

Against Hereditary Rights

By Rafe Blaufarb

How did the French Revolution, after abolishing privilege, also become the foundation of modern inequality? Thomas Piketty's latest book focuses on the evolving ideological constructions of property across the ages and offers ways to solve the problem of inequality without challenging to the individual right to private property.

About: Thomas Piketty, *Capital and Ideology*, The Belknap Press, 2020
(translated from the French by Arthur Goldhammer)

On August 4, 1789, the National Assembly abolished feudalism, the society of orders, and the system of privilege. Several weeks later, the deputies approved the Declaration of the Rights of Man and Citizen, which outlined a new type of social, political, and juridical order based on universal rights. Those rights—liberty, security, resistance to oppression, freedom of expression, etc.—pertained equally to all and promised the fullest possible civil liberty to each. But one of these rights—property—became the source of great and growing hereditary inequality.

How the “proprietary” order inaugurated in August 1789 became the foundation of modern inequality is the subject of Thomas Piketty's latest book. Historicist and legally-informed, it focuses on the evolving ideological constructions of property across the vast sweep of centuries, social forms, and continents. Despite the breathtaking scale of his work,

which takes the reader from the Indo-European ternary society to today's globalized hypercapitalism, Piketty has a keen eye for the telling detail. He places contingency at the center of his analysis, giving much attention to the "bifurcations" where things might have developed differently. He also emphasizes the historical "evolution of ideas" (p. 149) that offer the critic intellectual materials with which to challenge the crying inequities of today's hyperpropriétarisme. These inequities, he finds, have increased enormously since 1789. Within several decades of the Night of August 4th and the Declaration of Rights, material inequality had already reached levels greater than those known under the Old Regime, when tiny elites of privileged clergy and nobles had already owned the bulk of French soil. 1789 had unwittingly birthed a monster. The unapologetically propriétariste regimes that followed, from Napoleon through the Third Republic, consolidated and intensified the reign of property. Indeed, it was on the strength of this program that the social divisions unleashed by the political revolution of 1789 and industrial revolution of the nineteenth century were eventually brought under control and a new elite consensus forged.

After the Second World War, the rise of European social democracy significantly slowed the growth of inequality, but Piketty concludes that its solutions were inadequate. By the 1980s, the revival of proprietarist ideology, which he terms "neoproprietarianism" or "exacerbated proprietarianism," began to drive inequality to the unprecedented heights we now see today. Making matters worse, the institutions of education and citizenship (which he approaches more broadly as the problem of defining the frontiers of the community) that had been intended to help realize the promise of legal equality and civil liberty, now serve to perpetuate privilege and social exclusion. Recent events in the United States demonstrate that health care and policing might well be added to the list of institutions involved in the perpetuation of inequality.

What Went Wrong with Private Property

It was not supposed to be this way. This was not what the revolutionaries had intended. Piketty fully appreciates that the proprietarianism of 1789 had a genuine "emancipatory dimension" (p.120) promising "individual emancipation through property rights, which are supposedly open to anyone, (...) without regard to social or family origin." (p.120) Piketty embraces this vision. For him, the ideal society would not only recognize that the "individual differences with respect to both projects and aspirations are legitimate," but also acknowledge that private property, "correctly regulated and limited," is essential to allowing "the diversity of aspirations, knowledge, talent, skills that constitute the wealth of humankind," to flourish (p.594) He has no illusions about social levelling, nor about Soviet-style collectivization (whose stifling of "the diversity of individual aspirations," he explicitly characterizes as a tragedy) (p.153). Rather, like the revolutionary deputies, his goal is a "just

inequality” (p.969)—an inequality based on truly equal access to rights, education, professional opportunity, self-realization, and, yes, even private property. His ultimate aim is what the deputy Pierre-Louis Roederer believed to have been the fundamental goal of the Revolution of 1789—“the equality of rights which enables people to aspire to all that society can offer”.¹

It did not take very long for certain revolutionaries to realize that inequalities of wealth were subverting this ideal. In his famous speech of April 24, 1793, Robespierre denounced “the extreme disproportion of fortunes” as “the source of many evils and many crimes,” at the same time as he rejected the “chimera” of “the equality of property.” He concluded by urging his colleagues to prevent the property rights of one citizen from impinging upon the rights of others, as promised by the fourth article of the Declaration. But his words fell on deaf ears. There was, however, one domain in which the revolutionary legislatures took significant steps to equalize property rights. This was in the area of inheritance. They passed a series of restrictive testamentary laws that ultimately mandated absolutely equal inheritance between all the children of a family irrespective of age or gender. Although the Napoleonic Code returned to parents a degree of discretion over the post-mortem disposition of their goods, it remained largely faithful to the republican spirit of equal inheritance. Even today in civil law countries, a substantial portion of the inheritance is still divided equally between the children. This tendency toward equal division marks a sharp contrast with the legal systems of the English common-law tradition which grant parents virtually unlimited testamentary authority. As Piketty demonstrates statistically, these countries, the United States and Great Britain en tête, have higher levels of inequality than their continental counterparts.

The French revolutionaries’ commitment to egalitarian inheritance reveals their keen awareness of how the transmission of wealth across the generations locks in patterns of social inequality. But their intra-familial approach, while beneficial for younger sons and daughters, failed to address growing inequality between families. This failure contributed mightily to the rise in wealth inequality from the nineteenth century to the present.

Although he does not state it explicitly, Piketty implicitly identifies the hereditary transmission of property – and the hereditary principle more generally—as a key factor in the perpetuation and growth of inequality. The institutions he identifies as the main sources of our current inequality—property, access to education, and the rights attached to membership in the political community—all partake of hereditary transmission. And some of the qualifiers Piketty uses in his analysis suggest that it is, in fact, the hereditary implementation of certain rights, rather than the rights themselves, that he sees as problematic. Thus, he denounces the “property rights established *in the past*” (p.150, my emphasis) rather than the right of property per se. He deplores neoproprietarism’s “logic of *endless* accumulation” (p.265, my emphasis) rather than accumulation tout court. Similarly, his condemnation of how the

¹ Roederer, *The Spirit of Revolution of 1789 and Other Writings on the Revolutionary Epoch*, 1989, Scolar Press [1831], p.6

“meritocratic hypocrisy” (p.712) of the educational system serves to reproduce social privilege generation after generation reveals what he really aspires to: a frank meritocracy, one grounded in truly equal access for each individual to the same educational opportunities. Piketty embraces the rights proclaimed in the Declaration of Rights; his criticisms concern the way they have been perverted through hereditary implementation.

His book will surely face criticism from various angles, but its author cannot be accused of infidelity to the principles of 1789. On the contrary, his subtle critique of the hereditary germ that infected them reveals him to be a stauncher defender of those principles than many of those who sat in the National Assembly.

It is indeed hard to see how the spirit of 1789 and the text of the Declaration can be reconciled with the hereditary manner in which its article on property (art.17) has been implemented. The entire thrust of the document is individualistic. Indeed, the very act of adopting such a text was the cry of a generation emancipating itself from the traditions and strictures of its forebears. It was a direct rejection of the notion that a nation’s rights were, in the ur-conservative Edmund Burke’s words, an “entailed inheritance” that succeeding generations were required to venerate and uphold. The sense that the present cannot be enchained by the past, that each new generation is free to revise both the Declaration and the Constitution according to its own lights, was widespread in 1789. Words to that effect appeared in dozens of *cahiers de doléances*, as well as various draft declarations of rights, including those penned by Condorcet and Brissot. Not a single right in the version ultimately adopted in August 1789 was declared to be hereditary. Even the right of property, although proclaimed “sacred and inviolable,” was nowhere pronounced inheritable. But in practice—more by habit, convention, and interest than by law—the hereditary principle tacitly survived in the right of property, thus maintaining a germ of aristocracy at the heart of the New Regime.

Back to the Spirit of 1789

Piketty’s method for solving the problem of inequality is not to challenge the right of private property itself, but rather to eliminate or mitigate the hereditary principle that has warped its application and turned wealth into a mechanism of permanent, trans-generational superiority and exclusion, into a transmissible *titre de noblesse*. Piketty’s first prescription, “a progressive tax on wealth” would finance his second recommendation, the creation of a “*universal capital endowment for each young adult*.” (p. 494) These two innovations would impede the formation of hereditary fortunes and stimulate the constant circulation of wealth. Each new generation would start from an equal playing field without restricting individual economic liberty or abolishing free enterprise. For Piketty, a person should be allowed to

accumulate considerable wealth, but part of that wealth should be returned to the community at that generation's passing (...) who thus get(s) a fresh start in life" (p.972). The result would be a new kind of property, which Piketty variously terms "*temporary private ownership*" or "*just ownership*." But the deputies of 1789 might well have called it "*meritocratic ownership*" because it would be purely individual— that is, based on an equality of initial resources, acquired purely through individual effort, and only transmissible to one's offspring in a severely attenuated form.² Whatever its name, it would be a property more in line with the principles of 1789 than today's hereditary property.

While "*just*" is at the center of Piketty's prescription for change, he also believes it necessary to reform two other institutions—education and the frontier of the political community—to achieve a better world. As with property, the thrust of his prescription is to replace the hereditary aspects of those institutions with equal access for all individuals. In the realm of education, which he rightly considers a mechanism central to the perpetuation of elite dynasties, he would provide absolutely equal funding for each student to achieve "*educational justice*." (p.1007). Those who completed the most extensive course of studies would exhaust their allocation, while those who finished their schooling earlier would be allowed to keep the money they had not spent on further education as "*additional inheritance*" (p.1009) with which to help start their adult lives.

As for the problem of defining the boundaries of the community, Piketty argues for the creation of political structures to transcend the nation state and transform citizenship from a particularistic, hereditary privilege ("an entailed inheritance derived to us from our forefathers, and to be transmitted to our posterity," per Burke) into a common resource of humankind. Exactly what this "*transnational democratic space*" (p.898) would look like and how it would work are a bit vague, as the author himself freely admits, but the thrust of the appeal is clear: to take the *natus* (to be born) out of nation. Universal human rights would take the place of the particularistic, exclusive, and exclusionary rights of national citizenship.

From this combination of "*just ownership*," "*educational justice*," and "*a just border system*" would arise "*a just society*." (p.968) What would it look like? To Piketty the last word:

A just society is one that allows all of its members access to the widest possible range of fundamental goods. Fundamental goods include education, health, the right to vote, and more generally to participate as fully as possible in the various forms of social, cultural,

2 Some nineteenth-century socialists, starting with the Saint-Simonians, believed that the abolition of the right of inheritance was the key to creating a just society. The proposition was ultimately put before the Basle Congress of the First International in 1869, where Bakunin championed the idea as the means to achieve "economic, social, and political equality in the world." But Marx tartly (and, in my opinion, prematurely) dismissed the proposition, claiming that the right of inheritance was nothing more than a superstructural, juridical artefact that would fall when property itself was abolished. The Congress failed to reach consensus on the question. Mikhail Bakunin, "Report of the Committee on the Question of the Right of Inheritance" (September 1869).

economic, civic, and political life. A just society organizes socioeconomic relations, property rights, and the distribution of income and wealth in such a way as to allow its least advantaged members to enjoy the highest possible life conditions. A just society in no way requires absolute uniformity or equality. To the extent that income and wealth inequalities are the result of different aspirations and distinct life choices or permit improvement of the standard of living and expansion of the opportunities available to the disadvantaged, they may be considered just. ” (p. 967-8)

Above all, “equality of access to fundamental goods must be absolute” (p.968). This is nothing more nor less than return to the spirit of 1789—the legal equality of Roederer that leads to the civil liberty of Benjamin Constant (which allows to “to develop our powers as we see fit, without harming anyone”)—and implement it fully. The reforms Piketty outlines would seek to do this by going back to the fatal bifurcation of 1789—the unspoken, perhaps even unconscious, insinuation of the hereditary principle into the institutional embodiment of the right of property—and start down the path that was not taken, the path of truly individual rights.

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