generation bequest takes place after the wealth has been used to benefit whichever generation is still young.

I would also like to touch on the question of whether a Rignano scheme really should impose 0% liability on first generation transfers. Fleischer, like Rignano himself, endorses this. A Rignano scheme would still be worth the name just so long as the first generation bequest was taxed at a lower rate than subsequent transfers. What, then, is the case for keeping the first generation transfer tax-free? I was hesitant about this in the book, though I do agree with Fleischer's suggestion that political considerations (in the sense of what people might actually vote for) may carry the day. Political narratives against inheritance tax repeatedly appeal to the idea that such taxes 'punish' people who wish to bequeath to their children what wealth they have newly created by hard work and saving. A Rignano scheme is a very intelligible way of making it clear to voters that anyone whose bequest fits this popular vision will not be taxed, while increasing awareness that second generation (or older) inheritance is still 'a thing'. Any politician trying to denounce a tax that can be framed as burdening people who are merely passing on what wealth they have sat on since they themselves inherited it will have a hard job, one would think, of being as successful as prevailing political narratives have been in entrenching the unpopularity of traditionally progressive inheritance taxes.

More could be said about the relationship between the basic Rignano idea of 'progressivity over time' and the role of exemption thresholds. It is worth noting that the Rignano scheme is basically idea about the tax rate changing from one generation to the next, with the exemption threshold presumably being held constant. But this could, in principle, be reversed: Perhaps all intergenerational transfers are taxed at a rate of, say, 50%. But first generation transfers have an exemption threshold of $2,000,000, with this dropping to $500,000 at the second generation, and then $25,000 at the third generation. This would be another way of achieving progressivity over time with respect to the effective tax rate. I am not aware of this idea having been discussed before, and it was not anticipated by Rignano himself, or any of the detailed contemporary discussions that emerged in the early 20th century. Fleischer notes rightly that "the devil is in the details" Again it would be for tax specialists, like Fleischer, to have the more authoritative say on this.

Jonathan Wolff agrees with the book's central causal claim that "inheritance is a mechanism by which segregation is created and transmitted", at least in the context of Britain. But he's overall sceptical that a Rignano scheme would do a great deal to combat what he takes to be the worst aspects of this. My sense is that his scepticism would apply in roughly equal measure to any aggressively progressive inheritance tax, though this is not to diminish anything.

Wolff draws attention to two key considerations so far as the intergenerational transmission of British wealth inequality is concerned. The first is that much of the differentiating effect of inheritance is likely to be within a "modal range" covering a relatively large portion of the population whose members inherit between £25,000 and £500,000. For these people, receipt of inheritance comes typically around retirement age. For Wolff, a principal effect of inheritance is to compound an existing divide between people who can expect a comfortable retirement in which they receive an industry pension after paying off a mortgage, and people who must continue to pay rent on a home and rely on what's left of the state pension. Insofar as this divide is already an unjust inequality, there is a degree to which inheritance is unjust to the extent that it exacerbates it.

Wolff notes that most of Britain's retirement age population are inheriting first generation bequests. Even if they were not, I suspect that the boom in housing values during the late 20th and early 21st centuries would have expanded the fortunes of the owning generation so that much of the wealth would be treated as 'new' even if the transfer were in its second or third generation. Either way, a Rignano scheme would probably not impose much tax liability on inheritances within the modal range. This might count against the Rignano scheme's ability to address the way in which first generation bequests can compound injustice that is already around for reasons other than inheritance. But there remains the question of what happens next. By definition, a Rignano scheme is an idea for the long term: Inheritors in the upper part of the modal range will probably not consume all of what they receive before their death, and probably won't be able to do much to expand it either. And so, these modal inheritances will in due course become second generation. This is where the Rignano scheme would begin to kick in. This is to concede, in effect, that a Rignano scheme would not address the "inequality of the retired" that Wolff is, quite rightly, exercised by. But a Rignano scheme still offers a way of addressing what knock on effects there are of this inequality.

Wolff's second key consideration concerns what is to be done about the very wealthy, who in Britain possess a large share of the overall wealth – Britain's office of national statistics reports that the top 10% own 45% of the nation's wealth.[1] Here Wolff relies on the suggestion that the very wealthy, perhaps some upper subset of the top 10%, are just too good at avoiding tax for a Rignano scheme to have much effect. Here Wolff's reasoning goes a bit quickly. It is often said that "the very wealthy are likely to find ever-more sophisticated forms of avoidance". But how much follows from this claim? In assessing this position, the key question is not whether a Rignano scheme would or would not stimulate tax avoidance given the remote possibility of "global harmonisation" of inheritance taxes (I agree it would). Instead, what's key is whether a Rignano scheme would stimulate enough successful avoidance as to result in a net loss to revenue, or to

[1] Wealth shares are only reported for deciles, not percentiles. See fig 4. At https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth/bulletins/totalwealthingreatbritain/april2016tomarch2018

make it under-perform relative to some alternative like strictly progressive inheritance tax, annual wealth tax, or other measure aimed at capturing the wealth of the uppermost decile. Once we are in the territory of claims like a Rignano scheme "could even reduce overall tax take if wealth is moved offshore" it's important to pay some attention to what sort of wealth is possessed and how moveable it is. Wealth that is in land and buildings cannot, by definition, be moved offshore. The Office of National Statistics reports that financial wealth, the most liquid and moveable category, accounts for less than a quarter of the wealth owned by the top decile. The remaining categories of pension wealth or wealth that is 'physical' or 'property' are harder (in some cases impossible) to get out of the country they're in. Of course much of this wealth can in principle be sold for cash (though pension wealth cannot be transferred), but this comes with risk and will become a less useful strategy the more it is used: Not all of the super-rich can sell their land and fine art collections at once – who would be buying it? In light of these considerations, I think it is far from settled that a Rignano tax, or in fact any other tax that imposes greater liability on the wealth of the top decile, would be avoidable to such an extent as to defeat the case for having it.

I'll close with one further disagreement I have with Wolff concerning the philosophical background, particularly the question of why political philosophy has for at least half a century given much less attention to inheritance than to many other topics about distributive justice. Wolff suggests that the justice-based case for or against restricting inheritance has been (rightly or wrongly) seen as "derivative and relatively straightforward", having been regarded merely as "a consequence of a broader theory of justice". I think differently about this. The question of inheritance may *appear* straightforward on some views, such as the Nozick style libertarianism that Wolff mentions. Though even here there was always a vexed question about how to correct for historic injustice like slavery and colonialism, which indeed helped establish many of the large inherited fortunes still being passed down in Britain. My own view is that the implications of theories of justice for inheritance are, on closer inspection, harder to establish than even the authors of these theories might think they are. This is often due to ways in which designing a theory to solve one perceived problem may have hidden effects for how, or whether, that theory is able to handle the regulation of inheritance (see especially the discussion of Kok-Chor Tan's institutional luck egalitarianism in the book's 4th chapter). I register this disagreement with Wolff not in order to start a fight about how to best appraise the recent history of political philosophy, but to again emphasize my earlier point that there is still philosophical work to be done in philosophy on inheritance. Working out what existing theories are actually committed to on inheritance, as opposed to what they appear committed to on superficial readings or based on what their proponents actually suggest in fleeting or footnoted remarks, is where such work can start.