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Trust and Estate Planning: The Emergence of a Profession and Its Contribution to Socioeconomic Inequality¹

Brooke Harrington²

This article offers a new perspective on the connection between socioeconomic inequality and occupations by examining the impact of trust and estate planners on global wealth stratification. While many studies treat the professions as mirrors of inequalities in their environments, this article looks at the ways professionals participate in the creation of stratification regimes. Trust and estate planners do this by sheltering their clients' assets from taxation, thereby preserving private wealth for future generations. Using tools such as trusts, offshore banks, and shell corporations, these professionals keep a significant portion of the world's private wealth beyond the reach of the state. Trust and estate planning thus contributes to creating and maintaining socioeconomic inequality on a global scale. The significance of the profession has grown as wealth itself has become more fungible, spurring innovation in legal, organizational, and financial strategies, and thwarting a myriad of laws and policies designed to limit enduring inequality in modern, democratic societies.

KEYWORDS: elites; family economics; inequality; professions; stratification; wealth.

INTRODUCTION

The goal of this article is to show how one occupation's professional project contributes to larger patterns of socioeconomic stratification. This is distinct from other recent research that examines how certain professions reproduce their own status privileges through credentialing, lobbying for legal protections, and other forms of boundary enforcement (Abel, 1991; Heinz and Laumann, 1994). Although some studies acknowledge the effects of professional activity on stratification outside the professions (Larson, 1977), the focus of most research in this area remains internal—on the careers, families, and institutions of particular professional groups. This article shifts attention

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to include more of the *external* impact of professional work, particularly in the reproduction of systemic inequalities that reach far beyond individual professions. That is, the present study is concerned with the effect of professions on the “institutional design of the larger social order” (Sciulli, 2008:34). Through their deployment of expert knowledge, some professions affect not only the status and resources of their members, but also shape opportunity structures and stratification at the macro-social level of analysis.

Trust and estate planning is one such profession, in that it consists of helping wealthy people shield their fortunes from taxation and regulation, and then transfer assets across multiple generations, creating enduring clusters of socioeconomic privilege. Following Abbott’s (1988) call to examine the professions within an environment of interacting, transprofessional forces, this article shows that trust and estate planning has contributed at multiple levels to enduring inequality worldwide, from building individual family fortunes to the creation of broader class institutions such as trust funds and charitable foundations. Through these means, trust and estate planners have been instrumental in freeing some fortunate individuals—the heirs to dynastic fortunes—from the necessity of working for money, giving them what Veblen called an “industrial exemption” (1994). In other words, the work of trust and estate planners has made the “leisure class” possible, and thus contributes to contemporary patterns of wealth inequality.

By helping concentrate wealth in the hands of their clients, these professionals have contributed to the development of a tiny global elite, including the 103,000 people known as Ultra-High-Net-Worth Individuals (UHNWIs)—defined as those with at least US\$30 million in investable assets—and the 10.9 million High-Net-Worth Individuals (HNWIs), with US\$1 million or more in investable assets (Cap-Gemini, 2011:7). These individuals make up less than 1% of the world’s population, but control about 40% of its wealth (Davies et al., 2008). Preventing the dissipation of that wealth—a phenomenon so common that variations of the saying “shirtsleeves to shirtsleeves in three generations” are found in multiple languages and cultures around the world (Hughes, 2004:3)—usually requires the help of trust and estate planners. These professionals coordinate teams of lawyers, bankers, tax experts, and investment advisors to preserve clients’ wealth and pass it along to the next generation with minimal intervention by tax and regulatory authorities (Palan et al., 2010; Parkinson, 2008).

By asserting that the current landscape of global stratification owes much to the rise and activities of trust and estate planning, this article seeks to expand the theoretical model linking professions to inequality. In contrast to research that examines the way professional work is “a mirror of social forces” (Auerbach, 1977:12), this study will investigate how some occupations actively and intentionally construct socioeconomic systems as part of their professional project. The work of trust and estate planners does not just reflect the status quo in global wealth inequality; rather, it actually creates the legal and organizational structures that transform one generation’s accumulated

wealth into dynastic privilege. This profession's legal, organizational, and financial expertise gives it a "crucial" and "absolutely irreplaceable" (Palan et al., 2010:12) role in the creation and maintenance of stratification regimes worldwide.

Existing research on wealth and inequality has only hinted at the impact of trust and estate planners. This lack of scholarly attention can be attributed to at least two sources. The first is the secrecy surrounding the profession: a major component of its task is to "obscure concentrations of economic power, which arouse alarm, suspicion and public odium" (Gadhoum et al., 2005:342). Trust and estate planners accomplish this not only by creating structures, like trusts, which conceal the amount and ownership of assets (Chester, 1982; Sharman, 2006), but through a code of professional conduct that enshrines client confidentiality as one of its core principles (STEP, 2009). Keeping a low profile publicly, while exercising power behind the scenes, through financial innovation and legal lobbying, is essential to the effectiveness of trust and estate professionals (Palan et al., 2010).

A second reason for the dearth of research on this group has been its relatively recent emergence as a profession. Historically, wealth management and the transfer of assets across generations—two of the tasks most commonly undertaken by trust and estate planners—have been handled internally within families, or by trusted friends and business associates who worked *gratis* or for minimal compensation. Trust and estate planners only began to take the initial steps toward recognition as a professional group in the mid-nineteenth century, as a result of legal and economic changes, primarily in the United States. The group's only professional association—the Society of Trust and Estate Practitioners, known as STEP—was not established until 1991.³ However, expansion has been rapid in the past 20 years, building up to a membership over 17,000 individuals in 78 countries, growing at a rate of approximately 1,000 new members per year.⁴

The rapid rise of trust and estate planners as a professional group coincides with an equally dramatic rise in wealth-based stratification since the 1980s (Oliver and Shapiro, 1995). At least one sociologist has suggested that increasing inequality can be attributed causally to the work of trust and estate planners: "Trusteeing of wealth ... has led to increased concentration of wealth" (Chester, 1982:128). Others have made the link indirectly, pointing to trust and estate planners' role in helping their clients avoid billions in tax payments (Levin, 2003; Palan et al., 2010). This raises the central question of the present study: *What can the rise of the trust and estate planning profession tell us about the way wealth stratification is created and maintained, despite the many laws and policies designed to thwart enduring inequality?*

³ There is one related professional group—ACTEC, the American Council of Trust and Estate Counsel—founded in 1949, but its membership and purpose are far more restricted than STEP's, since it represents only lawyers in North America. In consequence, its membership base includes just 2,600 individuals.

⁴ Details on STEP history and membership from <http://www.step.org/>.

In explaining patterns of resource distribution in societies, the “challenge is to ascertain *who* makes things endure and *how*” (Clignet, 1992:29, emphasis in original). These “who” and “how” questions point back to the professions, particularly in the U.S. case, because socioeconomic stratification stabilized around the same time as trust and estate planning began to professionalize. Within a decade of the Declaration of Independence, many traditions that had perpetuated wealth concentration in Europe—such as entail and primogeniture⁵—were abolished. Yet despite these measures, and the later introduction of inheritance and income taxes, inequality in the United States has remained remarkably stable since the 1800s, with 1% of the population controlling roughly 40% of the nation’s wealth (Keister, 2005). In this empirical setting, the processes of professionalization and stratification are deeply entangled (Hansen and Movahedi, 2010).

To examine this relationship further, the present study will review the literatures on inequality, the professions, and the law from disciplines including sociology, anthropology, and economics. A guiding motif will be the observation that there is nothing natural or inevitable about dynastic wealth and the inequalities it engenders. Instead, as anthropologist Annette Weiner writes: “The reproduction of social relations is never automatic, but demands work, resources [and] energy” (1992:4). Thus, this article will assert that the work of trust and estate planners is essential to the maintenance of a particular set of socioeconomic relations, through expert control over structures that concentrate power, status, money, and other resources in the hands of their clients. The dearth of previous research on trust and estate planners, as well as the secrecy surrounding the profession, mean that data are limited. By reviewing the historical and archival materials currently available, this article seeks not only to enlarge the theoretical model linking professions and stratification, but to advance scholarly awareness of trust and estate planning and create a basis for future empirical research.

TRUST AND ESTATE PLANNING AS A PROFESSION

In some respects, trust and estate planners are best described as the architects of wealth. That is, they design and oversee the construction of legal and organizational structures that contain assets; these designs are developed in consultation with clients, according to the needs of the users. The structures often serve multiple ends, including tax reduction, investment, avoidance of regulation, control of a family business, directing the inheritance of assets,

⁵ Entail is a restricted form of land ownership that prohibits sale or mortgaging of land as a condition of inheriting it; the heir to entailed land was thus more of a life tenant than an owner in the full sense of the term. Entail also limited possession of the land to specific people—usually the lineal descendants of the person who entailed the land in the first place. Among the lineal descendants, inheritance was often further restricted to the eldest male of the family; a practice known as primogeniture. See Beckert (2007a) for further discussion of these customs.

investment, and charitable giving. Legally binding documents, such as a will or a trust instrument, serve as the “blueprints” for these structures.

Unlike architects, trust and estate planners also maintain the structures they create. As laws, financial conditions, and political climates change, so do the strategies needed to manage clients’ assets. Keeping up with these multiple dimensions of expertise requires a complex skill set; this is why many wealthy people who have made or inherited fortunes find it impractical to manage the assets themselves. Instead, they hire trust and estate practitioners who “must therefore be part lawyer, part tax adviser, part accountant and part investment adviser rolled into one” (Parkinson, 2008:20). In practice, even experienced trust and estate planners do not master the necessary expertise in the laws, tax regimes, accounting practices, and investment opportunities of multiple countries. Instead, they assemble and coordinate a team of experts in each field of knowledge to serve as advisors. Thus, STEP’s educational materials counsel that a trust and estate planner “ought not to go so far as to *give* legal, tax or investment advice. Rather, he has to *understand* the advice that he is given. The distinction is fundamental” (Parkinson, 2008:20, emphasis in original). In this sense, trust and estate planners are more like general contractors than architects: responsible for executing the client’s strategic plan, but relying on a team of “subcontractors” for highly specialized parts of the job.

This raises the question: Are trust and estate planners professionals? The question itself is problematic because the defining features of professions are a matter of some controversy (Abbott, 1988; Sciulli, 2008). But among the competing claims, there are a number of important commonalities. For example, Macdonald’s (1995:32) summary of the intellectual terrain in the sociology of the professions includes the following shared features:

1. Professions are expert occupations that pursue their projects simultaneously in the economic and social orders, with the goal of obtaining high levels of pay and privilege for members.
2. They make strategic use of higher education, credentialing, and the ideology of meritocracy to promote social closure.
3. They have a special relationship with the state, with the profession often receiving a legal monopoly on the provision of certain services in return for submitting to regulation.

To this short list might be added a few other characteristics often linked to the professions.

4. They organize associations that enshrine a code of professional ethics (Larson, 1977; Roberts and Dietrich, 1999; Wilensky, 1964).
5. They compete with other occupational groups for jurisdiction over certain kinds of tasks and social problems (Abbott, 1988; Bechky, 2003; Seabrooke, 2011).

In these terms, trust and estate planning is an emergent profession. It is certainly characterized by expertise, high pay and status, a special relationship

with the state, and the formation of a professional association with a code of ethics. However, because its claims as a distinct profession are relatively new, it has not yet established a firm foothold in higher education or achieved recognition for its jurisdictional boundaries. Each of these points will be addressed in more detail below, following a brief review of the history and pragmatics of trust and estate planning.

Trust and Estate Planning in Historical Perspective

That the professionalization of trust and estate planning remains incomplete owes something to the changing nature of wealth itself. Historically, land ownership has been the primary source of great fortunes globally; this remains true in many parts of the world at the present time, particularly in Asia and Latin America (Cap-Gemini, 2011). Maintaining and growing land-based wealth could be achieved without the intervention of professionals, through practices such as intermarriage and primogeniture. In cases where those strategies were unavailable or impractical—such as when knights of medieval Europe departed for the Crusades, leaving their lands vulnerable to seizure by the church, the state, or rival noblemen—some adopted the practice of putting their assets in trust. This involved transferring legal ownership of the property to a trusted kinsman or friend for the benefit of a third party: usually the wife and children of the original owner, who had no legal standing to own property themselves and were thus left vulnerable to dispossession. This separation of legal ownership from beneficial use of property was a matter of custom, but not legally enforceable until the invention of chancery courts (Friedman, 2009). In the intervening centuries, anyone who put a property into trust “had to depend on literal trust and community opinion to ensure that the trustees discharged their duties” (Marcus, 1983:231). Perhaps surprisingly, this voluntary system worked well enough to preserve many great fortunes in Europe and North America without the aid of professionals until well into the nineteenth century.

The professionalization of trust and estate planning began ostensibly with the *Harvard College vs. Amory* decision of 1830, in which the Supreme Court of Massachusetts first acknowledged trustees as a professional class (Friedman, 2009). The timing and location of this event are not coincidental: the U.S. Northeast, unlike Great Britain and continental Europe, had no history of land being tied up for generations in the hands of hereditary nobility or by plantation farming. Instead, the region grew wealthy through whaling, as well as through the global trade in textiles, rum, and slaves. These businesses generated a huge profit, and with it, the need for advice on the disposition of cash reserves greater than most families could spend in a generation. Wealth became “an abstraction that constantly changes its form and is dependent on a coordinating human intermediary to perform these transformations” (Marcus and Hall, 1992:57). In other words, the profession of trust and estate

planning emerged concurrently with the transformation of capitalism itself. As wealth took on new forms, moving from material property to merchant capital, the need for expert assistance in managing wealth increased as well.

A second catalyst for the professionalization of trust and estate planning was the development of offshore finance and the loosening of international currency restrictions in the 1970s and 1980s (Palan et al., 2010). These changes released many of the limits on the cross-border flow of capital. From a financial point of view, the boundaries of the nation-state became much more permeable, freeing wealthy families and individuals to “shop around” for the most favorable tax, regulatory, and political conditions for their assets. These conditions continue to change as states compete to attract private wealth to their jurisdictions. This makes finding the best bargain a complex task—one that is often outsourced to professionals like trust and estate planners. They are charged with deciding what kinds of legal, organizational, and financial structures are best suited to contain assets—structures such as trust funds, charitable foundations, or corporations—and where to base those assets geographically. These decisions depend both on the type of assets in question (such as a yacht, an art collection, or a stock portfolio) as well as on the goals of the client, which might include preserving wealth for future generations, protecting assets from seizure by another government, or reducing tax obligations.

Pay and Privilege

Perhaps surprisingly, given the wide range of skills required of trust and estate planners, annual salaries appear—from the limited data available—to hover in the low six figures, in terms of U.S. dollars. Many public job advertisements in this field, such as those available through STEP’s website or through the financial industry recruitment firm AP Executive, list no salary information, instead describing the compensation as “excellent” or “to be discussed.” Of those that do provide salary figures, one recent advertisement for the director of wealth management for a client described as a Geneva-based “UUHNWI” (Ultra-Ultra High Net Worth Individual) offered a range of US\$250,000 to US\$350,000 per annum for a candidate with the following qualifications: at least 20 years’ experience in the wealth management business, a TEP credential (see below), and the ability to serve as liaison between a multinational family and its team of advisors, and “exceptional diplomatic skills to ensure pristine coordination of very important people and their agendas.” Concurrently, a private bank in Zurich offered US\$200,000 per annum for a multilingual trust manager with at least 10 years’ experience, to “administrate from A to Z a complex portfolio of structures such as trusts, companies and foundations, dealing directly with clients.” (See Appendix for the full text of these advertisements.)

These salaries are roughly two to three times the median of \$103,411 for Americans with a professional degree (Julian and Kominski, 2011:3), but seem

almost modest when considered against the human capital requirements for the job and the compensation packages offered for similar levels of experience and skills elsewhere in the financial services industry. For example, the base salary for a managing director at Goldman Sachs is US\$500,000; at Morgan Stanley and Credit Suisse, the base salary is US\$400,000 (Story, 2011). These figures do not include annual bonuses, which average \$500,000 in many Wall Street firms (Story and Dash, 2009). Salaries for trust and estate planners may remain lower than financial industry norms in part due to increasing pressures by wealthy clients to reduce fees (Cap-Gemini, 2011), as well as unstated privileges associated with this professional specialty. For instance, many trust and estate planners work a 40-hour week, which is quite low compared to many professionals, particularly those in finance (Oyer, 2008); furthermore, for those based in low- or nil-tax jurisdictions, like Switzerland and offshore locations, their net and gross incomes are essentially equivalent.

Credentialing and Higher Education

Because most of those who practice trust and estate planning are also members of other professions, STEP has developed a credential—called the TEP, for Trust and Estate Practitioner—to designate those specializing in services to wealthy clients. While there are other accreditations available for wealth management, none are as widely held or as widely recognized as the TEP. This is in part because many of the other credentialing programs are offered by firms rather than professional societies, and are open only to those who already hold law or accounting degrees.⁶ The for-profit status of the credentialing organizations may create the perception that the credential has been bought rather than earned, and lacks meaningful content—particularly because the course material is usually offered in online, self-study format, as opposed to face-to-face classroom education.

STEP is unique in seeking members from a diverse range of backgrounds and locations; between the scope of its membership and its success in political activism, its credential has become the one most often mentioned in employment advertisements for trust and estate planners. Because its courses are offered in face-to-face classroom format, and are backed by the professional society, the TEP credential may enjoy greater legitimacy in the labor market. At present, the TEP credential is offered through a series of five week-long seminars geared toward practicing trust and estate planners; credit is offered for work experience. STEP members who have passed the qualifying exams

⁶ Credentials that seek to cover similar intellectual territory as the TEP certificate include: the Accredited Wealth Management Adviser, offered by the College for Financial Planning; the Certified Estate and Trust Specialist, offered by the Institute of Business and Finance; and the Chartered Trust and Estate Planner, offered by the American Academy of Financial Management. More information on credentials available in wealth management can be found on the website of the U.S. Financial Industry Regulatory Authority (FINRA) at <http://apps.finra.org/DataDirectory/1/prodesignations.aspx>.

for the TEP certificate are encouraged to use it on their CVs, business cards, and other professional documents in the same ways that others use the letters CPA or MD after their names.

The connections between higher education and the trust and estate planning profession are still developing. While professional knowledge is distinctively “centered in and allied with the modern university” (Larson, 1977:50), trust and estate planning is only just beginning to establish formal degree programs to complement (or possibly subsume) the myriad of postgraduate credentials available to practitioners. To be sure, law schools have offered individual classes on trusts and estates for decades. But it was only in the fall of 2011 that a university degree program devoted to the subject opened to enrolment: the BSc in Management in Trusts and Estates, developed as a joint project between STEP and the University of Manchester. The first degree will be conferred in the spring of 2013, and with it, an enhanced level of professionalization and public legitimacy for trust and estate planning.⁷

Relationship to the State

In recent years, STEP has begun to take a visible and active role in the legislative process. In the United Kingdom, for example, STEP has been working with lawmakers to restrict the right to draft wills to a small group of professionals, including their own members (Devine, 2011).

They are also active lobbyists in offshore jurisdictions, where individual trust and estate planners regularly cooperate with elected officials to draft financial laws (Palan et al., 2010). On the global front, trust and estate planners have been key players in the struggle tax havens have waged against blacklisting by the OECD; STEP members crafted much of the rhetoric that won the battle of words, ultimately forcing the OECD to back down on its planned sanctions against jurisdictions accused of abetting illegal tax evasion (Sharman, 2006). Thus, the stance of the trust and estate planning profession toward the state varies between collaboration and antagonism, with the profession seeking on the one hand governmental protection for its own privileges (or those of its wealthy clients), while on the other hand resisting governments’ attempts to limit those privileges.

Formation of a Professional Association

For many years, trust and estate planning was regarded as a professional backwater: one of the staid, conservative “havens for age and obscurity” in an “old, Dickensian, order of things” (STEP, 2006:1). In November 1990, Liver-

⁷ For details on the BSc degree program, see <http://www.mbs.ac.uk/programmes/undergraduate/courses/management-with-trusts-estates/index.aspx>, and http://step.org/professional_development/step_qualifications/bsc.aspx?link=secondContainerRight.

pool accountant George Tasker decried this state of affairs, and the isolation it brought to many practitioners, via a letter to the editor of *Trusts and Estates* magazine—at the time, the only publication linking the diverse group of professionals engaged in wealth structuring and management. His letter drew hundreds of responses from other readers, many suggesting local meetings to share experiences and best practices. Six months later, 82 people attended the inaugural meeting of the Society for Trust and Estate Professionals in central London. One year later, STEP enrolled its 1,000th member; 20 years hence, that number stood at over 16,000 in 78 countries. The most active members of the society are lawyers, since they draft the organizational documents that bring asset-holding structures (such as corporations, trusts, and foundations) into being. Accountants, tax specialists, and financial advisors make up most of the remainder of STEP's membership, since they maintain and optimize the structures created by the lawyers (STEP, 2006).

Perhaps surprisingly, it was only in 2009 that STEP published a formal code of ethics for its members⁸—a milestone in the professionalization process (Abbott, 1988). This late development may be due to the particularly close and long-standing relationship many trust and estate planners have with their clients, making formalization of an ethical code seem unnecessary. Trust and estate planners have employment patterns quite unlike those of many other professionals in contemporary finance and law: while retaining legal counsel or consulting a financial advisor now commonly leads to short-term relationships, trust and estate planners are hired for the long term, often amounting to lifetime employment. Though they can be fired and replaced—on terms specified in the trust instrument and sometimes by the laws of their jurisdictions—they more often keep their job with a family long enough to work with two or more generations (Marcus and Hall, 1992).

Often, the relationship between trust and estate planners and the families they serve goes beyond the norms of professional conduct as embodied even by a long-term family physician: while the doctor may be privy to highly sensitive information about a family, he or she does not own the family's assets or control the purse strings as trust and estate planners do. This is because many asset-holding structures frequently used by wealthy clients (such as trusts) require the separation of ownership from benefit: so while clients or their heirs may enjoy the use of an asset, it is legally owned by someone else, usually a professional trust and estate planner (Beckert, 2007a; Sharman, 2006). Indeed, the employment of such professionals may indicate that they enjoy higher levels of trust and esteem than the members of some wealthy families accord to each other (Friedman, 1964). As one wealthy Bostonian observed of his nineteenth-century Brahmin contemporaries: “Immense wealth had been accumulated in Boston in the first sixty years of the republic; instead of trusting

⁸ The text of this Code of Professional Conduct can be found on STEP's website at http://step.org/about_step/step_professional_standards/steps_code_of_professional_co.aspx?link=contentMiddle.

their sons and sending them out at their own risks ... they distrusted their ability ... and had them all trusteeed” (Stimson, 1931:76).

Competing for Jurisdiction and Social Impact

Since most of those who practice trust and estate planning are members of other professions, part of STEP’s project is to establish jurisdiction over wealth management vis-à-vis competing groups. Specifically, this takes the form of representing specially trained STEP members as more qualified to address the needs of wealthy clients than generalists in the law or financial fields. Part of this project is carried out through credentialing, which depends on legitimating the idea that a law or accounting degree is not enough to establish oneself as a trust and estate planner: the additional TEP credential, representing greater specialization and expertise, is required. The other part of the project involves lobbying the state to recognize those credentials and assign holders the monopoly on certain practices, like drafting wills or trusts.

These jurisdictional contests often hinge on competing claims about professionals’ contributions to the social order and “the special importance of their work for society and the common weal” (Conze and Kocka, 1985:18). STEP has moved tentatively in this direction, in part because of the historical commitments of trust and estate planners to fiduciary discretion (Marcus, 1983): to maintain privacy around their clients’ wealth, the professionals themselves have tended to keep a low profile publicly. This incomplete area of the professional project leaves open a question of theoretical interest for sociologists: *Do trust and estate planners make a meaningful contribution to the larger social structure, and if so, how?*

TRUST AND ESTATE PLANNERS’ IMPACT ON WEALTH STRATIFICATION

The role of professions in “the institutional design of the social order” (Sciulli, 2008:34) is controversial within sociology. Although the idea of professions as agents of social order and change was once prominent (e.g., Parsons and Platt, 1973), this perspective was discredited and largely supplanted by a narrower view, focusing on professions’ strategies for establishing privilege within their own ranks (Abbott, 1988; Collins, 1979). This foregrounds mechanisms of social exclusion and promotion that reproduce and legitimate within the professions the inequalities found in their larger social milieux (Heinz and Laumann, 1994; Kelley and Evans, 1993; Sandefur, 2001). This approach, though it acknowledges a connection between professions and stratification, treats the former as mirrors of the latter (Auerbach, 1977). Less attention has been paid to the agency of professions in constructing the socioeconomic structures in which they are embedded, or

to professional work as “political in the broader sense of an exercise of power and skill that affects large segments of the public” (Larson, 1977:452–453).

The work of trust and estate planners suggests a reason to revisit the question of professionals’ agency and their impact on macro-level social structures: as they have become more visible as a professional group, the lawyers, accountants, tax specialists, and financial advisors who serve the world’s wealthiest individuals have been singled out for blame by government agencies concerned with tax evasion and growing inequality. For example, the OECD’s 2006 Seoul Declaration initiated new legal sanctions on tax avoidance practices, and makes special mention of the roles played by “law and accounting firms, other tax advisors and financial institutions in relation to non-compliance” with international laws (OECD, 2006:4). U.S. Senator Carl Levin has complained about the asset-holding structures created by trust and estate planners to obscure their clients’ wealth: “most are so complex that they are MEGOs, ‘My Eyes Glaze Over’ type of schemes. Those who cook up these concoctions count on their complexity to escape scrutiny and public ire” (Levin, 2003).

As an example, consider the Pritzker family of Chicago, whose \$15 billion fortune has made them one of the wealthiest families in the United States for the past century. Their assets are held in 60 companies and 2,500 trusts (Jaffe and Lane, 2004), using structures and strategies that *Forbes* magazine—normally a cheerleader for wealthy elites—describes with an unusual hint of moral distaste as “shadowy,” a “Shell Game Extraordinaire,” “constructed to discourage outside inquiry—and brilliantly exploitive of loopholes in the tax code” (Fitch, 2003). This complex asset-holding structure was created not by the Pritzker family itself, but by its lawyers, accountants, tax specialists, and investment advisors. The job of these professionals is not only to shelter wealth from taxation, but to “obscure concentrations of economic power” (Gadhoom et al., 2005:342), using entities like shell corporations and trusts that make it difficult (if not impossible) to identify the true owners of wealth. The use of trusts is particularly common because most jurisdictions do not require them to be registered, and even where registration is required, it is not public information (Sharman, 2006). The use of corporate structures, on the other hand, *does* require public registration in many jurisdictions, but ownership can be readily disguised using nominee shareholders and directors—third parties hired expressly to create a buffer between those with the legal responsibility for wealth and those who actually use and benefit from it.

These techniques of “creating opacity” (Palan et al., 2010:34) pose challenges to social scientific inquiry; however, there is suggestive evidence about the impact of trust and estate planners on global wealth inequality. Estimates of the total amount of global wealth belonging to individuals and families range from US\$40–50 trillion; of that, US\$8–9 trillion is held offshore, under the management of trust and estate planners (Becerra et al., 2011; Davies et al., 2008). The fortunes of the very richest members of global society have grown an estimated 10% since the economic crash of 2008 (Cap-Gemini,

2011). That is, while unemployment, foreclosures, and other forms of economic distress prevail for most of the world's population, fortunes at the top of the stratification hierarchy have surpassed their 2007 precrisis peak. In the longer view, the growth of inequality has been accelerating: in the United States, while the Consumer Price Index doubled between 1982 and 2007, the wealth of the richest 400 Americans increased by tenfold (Bernstein and Swan, 2007). This trend has been mirrored in the increasing inequality of household wealth in Europe, Africa, Latin America, and Asia (Davies et al., 2008).

As a measure of stratification, wealth captures what matters conceptually about inequality better than alternative indicators, such as income or educational or occupational attainment. For example, wealth represents the accumulation of assets over time, with long-term effects; the inequalities created by income, on the other hand, can be short-lived. A big bonus in one year can pay off debt, or allow for significant investments, like the purchase of a home, but unless there is some surplus accumulated from that income, it may not correspond to much economic or social power. And while educational and occupational attainment can be sources of mobility, wealth gives access to opportunities and life chances across almost all domains, from the labor market, to marriage, property ownership, and political power. As Oliver and Shapiro argue, "the command over resources that wealth entails is more encompassing than is income or education, and closer in meaning and theoretical significance to our traditional notions of economic well-being and access to life chances" (1995:3).

Most importantly, unlike other measures of stratification, wealth can be passed down through generations, creating *systemic* patterns of inequality. Thus, even in countries such as the United States, where mobility is fairly high within the middle ranges of the stratification spectrum (Isaacs, 2007), the bottom and top of the distribution shows "an especially high degree of rigidity" (Mazumder, 2005:96). That is, despite the myriad of efforts to promote mobility through educational and occupational opportunities, and to increase economic equality through taxation and redistribution, stratification based on wealth remains extremely persistent. As a result, the distribution of wealth is far more unequal than the distribution of income, educational opportunities, or occupational attainment (Beckert, 2007a). Trust and estate planners have made two vital contributions to this enduring pattern of global stratification: first, by helping clients avoid paying taxes, and second, by facilitating intergenerational transfers of wealth.

Tax Avoidance

As early as Marx, taxation has been recognized as a "field of class struggle" (Bell, 1976:227). Historically, classes were based on tax privileges (Goldscheid, 1958), but where privilege once meant the right to collect taxes from others, in recent years it has meant partial or complete exemption from *paying*

taxes. As the late U.S. hotel magnate Leona Helmsley was alleged to have said: “Only the little people pay taxes” (Nemy, 2007). Trust and estate planners are central players in this process, not only by advising wealthy clients on how to reduce or eliminate their tax obligations, but by lobbying to create many of the loopholes that permit all of this to take place within the bounds of the law: “These professionals are crucial: as far as we can tell, they were present at each and every legislative innovation designed to avoid tax and regulation” (Palan et al., 2010:12).

Loss of tax revenues is a serious problem for nation-states, particularly during the global economic crisis. A recent economic study of the E.U. member states suggests that one of the most important commonalities among the countries presently facing default (Greece, Spain, Portugal, and Italy) is the extremely high level of tax avoidance by their wealthiest citizens (Schneider, 2011). The United Kingdom alone is thought to lose £100bn annually to tax avoidance, with tens of thousands of the country’s wealthiest individuals paying little or no income tax, many without violating any laws—a phenomenon that has been directly attributed to the intervention of wealth managers and allied professions, who continually “innovate new techniques of evasion and avoidance, which they sell to clients” (Palan et al., 2010:12). This innovation is big business for the major wealth management firms, which also lobby governments to keep regulations against tax avoidance weak and penalties low. This puts the wealth management business “on a collision course with civil society” (Sikka, 2005).

The systematic, long-term tax evasion that trust and estate planners make possible contributes to enduring structural inequality in two ways. First, it places an undue fiscal burden on people who do not have the resources (or inclination) to hire professionals to help them evade taxes through the strategic use of accounting rules, offshore bank accounts, and so forth. In the United States, former Internal Revenue Service Commissioner (1997–2002) Charles Rossotti estimated that wealthy Americans collectively underpay their taxes by about \$250 to \$300 billion annually, resulting in the equivalent of a 15% surtax on honest taxpayers (Smith, 2004:2). The free riding of the wealthy thus places an extra economic burden on the less wealthy, increasing stratification over time. Second, when governments cannot make up the tax shortfall by shifting the burden down the socioeconomic ladder, the result is usually a decline in the amount and quality of public services—like education, healthcare, and technological infrastructure—that might otherwise offset the impact of wealth inequality on life chances (Mitchell et al., 2002).

STEP’s publications do not skirt the implications of their members’ work on the tax avoidance front; rather, they reframe it as a defensive response to an illegitimate tax system, placing themselves on the side of capitalism, free markets, and competition—a position that has been largely successful in fending off efforts by national and supra-national bodies to reduce tax avoidance (Sharman, 2006). The following excerpt from a STEP course text on

accounting—a required class for everyone seeking the TEP credential—is representative of language found elsewhere in the society’s publications:

Onerously high, some may say unethical, tax demands to finance generous government spending clearly act as a chill upon the entrepreneur as a creator of wealth; whereas, on the other hand, the poor may then be caught in the poverty trap and rely on state welfare handouts rather than engage in productive work. (Parkinson and Jones, 2008:267)

Not surprisingly, the word “confiscatory” comes up several times in STEP publications as a descriptor of taxation systems in North America and Europe (e.g., Cadesky, 2010; Langer, 2005), along with spirited defenses of tax havens as valuable contributors to the diversity and robustness of the world financial system (e.g., Hines, 2009).

In other words, the organization acknowledges that its members are instrumental in facilitating tax avoidance: meaning the reduction of taxes within the terms allowed by law, as opposed to illegal tax evasion. However, STEP disputes the notion that there is anything ethically problematic about this work—at least on the part of its members. On the contrary, the organization has aligned itself with mainstream free-market ideology (supporting entrepreneurship, deploring the moral hazards of welfare) while simultaneously casting doubt on the ethics and motivations of the governmental bodies that seek to reduce tax avoidance. Yet STEP’s accounting textbook paints an unexpectedly ambiguous picture of wealthy clients.

If he feels strongly enough, the individual can always opt out of the tax system and emigrate. However, few wish to go to that extreme. They want to stay in the country that they regard as home, but pay less tax. *They want to have their cake and eat it.* (Parkinson and Jones, 2008:268, emphasis added)

While this is by no means an indictment of tax avoidance, it may reflect some uneasiness on the part of trust and estate planners about their role in the “massive organized attempt by the richest and most powerful to take advantage of collective goods on a scale rarely seen” (Palan et al., 2010:7).

Inheritance

To gauge the importance of inheritance to stratification regimes, it is instructive to recall that the *Communist Manifesto* places “abolition of the right of inheritance” at number three on a list of the 10 steps necessary to realize “the forcible overthrow of the whole extant social order” (Marx and Engels, 1978:499). This high ranking suggests the significance of inherited wealth in sustaining and reproducing the socioeconomic structure of capitalism. Concerns about the negative impact of inheritance on justice, meritocracy, and democracy were expressed not only by Marx and Engels, but by many of the major thinkers of the eighteenth and nineteenth centuries, including Montesquieu, Rousseau, Hegel, Thomas Jefferson, Alexis de Tocqueville, and John Stuart Mill (Beckert, 2007b). As a result, many democratic societies

developed laws specifically designed to prevent the long-term accumulation of wealth in the hands of a few (Friedman, 2009). Particularly in the period immediately following the Enlightenment, inherited wealth was viewed with hostility (Beckert, 2007b). However, in recent years, latent ambivalence about the “natural right” to accumulate capital and transfer it to one’s heirs has developed into a robust defense of inheritance practices. Many constraints put in place over the last century or more, such as inheritance taxes and limits on the duration of trust funds, have been reduced or removed, causing the “inevitable” course of history (as Marx and Engels saw it) to run backward, “taking us back in time, back to the values and society of the feudal world” (Haseler, 2000:72).

Though inherited wealth is a phenomenon restricted to a privileged few, it contributes significantly to persistent inequality worldwide. Information on the frequency and magnitude of intergenerational transfers is incomplete, due in part to the methods trust and estate planners deploy to shield their clients’ wealth from regulation and public scrutiny; thus, even the high degree of inequality that can be documented is “greatly underestimated, largely because most wealth held in trust escapes inclusion” (Chester, 1982:125). What data are available, however, indicate that wealth has been dramatically “reconcentrating” (Oliver and Shapiro, 1995:62) since the 1980s, leading to what one economist called (almost 20 years ago, when conditions were less extreme than they are now) an “unprecedented jump in inequality to Great Gatsby levels” (Nasar, 1992:17).

For example, though huge sums are transferred intergenerationally every year—an estimated \$600–900 billion in the United States, and €150–200 billion in Germany (Beckert, 2005)—almost all the transfers occur among a tiny elite. In the United States, 2.7% of Americans inherit \$50,000 or more over the course of a lifetime; the other 91.9% receive nothing at all (Kotlikoff and Gokhale, 2000). For stratification regimes, inheritance means more than money, property, and other assets: it is the “DNA” of inequality, such that “the whole social system rests, in a way, on transfers of wealth between generations” (Friedman, 2009:4). Specifically, inheritance lends *stability* to inequality in all its forms, ensuring that the rich stay rich and the poor, poor. Despite the many contemporary policy efforts in democratic societies to promote mobility through education and occupational opportunities, inheritances “allow for the intergenerational continuity of social positions, they stabilize spheres of affiliation and thus the social structure of society, and they counteract the vagaries of success in the marketplace” (Beckert, 2007a:18).

By creating the organizational, financial, and legal structures necessary for intergenerational transfers to take place, trust and estate planners play a central role in creating and maintaining stratification regimes worldwide. An essential component of their work is to lobby against the laws that restrict inheritance, and to find loopholes in the ones that still exist, enabling their clients to transfer the maximum amount of assets with the minimum degree of intervention by tax and regulatory authorities. In doing so, these professionals

contribute directly and intentionally to the growing global concentration of wealth, and make the leisure class possible: it is through the intervention of trust and estate planners that elites obtain their “industrial exemption,” in which ascription trumps achievement (Veblen, 1994).

As with tax avoidance, STEP acknowledges the impact of its members in facilitating intergenerational transfers with the result that “global wealth has become concentrated in a few hands” (Parkinson and Jones, 2008:267). To some extent, this is to be expected, since trust and estate planning are by definition means of transferring wealth within families. Perhaps more surprising is how unapologetically STEP’s literature references the profession’s contribution to inequality. Whereas the organization’s course texts, opinion papers, and monthly magazine have a great deal to say by way of defending tax avoidance, inherited wealth seems to require no defense. The only references are oblique, such as this question for readers inserted into a discussion of trust administration: “How do you feel about preserving the wealth of a few at the expense of the majority?” (Parkinson and Jones, 2008:267). Other than a footnote—in which the authors add, “We know it’s a living, but how do you feel about it?”—there is no further indication that the subject warrants further examination. STEP’s lack of defensiveness on the subject of inheritance and inequality may simply reflect the perception that there is nothing to justify. As Beckert observes, hostility to multigenerational concentrations of wealth has vanished amid a widespread social “backlash” (2007b:6) against ideals of democratic and meritocratic reform. Tolerance for inequality has grown, as has the esteem accorded to all forms of “success,” regardless of whether it is earned or inherited (Neckel, 2008).

DISCUSSION

The study of trust and estate planning represents an opportunity to develop sociological theory at the interface of three major areas of inquiry in the discipline: stratification, the professions, and the nation-state. The sociology of the law and organizations are also implicated, since this research addresses the formal means of articulating the relationship between family and property, shedding light on how law “operates in the economy on an everyday basis” (Swedberg, 2003:30). In many modern democratic societies, dynastic fortunes would probably cease to exist absent the intervention and assistance of trust and estate planners. Yet as we can observe in many such countries, extreme socioeconomic inequality has persisted and even grown despite the abolition of traditional legal mechanisms for preserving and perpetuating dynastic wealth, and the enactment of new laws and policies specifically designed to prevent multigenerational concentration of resources. By deploying legal, organizational, and financial expertise, trust and estate planners transform capital accumulations into dynastic fortunes. These dynasties can literally become “pillars of society”—concentrations of power and privilege

that lend stability to larger systems of stratification. In the effort to explain the robustness of wealth stratification, research on the profession of trust and estate planning can provide valuable insight.

By the same token, the impact of trust and estate planning invites us to revisit the scholarly debate on the relationship of professions to their socioeconomic environments. What little evidence is available suggests that trust and estate planning does not simply reproduce or mirror larger patterns of inequality; rather, the profession actively constructs the legal, financial, and organizational structures of which stratification regimes are made. Trust and estate planners have been moderately successful in securing their own incomes and privileges, but the real impact of their work has been to assist in the “increased concentration of wealth” worldwide (Chester, 1982:128; see also Oliver and Shapiro, 1995) through trusts, shell corporations, and other asset-holding structures that allow wealth to grow with no or limited taxation, and to be passed down within families, creating enduring, multigenerational inequality.

By obscuring the amount and ownership of assets, these professionals make it difficult—if not impossible—to tax and regulate wealth, or even to pin down who has legal authority over it (Sharman, 2006). This means there is less wealth to redistribute, or even to maintain the basic functions of government, including not only tax collection, but also education, healthcare, and other services that can help counteract enduring inequalities (Mitchell et al., 2002). Meanwhile, a leisure class based on inherited wealth and privilege remains sheltered from market forces. Finally, by facilitating trillions in global tax evasion, and enabling wealth to remain concentrated within a small number of families worldwide, the work of trust and estate planners poses a serious challenge to the authority of the nation-state, undoing policy efforts aimed at limiting stratification and maintaining economic stability (van Fossen, 2003). Remarkably, even the efforts of transnational bodies like the OECD have been largely unsuccessful in meeting this challenge, calling into question the efficacy and viability of global financial governance.

Since data on trust and estate planning are very limited, these implications can only hint at directions for future inquiry. Therefore, this article seeks not only to synthesize previous findings and relevant literature, but to provide a critical analysis pointing to issues on which new research is most needed. The global financial crisis, as well as the instability created by the European Union’s sovereign debt, lend empirical urgency to the questions this article has raised, particularly with regard to the role of trust and estate professionals in facilitating tax avoidance and enabling long-term concentrations of wealth through intergenerational transfer. Perhaps these circumstances will renew interest in the problems of persistent wealth inequality, as well as the actors who make it possible.

APPENDIX: SAMPLE JOB POSTINGS FOR TRUST AND ESTATE PLANNERS

Both of the following advertisements were placed on the STEP website by the recruitment firm AP Executive (<http://www.ap-executive.com>) in the summer of 2011.

Reference Code: 28169/001

Location: Switzerland:Geneva

Salary: US\$250000–350000 per annum

STEP Experience: TEP Qualified

Key Skills/Keywords: Family office executive

Coordination of the senior advisers, liaison between the family organisation and family members, management of a team, spread in different jurisdictions, will form part of the agenda.

Our client, a UHNWI is looking for the head of his family office services. This executive senior level role requires a broad understanding of business and family issues and excellent leadership in providing administrative support to its family members. Coordination of the senior advisers, liaison between the family organisation and family members, management of a team, spread in different jurisdictions, will form part of the agenda. The successful applicant will have exceptional diplomatic skills to ensure pristine coordination of very important people and their agendas, and excellence in complex negotiations. With at least 20 years experience in successfully running a family office (single/multi) the ideal candidate could also be a senior private client practitioner (private bank, professional advisory firm) keen to move away from the commercial aspect of their job. This exciting opportunity will involve frequent travel across Europe.

<http://www.step.org/jobs.aspx?jobId=a0fC000006r0iWIAQ>

Reference Code: 28689/001

Location: Switzerland:Zurich

Salary: CHF130000–160000 per annum

STEP Experience:

Key Skills/Keywords: Trust, STEP

Our client, a prestigious Private Bank, is now seeking a trust manager to join its team based in Zurich.

polyana.bastos@ap-executive.com

DL: 41 44 214 66 22

Our client, a prestigious Private Bank, is now seeking a trust manager to join its team based in Zurich.

You will administrate from A to Z a complex portfolio of structures such as trust, companies and foundations, dealing directly with the clients.

This is an outstanding opportunity to join a dynamic institution offering first class solutions to its clients.

The successful candidate will hold the TEP designation, and have a proven track record of ten years experience in the industry. Fluency in English is required while German, Spanish or French would be valuable assets.

Please send your CV in English in order to apply to this exciting opportunity.

<http://www.step.org/jobs.aspx?jobId=a0fC0000006q9nbIAA>

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