"What goes around does not come around" – The (in)adequacy of inheritance law's response to vulnerability

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The growth in life expectancy potentiates the appearance of several vulnerabilities. The society we live in is characterized by a prominently individualistic nature. The interindividual solidarity is noticeably weakening. The care traditionally provided to vulnerable individuals by the circle of closest people (the ones who are part of the family) sometimes fails. In this presentation, we will focus on the instruments that inheritance law can offer to promote interindividual solidarity among family members.

It will be questioned whether inheritance law could be a more effective instrument to promote the fulfilment of specific family duties, and it is precisely because of the scarcity of causes of incapacity that severe behaviours of non-compliance with these duties go unnoticed.

We will have to discuss the adequacy of preserving the mandatory succession of the closest family members and the appropriateness of the present legal framework regarding the unworthiness and disinheritance of heirs, particularly with regard to the list of causes that can justify the application of the regime of each of these two inheritance institutions.

For that purpose, some recent judicial decisions will be taken into consideration. Our reflection will focus on Portuguese law. Notwithstanding, it won't be neglected the contributions that can be drawn from other legal systems, namely German, Italian and Spanish legal Systems.