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Literature on Inheritance: A Summary of What Can Be Learnt

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- 1 The routines and progressions that have shaped the inheritance in human societies received extensive scholarly consideration. Studies in this field have explored and investigated the impact of legal and traditional rules of property transmission on the structures of the society and the models of political power. In an oversimplified manner the inheritance literature can be characterized as an analysis of the default rules and can be divided scholastically into two large bodies: 1) theory-based explanations and evaluations of the inheritance routines, and 2) empirical data-based models. This review is not aimed as an exhaustive evaluation of the extant literature of these two narrative strands. Rather, it focuses on illustrating the diversity of the proposed explanations and draws some conclusions on what can be learnt.
- 2 Theory-based inheritance arguments are sparse and scattered in the political and economic literature. Most references start from analysing the inheritance default rules in relation with what was considered a just society. The summary of these views shows relatively little variation in the highlighted arguments. Broadly, the contributors have proceeded either from an impersonal perspective or from a more ideological one to justify maintenance or change of inheritance default rules. Adam Smith, David Ricardo, and Alexis de Tocqueville proceeded rather analytically and found that inheritance rules are the variables that have the potential to change or preserve society and political power. Smith observes in his *An Inquiry into the Nature and Causes of the Wealth of Nations* that “When land was considered as the means, not of subsistence merely, but of power and protection, it was thought better that it should descend undivided to one”(Smith 1776, III.ii/4). Ricardo analyses the tax system and gives economic arguments against the state intervention in inheritance rules since taxing wealth transfer from one generation to the next “will inevitably fall on capital; since by doing so, they impair the funds for the maintenance of labour, and thereby diminish the future production of the country” (Ricardo 1817, 190). Tocqueville when scrutinizing the American society compares rather detached the consequences of the laws of

inheritance: “When framed in a particular manner, this law unites, draws together, and vests property and power in a few hands: its tendency is clear aristocratic. On opposite principles, its action is still more rapid; it divides, distributes, and disperses both property and power” (Tocqueville 1838, 30).

- 3 Jeremy Bentham, John Stuart Mill, and Karl Marx proceeded more ideologically and stated that inheritance rules are the variables than need to be changed in order for have a better society. Legitimacy of intergenerational wealth transfers, economic growth and social stability are the arguments brought about by these authors. For example, Bentham argues against absolute rights to property based on ‘natural law’ and proposes a more utilitarian approach to inheritance: “Whatever power an individual is, according to the received notions of propriety, understood to possess in this behalf, with respect to the disposal of his fortune in the way of bequest—in other words, whatever degree of power he may exercise, without being thought to have dealt hardly by those on whom what he disposes of would otherwise have devolved—that same degree of power the law may, for the benefit of the public, exercise once for all, without being conceived to have dealt hardly by anybody, without being conceived to have hurt anybody, and, consequently, without scruple: and even though the money so raised would not otherwise have been to be raised in the way of taxes” (Bentham, 1795, 12-13). In the first chapter of *Principle of Political Economy*, John Stuart Mill considers that “What rights, and under what conditions, a person shall be allowed to exercise over any portion of this common inheritance, cannot be left undecided. No function of government is less optional than the regulation of these things, or more completely involved in the idea of civilized society”(Mill 1848, 797). For Karl Marx (1848) one of the ten planks in the coming classless society is the abolition of all rights of inheritance.
- 4 Empirical data-based inheritance literature tends to be less normative and more focused on data and model building. This scholarship can loosely fit into two strands of narratives. On the one hand there are endogenous explanations, where the different inheritance routines are considered as optimal property transfer policies aimed to maximize the probability of family, dynasty, or social class survival, or as strategies that ended up in producing the nuclear family, or to play down rent seeking among descendants, or as mechanisms to preserve/distribute wealth in the family, or as patterns that perpetuate poverty at individual level, or as sources of legal systems. On the other hand there are the exogenous explanations, where the property transfer practices are considered as mechanisms established to enforce or generate equality in the society, to generate societal change, or as causes for being enfranchised or losing the right to vote in the census vote era. Both strands have theoretical and methodological dimensions. Both strands have accounts that focus on macro- and micro- social and political phenomena. Contributions to both strands come from various sub-fields of social science. As a caveat, let it be remarked that the endogenous-exogenous typology is an academic model used here with the sole purpose of emphasizing particular differences between the logic proposed, in most cases not explicitly, by the various pieces of literature that are scrutinized.
- 5 Allegedly, at the foundation of the endogenous explanations are those anthropologists who—in the late 19 and the first half of the 20 century—undertook to account for the early social and political structures or to theorize kinship designs in different societies (Bell 1932; Calhoun 1932; Drucker 1939; Elton 1886; Fei 1939; Geary 1930; Kinnosuké 1912; Lotka 1929; MacLeod 1923; Mair 1931; Mateer 1883; Murray 1915; Parsons 1943;

Pettengill 1913; Torday 1931; Wright 1903). These studies expound models where primogeniture or partible routines are linked to the family structure. Some models hypothesize primogeniture as optimal succession policies to maximize the probability of lineage survival and preserve wealth (Drucker 1939; Mair 1931; Murray 1915; Wright 1903), in other models the absence of strict primogeniture was essential to lineage survival (Schultz and Richmond 1911), while others postulate property partition as an instrument to encourage the break of extended family relations and to encourage the nuclear version (Parsons 1943). Ethnography and social-history scholarship following in this path nuanced the models and provided more data and case studies (Ammar 1954; Bowles; Smith and Mulder 2010; Bunzel 1952; Eglar 1960; Goody, Thirsk and Thompson 1976; Hechter and Bruste 1980; Kennedy 1953; Lockridge 1968; Kivelson 1994; Lancaster 1958; Jacobson 2002; Mayer 1960; Mencher and Goldberg 1967; Mendels 1976; Miller 1952; Mulder, George-Cramer, Eshleman and Ortolani 2001; Muller 1985; Orenstein 1965; Plakans 1975; Roden and Baker 1966; Rosenfeld 1968; Sanders 1949; Sørensen 1996; Stirling 1965). New postulations and models were added. A number showed that inheritance rules, especially partible routines, influences rent seeking strategies among descendants (Campbell 2005; Lehfeldt 2000; Faith, Goff and Tollison 2008), while another stream pinpointed the connection between both primogeniture and partible property transfers, wealth preservation and family cycles (Berkner 1972; Childs 2001; Crisologo-Mendoza and Van de Gaer 2001; Ditz 1990; Dooling 2005; Owens 2001). Primogeniture rules prompted highly volatile and competitive contests with respect to the excess of male cadet siblings, who were more likely to embrace military careers and be sent to fight in the colonies, whereas the oldest son would take his role in the metropolitan society and avoid military service (Boone 1986).

- 6 A corpus of legal studies on inheritance rules and rights has developed analysing how passing from primogeniture to partible routines influenced the set-up and the evolution of legal systems, with a special accent on the ideological rejection of the primogeniture by the early settlers and the influence of the partible customs on the law system of the American colonies (Atkinson 1943; Bordwell 1927; Haskins 1957, 1962; Katz 1977; Lund 2009; Priest 2006). This was paralleled by scholarship showing how long-established practices, especially male primogeniture, in some countries in Africa and Asia, resulted in legal unequal rights between males and female descendants to own and transfer properties (Kameri-Mbote 2002; Rautenbach 2008; Tebbe 2008).
- 7 Inheritance-rules-centred economics research tries to explain intergenerational wealth allocations and poverty persistence (Davies 1982; Menchik 1979; Mendell 1984; Pryor 1973; Stamp 1926). The main strand in this literature argues for primogeniture as the main mechanism that ensured the preservation of big estates and fortunes and wealth inequities, while partition is seen as the formula that, in an optimistic view, bred and enforced wealth equality and, in a pessimistic view, produced and maintained poverty (Alston and Schapiro 1984; Baker 1964; Blinder 1973; Bohac 1985; Davies 1982; Gagan 1976; Hechter and Bruste 1980; Homans 1937; Huston 1993; Menchik 1980; Perkins 1969; Pryor 1973; Wedgwood 1928). A second important thread in this body of research make causal claims between inheritance rules and migration with both primogeniture and partible routines encouraging migration of siblings either because some have no inheritance to assure their economic survival or because they did not have enough to survive in the existing context (Dike 1982; Homans 1937; Howell 1975; Kasdan 1965; Sánchez-Alonso 2000; Wegge 1998). A third strand emphasized religious reforms in Europe as path depend on the partible inheritance rules that distorted the monopoly of

the Catholic Church and princes over resources and created societal instability prone to changes orientate against them (Ekelund, Hébert and Tollison 2002; Fichtner 1989; Hopcroft 1994, 1997). A fourth line in this literature postulates partible customs as tools that prompted the capitalist development. As such, partible inheritance created small holdings that could be easily traded (Bryant 2006; Emigh 2003) and created unsustainable subsistence farms and therefore encouraged peasants to move away from agricultural economy (Bryant 2006; Hagen 1988; Hopcroft 1994; Houston and Snell 1984; Kriedte, Medick and Schlumbohm 1982; Thirsk 1961).

- 8 Connecting both with the legal and economic scholarship is the political science and history research that considers inheritance rules in the context of the *polis*. This body of literature is split in three concerns: the role of legacy rules in preserving the state/government, and identifying inheritance patterns that could produce political unrest. The first interest conceives primogeniture as optimal property transfer policies aimed to minimize dynastic collapse, to maximize state survival and, to enhance cohesive leadership, particularly in medieval times (Bestor 1996; Geever 2010; Haskins 1966; Hechter and Brustein 1980, Joffe 1988; Miller 1952) whereas partible rules endangered dynastic reign and most often resulted in state divisions or collapse (Geever 2010; Hechter and Brustein 1980; Hurewitz 1968; Linehan 2008; Le Patourel 1971; Stewart-Brown 1920; Turner 1995). The second interest posits partible inheritance as a proxy for social instability that ends up in political unrest and societal change (Chasteen 1991; Fennell 1983; Keirstead 1985; Midlarsky 1982, 1988; Scott 1979; Midlarsky and Roberts 1985). The third concern posits partible routines as a proxy to democratization processes in early modern period as division of property encouraged equality in the society and disrupted the social monopoly of the aristocracy therefore promoting social mobility (Bertocchi 2006; Vogel 1989). Following in this path, some studies show that partible inheritance rules favoured the maintenance of centralized bureaucratic governments whereas impartible rules favoured strong and independent aristocracies (Linton 1956; Wittfogel 1957).
- 9 Adding to the influence of primogeniture and partible inheritance rules in determining the inheritance after-effects, scholars have developed exogenous explanations where the focus is on accounting for changes in property transfer rules as result of changes in other elements of the society. This literature examines how the rules and practices of inheritance have changed in response to political and religious transformations, increasing or decreasing population pressures, economic development and opportunities, urbanization, migration, changing roles of various social categories.
- 10 Anthropology scholarship is diverse in exogenous explanations. Some studies interpret partible inheritance regulations as the mechanism that produced more individuals with voting rights under the census voting regimes of the 18 and 19 century (Prufer 1928). In the case of some tribal population in Cameroon, the process of Islam regeneration with enhanced definitions of individual rights is considered to have prompted a change inside the partible rules of inheritance of the respective populations (Moritz 2003). Mennonites were flexible in changing from primogeniture to partible and vice-versa as their economic production model reference point oscillated between household and community (Longhofer 1993; Quadagno and Janzen 1987). Industrialization combined with population growth urged lower classes in Japan to adopt male primogeniture (Beardsley, Hall and Ward 1959), whereas the population boom diminished the

preference over partible rules in the countryside Turkey, mainly for economic reasons and tendency to preserve agricultural land (Stirling 1965).

- 11 Historic research in this line shows that the nobility repelled partible rules and endorsed primogeniture for very different practical reasons: for example the need to preserve title and patrimony prompted a move towards primogeniture (Duby 1953; Livingstone 1997), while productivity pressures on their feudums pushed landlords to abolish partible rules (Faith 1966; Goody 1983). The American colonists, arguably for ideological reasons, repudiated the aristocratic primogeniture rule and decided that dividing property among heirs was the best mechanism to generate and maintain equality in the new society (Haskins 1942; Huston 1993; Katz 1977; Orth 1992). In Russia, Peter the Great introduced primogeniture in order to undermine the political and social influence of the noble families' networks created and maintained on partible inheritance (Farrow 1966). In the Indian region of Awadh, colonial policies and political arrangements with local elites that were implemented in order to secure legitimacy for the British colonial rulers led to changes in favour of primogeniture in the inheritance customs of the taluqdars class (Jassal 1997).
- 12 The enterprise of tracing the results of the various streams of inheritance literature is a very difficult one. However, students who are interested in the history of inheritance should ask the obvious question: what can be learned from this literature? The answer is multifold. Inheritance literature seems to have little theoretical coherence. Inheritance has been present in the argument of major classical social, economic and political theorists but with relative little importance in the larger context of ideas; Adam Smith, David Ricardo, Alexis de Tocqueville, Jeremy Bentham, John Stuart Mill, and Karl Marx have allocated relatively small attention to the matter, as compared, for example to the problem property and wealth. The arguments and data related to inheritance rules and practices have failed up to now to be incorporated into a political or economic theoretic model. In terms of explanation there are a number of correlations and causal links that could have worked in at particular time and in specific social contexts. Yet, there are no generalizable linear or curvilinear models that could be applied. Even more, similar inheritance practices when applied in different social contexts not always produce similar outputs. Inheritance patterns do not seem to be unilaterally determined by social, cultural, or economic factors. In terms of data on which the explanations are based: although abundant, very rarely there is new empirical evidence that goes contrary to what previous data already showed. Statistical analyses are rather scarce and suffer from lack of comparable and consistent data; almost never historical data can be considered as representative given the way it was collected at specific times; ecological fallacies are hard to avoid.

George Jamesone, The Campbell of Glenorchy Family Tree, 1635, National Galleries of Scotland



<https://www.nationalgalleries.org/art-and-artists/24093/campbell-glenorchy-family-tree>

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ABSTRACTS

The routines and progressions that have shaped the inheritance in human societies received extensive scholarly consideration. Studies in this field have explored and investigated the impact of legal and traditional rules of property transmission on the structures of the society and the models of political power. This review is not aimed as an exhaustive evaluation of the extant literature. Rather, it focuses on illustrating the diversity of the proposed explanations and draws some conclusions on what can be learnt.

INDEX

Keywords: Literature review, Inheritance, Property transmission, Political power

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