Parental Partiality in Unjust Circumstances: Inheritance as Insurance[1]

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Abstract

There is broad egalitarian agreement that inheritance results in distributive injustice and indirectly delegitimises the political process; we should abolish it. But until we do this, and put in place public safety nets, parents do no wrong in insuring their children against destitution. Both procreative liability and parental love generate duties that justify some bequests, limited in size and form. In the aggregate, however, the bequests are likely to be substantial, impeding egalitarian reforms. The stringency and demandingness of procreative and parental duties provide (would-be) parents with special and powerful reason to support justice and, in particular, public safety nets.

I. Introduction

The thesis of this paper is that it is be permissible for parents who reasonably expect their children to live in unjust societies – societies like ours, readers may think – to bequeath some wealth to their children, even assuming egalitarian principles of justice. Parents have a life-long permission to insure their children against certain kinds of misfortune, including becoming destitute in circumstances in which they should not be held liable for the harms of poverty. People who live in unjust circumstances are at non-negligible risk of falling into poverty in ways for which they are not morally responsible; parents do no wrong if they make provisions for the case in which the risk

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eventuates, and have weighty moral reason to do so. The parental permission is justified by appeal to procreative and parental duties to protect one's children from misfortune, which is only possible through bequeathing some wealth to be used as insurance. (I assume that a duty to bequeath entails a permission to bequeath.) Since privately produced insurance can be very expensive, acting on the permission is wasteful and significantly limits the extent to which parents can permissibly resist intergenerational injustice. Thus, parents face competing moral demands: on the one hand, to use the funds to discharge their procreative and parental duties and, on the other, to use them to promote distributive justice that benefits strangers. Hence, parents in general and egalitarian parents in particular have special reason to welcome progress towards justice and, in particular, the creation of public safety nets: this would render their duties towards their children significantly less demanding, and would mitigate the tension between these duties and their general reasons to advance justice.

This is a contribution to non-ideal theory, that is the study of the moral rights and duties of people living in societies that do not comply with duties of distributive justice. Justice, here, is understood in broad, ecumenical egalitarian terms. At a minimum, it requires universal, non-competitive opportunities to meet one's basic needs – at least when it is possible to ensure this standard for everybody; but, most likely, it also includes the satisfaction of comparative claims of justice to a (possibly responsibility-sensitive) egalitarian or prioritarian distribution of certain goods. The general argument of the paper should therefore speak to Rawlsians, luck egalitarians, prioritarians and sufficientarians alike, if they accept the widespread view that morality accommodates some personal prerogatives grounded in partiality. As I clarify below, the argument of the paper is particularly convincing when social institutions significantly fail to conform to justice.

Here are some important caveats. The scope of the paper is restricted to non-ideal circumstances; I do not argue that parents have the permission to bequeath in societies that are (reasonably) just. Its arguments, however, carry worth-investigating implications for parental partiality, including for bequests-as-private-insurance, in any kind of circumstances. They are also

likely to bear on other forms of parental partiality in unjust societies, such as paying for one's child's private schooling. The bearing is not straightforward, because schooling raises a different set of normative concerns than the ones discussed here. Education has a significant positional aspect, while insurance against the kinds of misfortune I discuss here much less so; and being deprived of (better) education is less likely to be as serious a misfortune as destitution, which drives the arguments of this paper. Finally, my proposal concerns a form of wealth transfer from parents to children in which the former – I say – are permitted to engage before dying. One may think that such transfers are not properly conceived as "inheritance". This is a merely semantical disagreement; I take it that such transfers, when significant on aggregate, raise the same kind of egalitarian concern as (other types of) inheritance.

The next section explains why egalitarians are right to support inheritance abolition and specifies the main thesis. The third section makes a first, intuitive case for that thesis and provides further elaboration. The subsequent sections propose two arguments for the thesis: one from procreators' duty of care, applying primarily to procreative parents but possibly extendable to adoptive ones; and another, from parents' duty to act on loving concern, applying to procreative and non-procreative parents alike. Before concluding, I explain the difficulties of establishing one's fair share in unjust circumstances and its relevance to the matter at hand.

II. Egalitarians and inheritance

The parent-child relationship is one of the best examples of how partiality disrupts patterned distributive justice. Bequeathing can be an expression of parental partiality, and when inheritance is meagrely taxed, it amplifies, over time, inequalities between the children who receive more and those who receive less from their parents. Numerous philosophers and social scientists have, over the past decades, drawn attention to three ways in which existing levels of bequests disrupt justice[2].

2 Anne Alstott, "Equal opportunity and inheritance taxation," *Harvard Law Review* 121, no. 2 (2007): 469–542; Michael Otsuka, *Libertarianism without inequality* (Oxford: Clarendon Press, 2003); Rajiv Prabhakar, Karen Rowlingson and Stuart

First, they aggravate the magnitude of unjustified inequalities, over a lifetime, between different people's children. Second, they undermine social mobility and hence bring the world further and further away from realising fair equality of opportunity for positions of advantage. Finally – and partly because of the first effect – they give unequal amounts of political voice and power to those who inherit, compared to those who neither inherit nor accumulate large amounts of wealth by other means. This is the case especially when the wealth gaps are very wide, and societies lack mechanisms to effectively insulate political processes from the influence of those with disproportionate economic power. This effect can easily amount to plutocracy, thus jeopardising individuals' enjoyment of the fair value of their political freedoms under conditions of equality; that is, bequests can undermine the implementation of Rawls' first principle of justice, and citizens' equal standing[3]. Amongst egalitarians, there is wide agreement that, in existing societies, the intergenerational transmission of wealth embodied in inheritance practices is so radically threatening to these three ideals of justice that states should seek to abolish inheritance or at least apply hefty taxation to it. For simplicity, in what follows I talk of "abolishing" inheritance.

Yet, most people consider parental bequests legitimate. This need not be the expression of an uncritical acceptance of the *status quo*, or a rationalisation of people's parochial attachments, but can instead be explained by the combination of two reasonable assumptions: that gifting – of which bequeathing is one instance – is permissible and, indeed, praiseworthy; and that parental bequests are particularly appropriate. Let's look at these in turn.

White, *How to Defend Inheritance Tax* (London: Fabian Society, 2008); Stuart White, "What (if anything) is wrong with inheritance tax?," *The Political Quarterly* 79, no. 2 (2008): 162–171 and "Moral Objections to Inheritance Tax," in *Taxation. Philosophical Perspectives*, ed. Martin O'Neill and Shepley Orr (Oxford: Oxford University Press, 2018), 167-184; Harry Brighouse and Adam Swift, *Family Values* (Princeton: Princeton University Press, 2014); Anthony Atkinson, *Inequality. What can be done?* (Harvard University Press, 2015); Daniel Halliday, *The Inheritance of Wealth. Justice, Equality and the Right to Bequeath* (Oxford: Oxford University Press, 2018); Emmanuel Saez and Gabriel Zucman, *The Triumph of Injustice* (New York: W.W.Norton, 2019); and Thomas Piketty, *Capital and Ideology* (Harvard University Press, 2020). For an overview of inheritance taxation, including of particular taxation regimes, see Jørgen Pedersen, "Just Inheritance Taxation," *Philosophy Compass* 13, no. 4 (2018): e12491. For a helpful overview of Piketty, see Martin O'Neill, "Justice, Power and Participatory Socialism: On Piketty's Capital and Ideology," *Analyse & Kritik* 43, no. 1 (2021): 89–124.

3 John Rawls, *A Theory of Justice*. Revised Edition. Cambridge: Belknap Press, 1999. For how untaxed inheritance compromises democratic equality, see Martin O'Neill and Thad Williamson, *Property-owning democracy. Rawls and beyond*. (Malden: Blackwell Publishing, 2012).

If people are to claim certain things as theirs by justice, they must have some discretion over the use of those things. And it is *prima facie* plausible that using one's justly held goods to gift, i.e. to benefit others, cannot, in general, be morally worse than using those things for one's own benefit. To this, one may reply that some limits on other-benefitting behaviour, for instance the banning of certain gifts, is nevertheless justified[4]. Or, more modestly, that inheritance is not best understood as a gift[5] and that it is therefore permissible to abolish it even if banning other gifts is not. Indeed, appeals to equality, fair opportunities and the value of political liberties seem adequate justifications for such rejoinders.

As for the view that parents have special permission to bequeath, some attempts to justify it invoke legitimate *parental* partiality rather than partiality in general: it is widely held that parents, in particular, have permission to do "the best they can" for their children. Against this belief, Harry Brighouse and Adam Swift have developed an account of legitimate parental partiality justified by appeal to both children's interest in having a fiduciary and would-be parents' interest in acting as fiduciaries for a child. Some parental partiality is owed to children as integral to the fiduciary relationship, but its permissible expressions are restricted to what is required to realise the special, non-substitutable relationship goods of the fiduciary parent-child relationships. Since passing on inheritance is unnecessary for the realisation of these goods, there is no parental permission to bequest[6]. This account explains why parental partiality doesn't justify inheritance in otherwise just societies but has limited action-guiding potential in non-ideal circumstances.

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4 Whether this is a satisfactory answer or one that begs the question of the very justification of conceptions of distributive justice is a deeper issue than I can address here. As Robert Nozick put it, "patterned principles [principles of the form 'to each according to her...'] allow people to choose to expend upon themselves, but not upon others, those resources they are entitled to (or rather, receive) under some favoured distributional pattern D1. For if each of several persons chooses to expend some of his D1 resources upon one other person, then that other person will receive more than his D1 share, disturbing the favoured distributional pattern. Maintaining a distributional pattern is individualism with a vengeance!" In *Anarchy, State and Utopia*, (Oxford: Blackwell, 1974), p.167.

5 Hillel Steiner, "Three just taxes," in *Arguing for basic income*, ed. Philippe van Parijs (London: Verso, 1992), 81-92 at pp.83–86.

6 Brighouse and Swift, *Family Values*. Various other explanations have been offered in support of the common-sense view that parents in particular may bequeath; they have all come under philosophical scrutiny. For a brief overview, see Pedersen, "Just Inheritance Taxation." For a more comprehensive discussion see Jørgen Pedersen and Steinar Boyum, "Inheritance and the Family," *Journal of Applied Philosophy* 37, no. 2 (2020): 299-313.

I thereby assume that, on various grounds, current forms of inheritance would be ruled out in an egalitarian society. Insofar as gifting ought to be permitted, such societies would perhaps implement a Rignano scheme, allowing parents to pass on the wealth that they themselves have earned but not what they have received as gifts, or any interest accumulated on what they received from others[7].

The appeal of inheritance abolition is buttressed by the underlying assumption that parents who can pass on very high levels of inheritance do not morally own their wealth. They hold wealth (much) in excess of what they would have under alternative, more just conditions[8]. Like other egalitarians, I assume that there is a threshold of benefits, including material resources, that represents one's fair share and which, in unjust circumstances, can be lower than what people legally own[9]. (In due course, I explain the difficulties of identifying one's fair share.) Individuals do not morally own wealth in excess of their fair share in the sense that they have no claim against it being redistributed by the state towards people who have less than their fair share. It would then be just for states to tax and redistribute parents' excess wealth even if it wasn't for the equality- and democracy-disturbing consequences of existing forms of inheritance.

If so, there are egalitarian justifications for abolishing inheritance which do not run afoul of the above-mentioned reasonable assumptions. Just institutions ought to abolish (most) inheritance; but what, if anything, are individual parents permitted to bequeath to their children in the absence of just inheritance policies combined with adequate redistributive policies? In other words, what are parents morally free to do with respect to bequeathing until and unless we abolish inheritance *and*

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7 See Halliday, *The Inheritance of Wealth*. For an overview of the Rignano proposal, see Guido Erreygers and Giovanni Di Bartolomeo, "The Debates on Eugenio Rignano's Inheritance Tax Proposals,", *History of Political Economy* 39, no. 4 (2007): 605–638. Interestingly, this proposal might meet even wider consensus: Nozick discusses a very similar scheme in "Parents and Children" in his *The Examined Life*, (New York: Simon and Schuster, 1989), at pp.30-32.

8 By the lights of egalitarian but perhaps also libertarian justice, on the very plausible assumption that justice in transfers has been violated so often and so deeply that virtually none of the existing fortunes have an entirely morally unproblematic history. See Nozick, *Anarchy, State and Utopia*, 230-231.

9 For a classic discussion see G.A. Cohen, "Political philosophy and personal behaviour", in his *If You're an Egalitarian, How Come You're so Rich?* (Oxford: Oxford University Press, 2000). He writes about egalitarians who live in unjustly unequal societies and who have more than what they are entitled to by justice as commanding "resources evidently in excess of what they know they could expect to get in the egalitarian society they profess to favor." (*ibid.*, 162) See also Brighouse and Swift, *Family Values*.

use the revenue to create overall just redistributive institutions? My answer is that they may leave to their children enough money to serve as insurance against certain losses; without specifying the details of permissible bequests, I assume they may not exceed what is necessary for effective insurance for the child against destitution, and that they should disrupt distributive equality as little as possible. For instance, if a parent can cooperate with others to set up an insurance scheme that makes insurance cheaper, she has at least a *prima facie* duty to do so. Assuming no such cooperation is possible, bequests might take the form of earmarked deposits than can only be used in case of need and, if not needed, the money would become available to advance justice *via* state policies.

III. A qualified right to bequeath: the intuitive case

Consider the following case as an intuition pump:

> Maria's child, Letitia, has a genetic condition that puts her at significant risk of developing a debilitating disease during her twenties. If the risk doesn't materialise, Letitia will enjoy average health, but if the risk materialises she will end up in a very bad health condition in the worst case, or in merely significantly worse than average health in the less bad case. Letitia's potential condition can be treated, but doing so is very expensive and there is no public insurance covering the treatment[10].

Most readers probably agree that Maria does no wrong if she buys private insurance for Letitia against the health risk; or, absent an insurance scheme against this risk, if she places in a savings account enough money that can buy adequate treatment for Letitia, should the risk materialise. Indeed, Maria has a weighty moral reason to do one of these things.

Judgements may vary as to whether Maria has a duty or a mere permission to do this. If insuring Letitia came at a huge cost to Maria, perhaps the reason to insure does not amount to a duty. They can also vary with respect to the precise level of treatment for which Maria may insure

10 Here I assume that justice requires public insurance, covering treatment and replacement of at least some lost earnings.

Letitia: should the insurance cover what it takes to bring Letitia back to full health? Or only what it takes to give her a merely functional life? Further, some will think that it matters whether Maria can afford to ensure Letitia, and whether her bequest to Letitia would require Maria to use wealth that Maria holds in excess of her fair share.

Finally, one may think that it makes a difference whether Maria is Letitia's procreator, because procreating entails procreative duties of care, distinct from parental duties. By bringing Letitia into the world, Maria is morally responsible for having placed her in a situation where one of her health needs may go unmet. As an adoptive parent, Maria lacks at least one ground for such responsibility. Moreover, it is possible that she has already gone beyond the call of duty by providing Letitia with a home and a family, giving her a better childhood and better future prospects than she would have had, had she grown up in an orphanage. Alternatively, perhaps the adoptive parents' duty depends on how many would-be parents there are: if there are more of them than children in need of adoption, it could be that the level of duty owed to an adopted child is what the most resourceful would-be adoptive parent could permissibly bestow on her[11]. These variables can be thought to bear on the stringency and demandingness of the duties of care that Maria, *qua* adoptive parent, owes to Letitia. Against such considerations, one may think that adoptive parents always take on the full set of obligations of biological parents, for the sake of preserving equality between children. But realising the equality desiderata doesn't require that adoptive parents owe their children as much as non-procreative parents, if procreative parents retain certain duties post-adoption – a possibility allowed by this paper's argument.

Be this as it may, procreative duties of care are distinct from parental duties. Below I argue that procreative and non-procreative parents owe their children the same duty to show loving concern. Appeal to either procreative duties of care or parental loving concern is enough to explain

[11] As entailed by the view I defend in Anca Gheaus, "The Best Available Parent," *Ethics* 131 no.3 (2021):431-459.

non-procreative parents' permission to bequeath; both are worth exploring, since different readers might find only one of them persuasive.

If Maria may buy private insurance for Letitia, then parents who can expect their children to live in unjust circumstances of a kind I specify presently may also bequeath to them some wealth as insurance against similar misfortune. All parents in rich, but economically unjust, societies are like Maria: their children are always at (sometimes considerable) risk of significant harm for which they should not be held liable. Moreover, this is harm against which they have a claim to be protected – that is, it constitutes disadvantage.

Now consider a society characterised by structural unemployment, in which unemployment benefits are inadequate and/or run out after a while, and in which at least some essential goods such as adequate health care, housing, food and the material conditions of a decent social life must be privately purchased. In this society one can lead an adequate life only if one has something that the market rewards: lucrative talents plus good health, or property. Thus, everybody who is not independently wealthy depends on their private social network for the provision of material security: some because they lack talents or health, and the talented and healthy because they can lose these assets. An ability to maintain a private social network is itself an ability which some lack and anyone can non-culpably lose, for instance by becoming mentally ill. In these circumstances, people who aren't independently wealthy are always at risk of destitution – understood as inability to meet basic needs – no matter how prudently they behave.

It is possible that some liberal democracies are close to the model sketched above. Unemployment, a structural feature of capitalist societies, is predicted to increase due to developments in artificial intelligence[12]. For the employed, job insecurity has been on the rise, and some believe that it has been affecting most employees[13]. And in many existing societies those who

12 See, for example, Daron Acemoglu and Pascual Restrepo, "Robots and Jobs: Evidence from US Labor Markets," *Journal of Political Economy* 128 no.6 (2019):2188-2244.
13 For instance, in 2013, The Associated Press released a study according to which most Americans up to 60 experienced some form of economic insecurity in their lives, associated to either unemployment or poverty or

are not independently wealthy depend on a job for access to some or all of the following goods: an income that can provide for an adequate level of housing and food, including after retirement; adequate health care; social integration; and social recognition. Structural unemployment and widespread job insecurity means that, absent comprehensive institutional change, many individuals will continue to lead a precarious existence defined by risk in several basic dimensions of well-being. According to Guy Standing, there is a growing new social class of people, the so-called "precariat", suffering from long-term unemployment or holding jobs that are precarious in various ways (temporary work with high risk of redundancy, part-time work and "mini-jobs" without adequate pay and benefits, exploitative jobs, and so on)[14]. Women, youth, elderly individuals, ethnic minorities and disabled people are more likely members of this group, but almost nobody is immune to it. Importantly, being educated is no insurance against becoming part of the precariat and in fact many well-educated people are already part of it. The gradual erosion of the welfare state entrenches individuals' dependence on their private social network – but successful affiliation to such networks is itself not within the control of those who may need protection.

When jobs are precarious, and there is no public insurance for the satisfaction of weighty interests, most people are at the mercy of their good health, labour markets and fallback private social networks. The only ones who do *not* face unchosen risk of destitution are those who have some lifetime insurance for basic necessities. Destitution is a serious misfortune. Moreover, the mere *risk* of destitution is bad for most individuals: the prospect of becoming destitute can generate anxiety and encumber the desire and ability to plan one's life[15]. And perhaps being at unchosen risk of (wrongful) destitution is also bad in itself, if what matters for how well a person's life is going is not only how well-off that person is, but also whether it is within their control to avoid disadvantage in

dependency on welfare: Hope Yen, "Exclusive: 4 in 5 in US face near-poverty, no work," *The Associated Press*, July 29, 2013, https://apnews.com/general-news-79ad63da46674cfe8071d5245c086eb8.

14 Guy Standing, *The Precariat. The New Dangerous Class* (Bloomsbury Academic, 2011).

15 For how risk and insecurity contribute to disadvantage, see Jonathan Wolff and Avner de-Shalit, *Disadvantage* (Oxford: Oxford University Press, 2007).

the future[16]. Therefore, there is a weighty interest not to face (risk of) destitution, at least in reasonably prosperous circumstances in which it is possible to eradicate it. In circumstances like the above, then, it is easy to see that all parents are in the same normative situation towards their children as Maria is towards Letitia. Hence, they do no wrong if they insure their children against the risk of disadvantage through bequeathing some money earmarked to insure them against destitution.

A few clarifications of the main thesis are needed. First, parents usually live to see their children reach adulthood; the common view is that at that point they stop being liable to protect their children who, instead, become liable to insure themselves against risk[17]. Assume, for the sake of the argument, that this is true in just circumstances, where individuals control their fair share of resources and where there are adequate social insurance schemes against typical forms of destitution. Such conditions make it possible for all to be insured. But in unjust circumstances one's adult child will often not be in the position to insure themselves. Only when the adult child achieves sufficient financial success might the parental permission be suspended, and only in case self-insurance against risk is itself permissible in a just society. I don't assume such permission here, as it would require separate justification – by appeal, perhaps, to duties to oneself rather than parental and procreative duties. If there are permissions to insure both one's child and oneself, acting on them would, obviously, be even more detrimental to advancing justice, for all the reasons mentioned above.

Second, one might wonder whether, given the objectionability of bequests, parents should raise children in ways that lower the risk of destitution, to the extent to which such risk is itself a function of the child's (future adult's) conception of a good life. Children who avoid satisfying but risky professions, and who therefore are at lower risk of destitution, will use lesser inheritance on

16 *Ibid.*
17 But maybe parents are morally responsible for their children's propensity to make bad choices, such that parents ought to share in the liability for the consequences of these choices. I am grateful to Patrick Tomlin for this remark.

aggregate, hence freeing more of the bequeathed money for justice-advancing aims. Parents may not stunt their children's ambitions by encouraging them to choose lives that *maximally* isolate them from risks against which they would be insured in a just society. At the same time, injustice imposes some burdens on individuals. Being discouraged – for the sake of justice – from pursuing an optimally rewarding, yet very risky, profession is such a cost. Therefore, insofar as it is permissible for parents to affect their children's life plans, those who can insure their children should encourage them to avoid the risk of becoming destitute even if this involves some ambition-stunting that would be impermissible in just circumstances. Children whose parents are better-off than average are likely to also be better-off on average over the course of their lives; other things equal, they enjoy higher levels of advantage that other children: a more resourceful childhood and, given the developmental value of childhood, better future prospects. It seems fair that better-off individuals should pay a larger share of the costs of injustice than the worse-off. Hence, among parents who can insure their children, and other things equal, the well-off have at least one reason to raise more prudent children than the worse-off.[18]

Third, the best-supported claim is that parents are permitted to bequeath from their fair share of wealth, thus leaving out of the scope of my argument much real-life inheritance. But I favour, without being able to properly defend it here, the possibility that parents may also bequeath wealth that they have in excess of their fair share – henceforth "excess wealth" – as insurance for their children's claims of justice. One ought to divest oneself of excess wealth; if Letitia has a right to treatment, should her condition materialise, it is plausible that Maria may divest herself of her excess wealth in ways necessary to honour Letitia's right. Some will want to resist this possibility, by noting that a person who holds excess wealth due to structural injustice is not permitted to pass it on as a form of compensation to victims of injustice of her own choosing. Rather, all victims of injustice have a fair claim to that wealth; if so, Maria should direct her excess wealth to the state.

[18] I am grateful to an anonymous reviewer for helping me to engage with this issue.

Yet, in unjust societies it is very sensible to doubt whether one's money, once in the hands of the state, is likely to be spent on satisfying anybody's claims of justice. In such contexts, it is plausible that people have more latitude with respect to which potential victim of injustice they may favour than they would have in just circumstances. This last consideration, if correct, seems to entail a general permission to use one's money, and even what one has in excess of their fair share, to improve the circumstances of any (would-be) victim of injustice, and would thus yield a more general permission than the one with which I am concerned in this paper. Unlike this general permission, however, parents' permission is justified by appeal to their duties towards the child; therefore, they have stronger reasons to exercise their permission with respect to their children than with respect to other would-be victims of injustice.

Finally, there is a question about the amount of permissible bequest. In light of the arguments below, there are three categories of misfortune against which parents may insure, namely, to protect children from either: (a) coming to non-comparative harms; or (b) suffering shortfalls from what they would be entitled to in a just society; or (c) destitution, i.e. falling below the sufficiency threshold. The argument from procreators' duty of care picks out (a); the argument from parents' duty to show loving concern picks out (b). And both, I argue, pick out (c). These alternatives justify as permissible various levels of bequest. Yet, in unjust circumstances it is likely that even the most modest levels of justified bequest considerably contribute to the perpetuation of distributive injustice, because privately insuring against deprivation is likely to be much more expensive, *per capita*, than having universal insurance. If so, parents' permissible responses to unjust circumstances are wasteful and unavoidably perpetuate injustice.

The most threatening objection against this view is that, since the permission is grounded in a procreative and/or parental duty, it implausibly entails that parents may not direct the funds they use on inheritance to the state, to be fairly distributed according to justice. This is, indeed, a striking conclusion, only partly mitigated by the reasonable doubts that people who live in unjust societies may harbour about their states' willingness or ability to advance justice. For parents could, instead,

direct the money to non-state organisations that seek to benefit people who are already in dire need (unlike Letitia who is merely at risk), or, else, directly to the worst off. Doing so would not get around the arbitrariness problem just discussed, since it would not pick out victims of injustice using a fair procedure; but it would result in the money being used to alleviate the plight of people who have already come to hardship – and, if used globally, it would likely help more people. As it has already become clear, the arguments I advance entail that permissible parenting in unjust circumstances is itself in tension with improving justice. They can therefore be understood to give reason not to become a parent in unjust circumstances, since doing so attracts duties that limit one's permission to advance justice – a point which I refine in due course.

IV. The argument from procreators' duty of care

Procreation is morally hazardous. Bringing a child into the world exposes her to the risk of great misfortune, without the possibility of securing her consent. The disagreement as to when procreation is wrongful in virtue of these two features turns on one's understanding of harm. Comparative accounts say that one is harmed when made worse-off than one was before the putatively harmful event occurred, or than one would have been in its absence. On such accounts, procreation is wrongful only when the child's life is so bad that she would have been better-off not existing[19]. And if an individual cannot be wronged without being harmed, on this view the level of procreators' duty of care does not exceed giving the procreatee a life worth living.[20] Many rightly resist this view; according to a long philosophical tradition, and to common-sense morality, procreators owe their procreatees a lot more: something like the necessary conditions for reasonably good lives[21]. This later view is, I assume, highly intuitive, yet difficult to make sense of without

19 And under the straightforward assumption that non-existence is not bad for the non-existing individual.
20 For a defense of this level of procreative duty see Peter Vallentyne, "Equality and the Duties of Procreators," in *The moral and political status of children*, ed. David Archard and Colin Macleod, (New York: Oxford University Press, 2002).
21 Immanuel Kant thought that parents are under "an obligation to make the child content with his condition so far as they can." In *The Metaphysics of Morals* (Cambridge: Cambridge University Press, 1996), p.64. For John Stuart Mill, the obligation is to provide one's offspring with fair prospects; in *On Liberty and Other Writings*, (Cambridge: Cambridge University Press, 1989), p.108. See also Onora O'Neill, "Begetting, bearing and rearing,", in *Having children: Philosophical*

abandoning comparative accounts of harm. Several attempts have been made to defend a demanding procreative duty of care premised on the claim that bringing children into existence can result in harms to them even if their lives are worth living, where harm is understood in absolute rather than comparative terms. I outline two of these accounts, not because the success of my argument depends on endorsing either of them in detail, but to illustrate what kind of view can validate the intuitive common-sense belief about procreators' duty.

According to Seana Shiffrin, it is impermissible to non-consensually put someone at risk of non-comparative harms, unless doing so is necessary to avert even greater harms[22]. She understands harm as an absolute, i.e. non-comparative, condition – being in a harmed state, such as having a broken limb. If I break your arm trying to save you from drowning, when there is no gentler way to proceed, I harm but do not wrong you, because the breaking of your arm is necessary for me to rescue you from the greater harm of death. But I do wrong you if I non-consensually break your limb to impose on you a pure benefit, i.e. one that is not needed to spare you from non-comparative harm (for instance, because a sadistic neighbour would give you a huge fortune that you don't particularly need on condition that I do so). Assuming non-existence is not a harm, and that any life is rife with opportunities for non-comparative harms, permissible procreation requires procreators to protect their children from, or else compensate them for, the non-comparative harms of existence[23].

The details of this view hinge on further specification of non-comparative harms. Shiffrin herself thinks that "harm involves conditions that generate a significant chasm or conflict between one's will and one's experience, one's life more broadly understood, or one's circumstances.

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and Legal Reflections on Parenthood, ed. Onora O'Neill and William Ruddick (Oxford: Oxford University Press, 1979), 25-38; and David Archard, "The Obligations and Responsibilities of Parenthood," in *Procreation and Parenthood*, ed. David Archard and David Benatar, (Oxford: Oxford University Press, 2010),103–27.

22 Seana Shiffrin, "Wrongful life, procreative responsibility, and the significance of harm," *Legal Theory* 5, no.2 (1999), 117–148.

23 It is a bit of a mystery why Shiffrin's view stops short of anti-natalism, given that she also holds that there is an asymmetry between the normative relevance of harming and benefitting: while imposing non-consensual harms is morally prohibited, conferring pure benefits is not morally required. And so, the benefits of life cannot justify the non-consensual imposition of its harms (Singh 2018). Bringing someone into existence would not be the only non-consensual imposition of harm that can be permissible provided the harmed party is compensated. For discussion see, for instance, Nozick, *Anarchy, State and Utopia*, 57-87.

Although harms differ from one another in various ways, all have in common that they render agents or a significant or close aspect of their lived experience like that of an endurer as opposed to that of an active agent, genuinely engaged with her circumstances, who selects, or endorses and identifies with, the main components of her life."[24] The standard of permissible procreation, then, requires procreators to protect their procreatees from situations in which the latter's agency is significantly impaired[25], or else to compensate them for such misfortunes.

Shiffrin's specification of what constitutes non-comparative harm appears highly demanding. David Velleman sketched a less demanding view of procreators' duties which appeals to non-comparative harm[26]. He thinks that, to avoid harm, a human being must develop various abilities, the exercise of which allow the person in question to rise to the specific challenges of a human life. To have a flourishing life one must actively build it. To procreate, on this account, is to offer the risky gift of life, where the risk is that the child may fail to flourish. Since the gift is non-consensually bestowed, the procreator has a (non-alienable, says Velleman) duty to assist the child to rise to the challenge; refusing to do so is like throwing a non-swimmer into deep waters and then refusing to teach them to swim[27]. Velleman's interest is in the procreators' duties to equip children with the internal resources they need to perform the work required to flourish as a human. But such flourishing also has life-long material conditions; if procreators have a rescue duty in virtue of the nonconsensual imposition of risk on the person they brought into the world, they also have a duty to either control these material conditions to make them flourishing-friendly – for instance, create just public safety nets – or else equip the child with what it takes for her to flourish in adverse conditions.

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24 Shiffrin 199, 123.

25 A potentially serious problem visits Shiffrin's view (as well as Kant's – see note 21 above): one way of discharging the procreative duty is to successfully raise a stoic child, always content with his lot, and never prone to experiencing a conflict between his will and his experience. This seems too undemanding, and is indeed a ground to reject Shiffrin's specific understanding of what conditions are harmful.

26 David Velleman, "The Gift of Life", *Philosophy and Public Affairs* 36, no.3 (2008), 245-266.

27 He writes that "parents who throw a child into the predicament of human life have an obligation to lend the assistance it needs to cope with that predicament, by helping it to acquire the capacities whose exercise will enable it to flourish and whose lack would cause it to suffer. By choosing to create a child, perhaps even by choosing to have sex, adults take the chance of incurring this obligation. To risk incurring the obligation without intending to fulfill it is irresponsible; actually to incur it and then not to fulfill it is immoral" (*ibid.*, 251).

The general claim, then, is that by bringing children into the world one incurs duties to protect them from non-comparative harm. (The claim may be qualified by restricting its scope to voluntary procreators, or at least to those who could have avoided, at bearable cost to themselves, from engaging in procreation[28].) Avoiding non-comparative harms – whether as specified by Shiffrin or by Velleman – will likely take a lot more than shielding from destitution. It is of course possible that both Shiffrin's and Velleman's understandings of non-comparative harm are overly ambitious, and that procreators owe their children protection from, or compensation for, conditions less difficult to avoid; a theory more modest in the specification of non-comparative harm would be closer to the common-sense view that a procreator's duty of care concerns the necessary conditions for the procreatee's leading a reasonably good life. Any such theory, I submit, will require shielding from destitution.

Most importantly for the issue at hand, procreators' duty of care concerns the entire lifespan of the person they brought into the world. This last feature is rarely appreciated in the discussion on inheritance. Brighouse and Swift, who provide a complex account of permissible parental partiality and its limits by appeal to goods that can only be realised in the family[29], do not consider the possibility that a procreator's duty of care may extend beyond the procreatee's childhood[30]. This may explain why inheritance doesn't figure, on their view, as necessary for discharging this duty. Building on Brighouse and Swift, Pederson and Boyum conclude that "[a]t most parents may transfer what is necessary to discharge their duty of care, for instance in the case of expensive illnesses[31] and/or in the case of a parent dying before children reach maturity."[32] All this, I take it, is

28 But Velleman is explicit that all those who engage in sex that results in procreation, as well as gamete donors, fall under the remit of his account.
29 Brighouse and Swift, *Family Values*.
30 The reason is that Brighouse and Swift's account of the duties and permissions of parents brackets the relevance of procreation, because it is meant to apply equally to all types of parenting - procreative or not. And this is an intentional omission, since in their view the normative relevance of parenting does not depend on procreation. They admit that there may be other justifications for partiality than those flowing from parenting. Indeed, one such justification might be grounded in procreation.
31 Prefiguring the intuition-triggering device I use here.
32 Pederson and Boyum, "Inheritance and the Family," 303.

in line with the above-mentioned view that (procreative) parents lack a duty of care towards their grown-up children. But this cannot be true if procreators owe to their children protection from, or compensation for, non-comparative harms on grounds of having non-consensually imposed on them the risks of existence. Procreators remain liable for the non-comparative harms that their children incur in adulthood, since the fact that they are their procreators is not time-indexed. This is compatible with holding typical adults morally responsible for their conduct and hence with them being liable for some harms to themselves which they could have prevented through prudent behaviour[33]. But these liabilities do not include harms that they could *not* have prevented, like falling through the holes of a poorly functioning welfare net. The procreators' liability to their minor procreatees is not explained by the fact that the latter don't yet have the authority to decide about their life, just like the liability that adults typically incur when they harm another doesn't depend on the latter's degree of personal autonomy. Rather, the liability of those imposing the harms is explained by the fact that the harm was unjustified and unconsented-to. This can be true even if the harm is wrongfully imposed by other parties – e.g. if the failure to meet the basic needs of one's child is due to wrongful failure of the child's co-citizens to comply with the demands of justice. It is possible for several individuals to be morally responsible, and be liability, for one and the same wronging. If I take someone to a part of town that I know to be dangerous, without adequate reason and without their consent, I am morally liable to rectify the harms she may suffer even if she suffers them at the hands of a gang member, and not at my own hands. Some kinds of harm that we can incur merely by existing in unjust societies, like finding ourselves without help, through sheer misfortune, at a time of great need, are no more consensual whether they visit us at age 3 or at age 33. This means that (voluntary) procreators' duty of care is not time-indexed. One way to discharge it, and as far as I can see the only one to ensure that it will be discharged in social circumstances like

33 "Some" because non-prudent behaviours can be other-benefitting in ways that diminish or nullify the agent's liability to ensuing harm. For instance, supererogative acts such as rescuing others at great risk to oneself.

the ones described above, is to bequeath enough wealth as reasonable insurance against non-culpably incurred non-comparative harms.

This, no doubt, is a very imprecise measure, for two different reasons. The first is theory-dependent: the level of wealth needed as insurance against non-comparative harms depends on the specification of "non-comparative harm". On a view like Shiffrin's it may take a lot, since it may be very hard to avoid, or compensate for, conflicts between someone's will and their experience. Assume a person pursues a career where they develop their talents, based on the reasonable expectation that they will be able to make a living for themselves (and their own minor children), when bad luck strikes in the form of debilitating illness, and all their plans stand to be ruined. To prevent such ruin, they will need enough wealth to weather long years without earning a wage and requiring potentially very expensive treatments to restore them to the pre-misfortune condition, as well as living expenses for themselves and their own dependents. But even if "non-comparative harm" is understood more modestly, as the frustration of basic needs, and hence all that is owed to the procreatee is insurance against becoming destitute, discharging the duty can be very expensive indeed. This brings us to the second, empirical, way in which the measure of the procreators' duty of care is imprecise: The level of wealth needed to insure against destitution varies across social and economic contexts and can be quite high in rich yet very unequal capitalist societies.

Socio-economic conditions, then, partly determine how morally risky it is to engage in procreative parenthood. This is not surprising: how morally risky it is to push a non-swimmer into deep waters varies with the level of turbulence and with the availability of back-up solutions should that person fail to keep themselves afloat. The liabilities of procreating in circumstances where people cannot count on others to help their children out when the risks of non-comparative harm materialise are much higher than in societies that deliver at least on people's most basic claims of justice. Therefore, in the presence of an adequate welfare state, procreative parenthood entails

significantly lower moral risks than in its absence[34]. These considerations explain why appeal to procreators' duty of care is a particularly unpromising way to argue against abolishing inheritance: abolishing inheritance may be necessary to collect revenues which, once used to create public safety nets will considerably diminish the level of procreators' duty of care. All procreators have an interest not to fail in their duty of care, and hence most of them (all but the very rich) have more reason to welcome than to resist the collective provision of safety, as both more reliable – given price fluctuations – and cheaper – given economies of scale in the provision of goods such as housing, food or health care – than private insurance.

As anticipated above, one may wonder whether, on such a view, prospective procreators may at all engage in procreation if they are unable to afford, for their children, life-long insurance against non-comparative harms. Such restriction on procreative permissibility would affect many, given the amount of wealth required to bequeath enough to reasonably insure against non-culpably incurred misfortune. I cannot address this issue here, but I note a reason to retrain from blaming such procreators: one may be excused for imposing risk of harm on another person by appeal to how costly it would be to refrain from doing so, and to the fact that one is herself a victim of injustice. Even if this is correct, it is clear that (would-be) procreators have a powerful moral interest in a robust welfare state, without which much procreation may turn out to lack justification even if most of those engaged in it were not blameworthy. A stronger claim seems warranted: if insufficiently taxed inheritance generates significant and unfair inequalities and undermines democracy, and if the price of insuring against misfortunes is higher in very unequal societies than in egalitarian ones, prospective procreators have a special, and powerful, reason to support abolishing inheritance and use the revenues for realising justice including, most urgently, the creation of public safety nets[35].

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34 The same can be said about states' ability and willingness to prevent and contain violence. The state ought to ensure the meeting of basic needs as a prerequisite for guaranteeing citizens' liberties. The other prerequisite concerns the maintenance of public order and security (Rawls, *A Theory of Justice*, §16). I focus on the provision of material safety because this (still) is the major failing of economically advanced liberal democracies.

35 Halliday, *The Inheritance of Wealth* notes – without pursuing this any further – that we should be open to think about inheritance as a safety net, and that there is "something problematic about taxing away the private wealth even further. To put it crudely, inheritance might be helping to keep the middle class alive after an economic crisis that has robbed the

V. The argument from parental love

Parents, whether procreative or not, are fiduciaries for their children. They hold their children's wellbeing in trust, and therefore the vast and various parental powers are justified by appeal to children's interests[36]. Parents are under a duty to directly serve, or advocate for, those interests of their children that are weighty enough to be protected by rights,[37] and good parents certainly go beyond respecting their children's rights.

Children's wellbeing depends, in part, on the affective and volitional quality of their relationship with their parents. One of their weighty, right-protected, interests is to be the object of their parents' care and concern. Arguably, children have an interest in more than that, namely in a form of parental care that is robust and affectionate, in which the child's wellbeing is intimately intertwined with the parent's own wellbeing, and that is properly called "love". The interest is both in having parents who feel love for them and in their acting lovingly. There is no consensus on whether children have a right to be loved by their parents in this double sense, and I doubt that there can be such a right. But even while parents may lack a duty to *feel* love for their children[38], they do owe them loving treatment, which includes being motivated by a loving concern for their children's weighty interests. Such concern is not time-indexed: its object is the weighty interests of the child at all times. It is incoherent to love someone in this dispositional sense and be indifferent to

younger generation of private wealth and earning potential" (*ibid.*, 13). I agree that we should think of inheritance as a safety net that parents are required, or at least permitted, to provide in non-ideal circumstances. But I resist an interpretation according to which the potential of inheritance to provide a private safety net counts as a reason against its abolition with the aim of providing a public safety net.

36 This view has a long tradition going back to John Locke. As in the case of procreative duty, the alternative to this tradition is unpalatable: a proprietarian account of parental rights, according to which these are (partly) justified by appeal to parents' choices or interests. For a prominent recent formulation and defence of fiduciarism as the alternative to proprietarianism, see Brighouse and Swift *Family Values*. I defend fiduciarism in and Gheaus "The best available parent".

37 Parents are under the duty to serve some of their children's interests on various accounts of who are the primary duty-bearers with respect to children's entitlements, and, relatedly, on different accounts of how the burdens of child-rearing should be distributed. Any plausible view will say that parents, in virtue of their parental role, owe it to the child to satisfy those interests of the child that only a parent can satisfy (or that parents are, *qua* parents, best placed to satisfy.)

38 For arguments, see Brighouse and Swift *Family Values* and Anca Gheaus, "Love and Justice: A Paradox?", *Canadian Journal of Philosophy* 47 no.6 (2017):739-759.

their future fate. Since people have such a weighty interest in safety, loving children involves a concern for their safety, a concern that is not limited to what happens during their childhood.

To illustrate, recall Maria and Letitia. Suppose Maria finds out that Letitia can be protected from the disease that she is at risk to develop as an adult by taking a safe but very expensive vaccine before she turns fifteen. Maria's loving concern for her daughter provides a powerful reason to give her the vaccine; it isn't possible for Maria to be a loving mother without acting on this reason if she can. If she is a procreative parent, I have argued, she has a compensatory duty of care to give Letitia the vaccine even if she must pay for it herself. Now I claim that, as a parent, she ought to spend her money on the vaccine, because it is incompatible with loving Letitia not to act on a concern for her future weighty interests. Paying for Letitia's vaccine is that doing so makes Letitia better-off than other children who are in a similar situation and whose parents cannot, or will not, pay for the vaccine; also, given the positional value of health, the vaccine gives adult Letitia competitive advantage against the same individuals, and therefore disrupts fair equality of opportunity[39]. Yet, it is generally believed that protecting one's beloved from misfortune is permissible even when it comes at significant opportunity costs to others. For instance, one may rescue one's child rather than several strangers; and if a parent may decline to were to maximise his participation in justice-promoting, effective political activities to spend private time with their child. If Maria in the reformed example may pay for Letitia's vaccine, then Maria in the original example, where no vaccine is available, is also permitted to leave enough money to Letitia for the latter to pay for treatment in case her health risk eventuates.

Inheritance in unjust societies, where everybody is at significant risk of becoming a victim of injustice, can play the same role as Maria's savings for the treatment that Letitia might need in the future: parents are permitted to protect their children's weighty interests, out of the loving concern that is part of their parental duty, and which has as its object the child's lifetime wellbeing. To flesh

[39] But, as I argue in Gheaus "Equality of opportunity…," I don't believe that fair equality of opportunity is a plausible principle in highly unjust circumstances, like the ones considered here.

out this account of permissible partiality, these interests need to be identified. It is safe to assume that parents are permitted to insure their children *via* inheritance for those interests that should be satisfied if the children are not to become victims of injustice. The claim, then, is that parents are permitted to bequeath to their children some wealth as reasonable insurance for the enjoyment of their fair shares.

Maria's level of wealth is likely makes a difference to how the argument from parental love applied to her. Suppose that, despite her efforts to save for her daughter, Maria is not well-off enough to bequeath; then, appeal to parental love does not support an all things considered duty to insure Letitia, since there is nothing unloving in a failure to insure in such a case. (How badly-off should Maria be willing to make herself by paying for insurance to avoid running afoul of the demands of parental love? A very demanding view would say: as badly-off as Letitia would be if she didn't get insurance and the risk materialised.) What if Maria has wealth in excess of her fair share, of which she has a duty to divest herself, and that she could only act on her parental permission by using (some of) this money? It is not clear that this undermines her permission to benefit Letitia. For the reasons given above, it is plausible that one may, in general, divest oneself of excess wealth by using it to benefit (those who would otherwise be) victims of injustice. Then, an appeal to parental love serves as a tie breaker, making it the case that Maria does no wrong by benefitting Letitia rather than giving an equal chance to all (would-be) victims of injustice to benefit from her excess wealth.

VI Fair shares in unjust societies

It is far from trivial to determine the fair share of people who live in unjust societies at any given moment. A fair share refers to what one could expect to have if one were to in a just society. But is this the entitlement one would have if one was born in a society that had been just for a while and continued to be just throughout one's life? Or is one's fair share at a given moment the entitlement one would have if just distributive principles were to be applied at that moment to one's historically unjust society? Both answers are, at first blush, intuitive, yet they might pick out different

sets of entitlements. It is possible that societies that had been just for a good number of years would have, on aggregate, more resources – material and non-material – than unjust ones. They might be more successful in creating goods, especially public goods that greatly increase individuals' opportunities; for example, egalitarian societies might be richer in health-protecting resources, say in virtue of a more efficient allocation of medical services and better prevention, such as less stressful social environments – if high levels of economic competition and hierarchy of status and power aggravate stress[40]. Similarly, it is possible that just societies afford more discretionary time than unjust ones, thanks to shorter working hours and higher marginal productivity; or more opportunities to cultivate social connections, thanks to better infrastructure and a community-facilitating organisation of public spaces. If these, and other, resources were more plentiful in just circumstances, and none or not too many scarcer, then one's fair share in a society with a history of justice would include more resources than one would have if justice was to be implemented now. To take a final example, perhaps in an egalitarian society there would be enough decent jobs for everybody. In this case, in a just society everybody would be entitled to a non-competitive opportunity for a decent job. But it is far from clear that anyone has this entitlement in actual societies, where decent jobs are scarce and might remain so even if just redistribution was implemented now. If so, people who live in unjust circumstances cannot all concomitantly command the same resources that everybody would have in historically just circumstances, in case one's fair share in unjust circumstances amounts to roughly an equal part of the existing resources. Then, people who now enjoy all the benefits that one would, had one lived one's entire life in a just society, are likely to have more than their fair share. (It is, of course, also logically possible – though perhaps less plausible – that just societies would be *less* efficient in producing justice-relevant material and non-material goods, in which case one's roughly equal share of the existing resources could be higher than what one would have in a historically just society.)

40 See, for instance, Richard Wilkinson and Kate Pickett, *The Inner Level: How More Equal Societies Reduce Stress, Restore Sanity and Improve Everyone's Well Being* (London: Penguin, 2019).

How we establish the level of one's entitlements in unjust societies has direct bearing on identifying the scope of parents' permission to benefit their children: it is relevant to determining how much of the resources commanded by well-off parents are rightfully theirs, and the size of the benefit for which they may insure their child. I contend that, at most, people have justice entitlements to as much as they would if born in societies that had already achieved justice. This might set a very high threshold for the losses against which parents may permissibly insure their children. More plausibly, our fair shares at any moment consist in the benefits we would enjoy if existing societies were to implement justice at that moment, a likely lower standard.

These difficulties of specifying one's fair share speak for settling on a modest permission to insure one's children: not against having less than their fair share (which is so difficult to determine), nor against coming to non-comparative harm (which might be too expensive to cover) but merely against destitution. If so, all parents enjoy a permission to bequeath to their children enough wealth to insure them against a failure to meet basic needs at any point in their lives. As the discussion in the previous section indicates, even this can amount to a significant wealth transfer, and thus thwart efforts towards a radical egalitarian reform of inheritance.

VII. Conclusions

I argued that permissible parental partiality is grounded in a procreative duty of care and in a parental duty to treat one's child with loving concern. If correct, this means that the currently most prominent account of parental partiality, defended by Brighouse and Swift, should be expanded in two ways, both of which pertain to just as well as unjust circumstances. First, one element in their justification of permissible parental partiality appeals to adults' interest in parenting, namely in acting as fiduciaries for their children while they are children. But even if the relevant interest is restricted to being a fiduciary for one's child only during the latter's childhood, the content of the fiduciary duty can concern some interests of the future adult. This is the case of Maria's buying a vaccine that will protect Letitia only when she is an adult; it is also the case of

parents making an insurance fund for their children who grow up in unjust circumstances, fund that may only be used to protect them from destitution. Since loving concern is incompatible with indifference to future harm to the beloved, it, too, provides a weighty reason for Maria and other parents to act in this way. Second, Brighouse and Swift's account is restricted to parents' fiduciary duties, whereas a complete account should also include procreative duties as distinct from parental ones, assuming that most procreators raise their procreatees.

My view of parental partiality indicates that in unjust societies, and especially in societies with seriously deficient public safety nets, some level of inheritance is permissible which, on aggregate, can amount to a very significant wealth transfer. If so, parents face a moral quandary. They may not pursue, individually, egalitarian aims with the funds necessary to insure their children against destitution. Worse: the abolition of inheritance doesn't dissolve the parental duty to insure, unless such reforms come with reasonable guarantee that some of the revenue will be used to create adequate public safety nets.

One may find the interest of this paper's arguments to consist in how they support other conclusions. One, compatible with my thesis about inheritance as insurance, is that parental duties limit parents' general permission to advance justice. Another potential conclusion is that, if circumstances are sufficiently unjust, people ought to avoid procreation precisely to avoid incurring parental duties which will necessarily conflict with their permission to advance justice. It is hard to imagine that tensions between parental permissions and egalitarian justice can indicate that people should avoid non-procreative parenting; this would deprive already existing children of and constitute a great injustice in itself. But if one were to draw this, second, conclusion, they might also come to think that (non-procreative) parents should abide by a modified ideal of parental excellence, one that does not always require them to act on their loving concern for their children. Such a modification doesn't appear psychologically sustainable and might carry serious costs for children's wellbeing – that is, for all of us, since we are all children at some point. If the second conclusion is correct, it does not settle the question about the content of procreative duties incurred by people

who failed to refrain from bringing children into the world. Yet another, slightly less striking, conclusion, could be that people who want to parent are only permitted to do so in those parts of the world (if any) where their fair share of resources (difficult as it might be to establish their level) is enough to insure the child in the required way. I leave it to the reader to determine which (combination) of these claims is most compelling.[41]

The present analysis also explains why the legitimacy of egalitarian inheritance reforms is conditional on them being accompanied by policies that prioritise the immediate creation of adequate and reliable public safety nets. Absent this measure, parental resistance to change is not entirely unjustified.

41 Is there a way to avoid the tension between parental partiality and justice, such that these conclusions, as well as the paper's thesis, become unsupported? David O'Brien has recently considered the merits of avoiding the tension by excluding the economically well-off from parenting, in his "Children, Partiality, and Equality," *Journal of Ethics & Social Philosophy* 23 no1 (2022): 59-85. There are several reasons to resist this proposal. Some will want to reject it because it subordinates people's interest in parenting to fair equality of opportunity, which may be an excessive cost (see Brighouse and Swift *Family Values*). And in unjust societies in particular we may have little reason to uphold this principle, or so I argue in "Equality of opportunity for positions of advantage in unjust circumstances", *Oxford Studies in Political Philosophy*, forthcoming. Second, even the parental partiality of the worse-off is highly likely to disrupt equality – albeit to a lesser extent – given that different parents would continue to display different levels of ability, investment in childrearing and beneficial partiality towards them. I argue for this in Anca Gheaus, "What abolishing the family would not do," *Critical Review of International Social and Political Philosophy* 21, no. 3 (2018): 284-300.