

There is no chance of tax peace

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I referred on Saturday to a [blog by tax barrister Jolyn Maugham](#) in which he suggested that what he saw as the two sides of the tax debate should 'give peace a chance'.

One side of that debate he called the Moralists. He described me as the grandfather of this clan, which he thinks also includes Polly Toynbee, Margaret Hodge and Alex Andreou.

The other he described as the Technocrats, naming as the leader the chartered accountant who appears to breach all the rules of the ICAEW by blogging anonymously, and deeply offensively, as 'Christie Malry'. There are clearly others. He mentioned Mike Truman of Taxation magazine; I think he should have included Ben Saunders.

Of the Moralists he has said:

There are those — let me call them the Moralists — who seek to bring about broad social change and who recognise the tax system as an important tool to achieve that change.

And of the Technocrats this:

The Moralists have a further group of detractors. They are tax academics, practitioners, and even the odd member of the Bar. They occupy a smaller stage, those merry few. They are guardians of the craft of taxation and invisible to a public with but the barest interest in such matters. I shall call them the Technocrats.

I fear that Jolyon's hope that tax peace might break out by each group respecting the other's position is misplaced. Indeed, I would go further: I think it inappropriate. That would imply that I might accept the preconditions and assumptions that motivate the Technocrats, and I do not. And before saying why let me note that I do not, for a moment, accept Jolyon Maugham's contention that:

Too often the Moralists boldly go where no well informed advocate for social change would.

This is a suggestion we simply do not recognise. It may be that we see a role for tax that Jolyon does not, but to suggest that those he names as Moralists are not well informed on social change is, I think, pushing the boundaries of credibility.

But so too is his notion that for some reason we Moralists have no regard for technical issues, or as he puts it:

The Moralist ... must recognise that, as I have put it (in an otherwise nugatory article) elsewhere, by moral fury alone she will not get the job done.

That is an allegation wholly unfounded. It is in no small part by technical competence that we expect to succeed. I might be a Moralist but few will deny that country-by-country reporting is on the international agenda because I put it there, albeit with the assistance of some amazing campaigners. And whilst Richard Brooks played a role in starting the Tax Gap debate few would also deny my contribution to it, even if my research is not accepted by all. And when it comes to issues being discussed at the G7 /G20 / OECD in the Base Erosion and Profit Shifting Project it's fair to say that automatic information exchange, transfer pricing and beneficial ownership issues all reached prominence as a result of Moralists in the tax justice movement. The same is true of the row on IT company taxation. I was involved in the first exposé of this in the Wall Street Journal in 2005 on Microsoft and in all iterations of the Google story. Likewise you'll find me in the Starbucks story from the start. I could also mention the GAAR, for which I think I can claim some input without overstating any case. And let's also be clear, we're being asked to suggest solutions too, not least by the OECD, because on many of these issues we designed them into our work from the outset. To say we do not embrace the technical is, then, just wrong.

Jolyon Maugham is much more accurate when writing of the Technocrats of whom he says:

Tax is a legitimate tool to achieve social change and the Technocrat must recognise that lest he be shorn of moral purpose.

Yes, indeed, say I, except that I would add that the Technocrat has already denied the existence of such moral purpose. They have already shorn tax of all function bar revenue raising with regard to which they think there is a straight fight between the revenue maximising claims of the state and the individual. They ignore the fact that in practice no one revenue maximises if they have any sense at all. They also ignore the fact that tax cannot be siloed in this way. What they wish to claim is that tax is a mere technical issue for fear that they might credit it with purpose and seemingly be tainted by the consequence that tax may in fact serve a social purpose way beyond its revenue raising function and may as a result require ethical engagement, which they will forever deny.

And in this observation is the difference that Jolyon has failed to appreciate. The Technocrats have denied an ethical, moral, social and even economic function for tax, many of them seemingly believing it an aberration that should best be removed from the economy by means fair, foul or technical. Moralists on the other hand not only believe this wrong but have been at the forefront of the process of driving technical changes in taxation, and will continue to be so.

We are not going to agree as a result. It's not just that there are differences of opinion here, which there are, and which are profound. We're not actually engaged in the same debate right now. Moralists are engaged in seeking an integrated role for tax in social and economic justice. That is why we have promoted new thinking and new technical solutions to the problems we believe to exist. That those problems exist has now been accepted. The debate is only on how and when to apply the solutions.

The Technocrats on the other hand still think they are engaged in stages one and two of Schopenhauer's three stage explanation of the process of change. As he explained, all suggested change is at first met with ridicule. Then it is violently opposed. Then it becomes the accepted norm, even by those who once derided it. The Technocrats still think we are somewhere between stages one and two of this process. They are wrong. We are actually in stage three: what is happening is that negotiation is now going on. Now don't get me wrong: the process of negotiation still has a long way to go and there are many obstacles to be overcome, but stages one and two of the process are behind the Moralists; we have won our case in the court of public and broad political opinion.

That is why now engaging with the pedantry of the Technocrats is no longer of any benefit. That is also why, to some extent, I ignore the continuing rantings from places like Jersey these days. All such statements have the tone of the PR department for the dinosaurs: whatever is now said extinction for the cause they still promote is inevitable. The debate is now about how change will happen, not how to stop it.

There are valid alternative opinions in that issue, and I will readily debate with those offering them. But the Technocrats aren't even starting to occupy that space and appear intellectually incapable of doing so. That is why, by and large, I ignore them on Twitter, where I have blocked most, and on this blog. They are just time wasting for a cause which Jolyon concedes is without moral support by offering technical argument based in turn on discredited economics and a failed understanding of the role of tax.

In that case I politely decline Jolyon's invitation to take the Technocrat's position into account. They offer no valid position to consider, in my opinion. In that case why give them undue attention?