Justice and Inheritance (Taxation): the argument from the special relation between parents and children
Sem de Maagt
Utrecht University

The philosophical debate on the justice of inheritance and inheritance taxation is typically framed in terms of a tension between the perspective of the donor, for whom giving away the inheritance should be a free choice, and the recipient, for whom inheritance seems to be a clear case of undeserved wealth (Haslett 1986: Clayton 2012: Halliday 2012). Positions in the debate on the justice of inheritance can subsequently be distinguished by the way in which they try to resolve this tension: either by giving priority to the perspective of the donor (e.g. Hayek 1960: Nozick 1974: Friedman 2012); to the perspective on the recipient (Haslett 1986); or by striking a balance between the two (e.g. Clayton 2012).

Many people, however, seem to have the intuition that giving away an inheritance to one’s children is not simply an exercise of one’s freedom on par with consumption, as the classical liberals would have it, but that there is something special about leaving your wealth to your children (and vice versa, that there is something special about receiving an inheritance from one’s parents). This intuition is also reflected in tax policy: in several countries, including The Netherlands, there are, for instance, higher tax exemptions and lower tax rates for children compared to other potential inheritors (such as brothers, sisters, friends, etc). This special treatment of children seems to sit uneasily with the broadly liberal paradigm in which the current debate on the justice of inheritance is taking place, which might be a reason why these kinds of arguments are seldom discussed in the literature.

In this paper, I will try to reconstruct and critically evaluate different arguments for the special treatment of children in the context of inheritance.

---

1 For a more general discussion of this tension in the context of luck egalitarianism see (Lazenby 2010)
2 This, of course, is a simplified version of the debate. Other relevant considerations typically include equality of outcome (over and above considerations of desire) and/or efficiency.
The goal of the paper is not so much to balance these kinds of arguments against freedom-based and desert-based arguments (something which would be needed to come to an all things considered judgement about the justice of inheritance), but to analyze possible reasons for giving a special status to children in the context of inheritance in the first place. Also, the goal of the paper is not to defend the special treatment of children, but to analyze whether or not there might be a rational basis for these widely shared intuitions about inheritance in the context of the family, and for the current practice of making exceptions for children when it comes to inheritance.

Given time-constraints, I focus mainly on John Locke’s argument for inheritance in The First Treatise of Government. One reason for focusing on Locke is that he explicitly justifies inheritance by reference to the allegedly special relation between parents and children. Another reason is that, as far as I am aware of, there is hardly any discussion of this relation in the context of inheritance in present debates on the justice of inheritance (one notable exception is Brighouse & Swift 2009).