

The future of tax justice

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As has become apparent over the last week or so, [I am increasingly critical of the current direction and focus of the tax justice movement](#). I have already published one blog that has been critical of the Tax Justice Network's (TJN) approach to the Biden led global tax plans that have [now won G7 and G20 support](#).

As [I also noted yesterday](#):

I am well aware that the deal in question is less than ideal. It favours developed countries. It does not include enough companies. The tax rate is too low. The amounts of tax to be apportioned are too small. There are numerous reasons to be critical of it. I am.

However, it is easy to be critical. Let us talk about the pluses. There are aspects to this deal that are extraordinary. First, 130 countries have signed up to this. That is already surprising. And the holdouts are all the usual culprits, and very largely rather obvious tax havens.

Second, the deal does something unprecedented: it creates the international legal precedent to deliver a global minimum tax rate. It does so without violating the rights of any state (although some will argue otherwise, but the way it is constructed permits my claim). And that global tax rate is likely to be effective.

Third, this deal is deeply threatening to tax havens: the zero rate taxes that they offer cease to have appeal for large corporations as a result of this. If that is not of note, what is?

Fourth, this will increase global corporate tax takes. That is good news.

Fifth, and of massive significance, the behavioural impact of all this is dramatic. It hits some very particular types of tax planning and the culture that has supported them very hard. It can be argued it could hit them harder. I agree, it could. But to suggest that this will not change the culture of tax planning would be entirely wrong. It will, and likely as much as it changed when in 2012 Margaret Hodge tore Google, Amazon and

Starbucks to shreds in Parliament.

Finally, of course the deal is not good enough, but I have said the same of every OECD led deal to date. They have never delivered all I want. I put it on record now that the 2015 BEPS deal was really quite disappointing at the time, and I had worked very hard to deliver it and country-by-country reporting. I am sure I said so. But now we have another deal. And that is the way that it always works at the OECD. The next negotiation begins as soon as the ink is dry on the last one. And I am certain this is already the OECD's plan: they will also be unhappy with this deal, for sure. They too know it is not all that is needed. But within the constraints of global political economy this is what could be achieved now. That is the fundamental reality that those criticising this deal are missing. Just six months post-Trump this deal is almost wholly unexpected. Of course I am going to celebrate that. But tax justice is not.

The criticisms from TJN are those I have already mentioned. To these they add:

- * That the OECD should not be negotiating this deal, and the UN should instead;
- * Countries should hold out for a higher tax rate;
- * The deal does not fund Covid recovery in developing countries;
- * The deal reinforces historic power relationships;
- * As a result it is, to quote Oxfam, 'unfair'.

In response to it we [got this comment](#) from Alex Cobham, who is the current chief executive of the TJN:

The global minimum corporate tax rate can mark the beginning of the end of the race to bottom on corporate tax. But the OECD increasingly looks unable, or unwilling to deliver a fair and effective reform. Countries should take the opportunity to push ahead with their own reforms, and consider the possibility of future negotiations being held under UN auspices instead.

I think I have a duty to say that this is complete and utter nonsense. As a co-founder of the TJN, as one of the two people who led it for a decade, who co-created with John Christensen all the policies it still pursues, and who has negotiated on its behalf many times in international arenas, I am deeply embarrassed to see its current chief executive issuing a comment that is so utterly ill informed, reveals so little understanding of political economy, and is simply wrong.

As a matter of fact the OECD has delivered an end to the race to the bottom. It is absurd not to recognise this and to congratulate the OECD for doing so.

Instead TJN makes the wholly unfounded allegation that the OECD is not trying, and does not even want to try. My simple suggestion is that if Alex Cobham stopped the

abuse of the OECD and others, which has become his stock in trade, and instead invested time and effort in talking to the OECD, negotiating formally and informally, learning the constraints, understanding the mechanisms and working out the arguments that might win rather than delivering the tantrums that can never work, then he might have influenced this process rather than watched it from the sidelines.

John Christensen and I did all those things. That is why the [tax reform programme that we co-authored in 2005](#) pretty much became the agenda for international tax reform for a decade. TJN has undertaken no innovation since then. I should, however, note that this is unsurprising. Neither Cobham, or anyone else in the tight team he keeps around him, has any actual knowledge of tax, in which none of them have ever worked. Nor do they know anything about political economy. Or tax havens as far as I can tell. Or anything else that is much relevant to tax justice come to that. Their skills are only in NGO management and some forms of index creation. It is on the basis of this limited skill set that they criticise the OECD.

So let me put my opinion on record. I have known some in the OECD team for a long time. I have discussed their motivations with them. I suggest Cobham's allegations are insulting, and I can only presume he meant them to be so. I am clueless as what he thinks he might achieve as a result.

What does trouble me though is his totally naive suggested alternatives. First let me deal with the suggestion that the UN should take over negotiation of this issue despite the fact that the UN has neither the expertise or resource to undertake that task, and where, inevitably, the same international players would engage in much the way that they now do at the OECD with the same likely outcomes: that is the way that international political economy (of which the current leadership of TJN seem to know little) operates.

Then let me also address the suggestion that he has also made that this deal is being imposed. If he really thinks that then he has no clue about political economy, and the very real constraints (not least in the US Congress) on this deal. It's actually embarrassing that he has made such suggestions.

To summarise, the only consequence of the demand TJN is making, which others are regrettably echoing, would be to create confusion in international tax negotiation as turf disputes for control took place, with the inevitable consequence being that there would be no progress on anything around this issue for maybe a decade. Unfortunately, I have to wonder whether this is what the current NGO-style leadership of TJN wants. There have long been criticisms of NGOs that do not appear to wish to solve the problems that they are supposedly addressing because that would, of course, make them redundant, and that is not what professional NGO managers rather than dedicated campaigners want. I can literally offer no other explanation for Cobham's suggestion with regard to the UN taking responsibility in this case when there is not a shred of political economic logic in thinking that the UN will deliver any better, quicker

or viable solution to the taxation problems that we are facing.

Then let me turn to the suggestion that countries should now institute their own new tax regimes to seek to undermine the impact of this deal. In other words, what Cobham is suggesting is that just as the OECD is bringing one of the most harmful forms of tax competition to a close he wants to reopen it. That would happen because individual country responses would, of course, not just undermine the newly created international tax consensus, but would inevitably create new forms of tax competition, and all the opportunities for abuse that they create.

Again, this is quite extraordinary. Cobham was not around when TJN was created, but in no small part that happened in response to the 1998 OECD publication on harmful tax competition. The question John Christensen and I always asked was what benign tax competition might look like. We set out to prove there was no such thing, and candidly I think the OECD (and increasingly the World Bank and IMF) were persuaded. All three are now proponents of causes we could not have imagined when we stated, including reducing inequality, global minimum corporation tax rates, enhanced transparency around many aspects of tax, and wealth taxes. But now the TJN is actually promoting a new wave of tax competition. It is almost incomprehensible that the organisation to which I dedicated so much time might do that. Bluntly, Cobham and his team are failing the tax justice movement and those countries whose interests they claim to represent very badly indeed. I am ashamed of them.

This blog is already long. I am well aware that some will never talk to me again for writing it. Candidly, I do not care. It took courage to see tax justice through its first decade. If it takes courage to say that TJN, and to some extent many other tax justice organisations, are now failing to deliver the tax justice that we set out to create I happen to be at the point where I am willing to take that risk too.

But I stress, I am not being negative for the sake of it. That was never the way of tax justice campaigning when I was most heavily engaged in it. The simple fact is that the angry, frustrated, inappropriate criticism Cobham has made is deeply revealing. I think it reflects a cause that has utterly lost its way.

The unfortunate fact is that TJN, and regrettably too many others in tax justice, simply does not understand tax. Their refusal, for example, to recognise the significance of MMT and the opportunities it creates for tax to be truly transformational within society is example of that, and deeply worrying. It reveals a campaigning network too invested in its own survival to ask real questions about the campaign it is pursuing. Of course MMT is limited in application to developing countries, but corporation tax is even more so not the answer to all questions. Despite the overwhelming evidence that this is the case, tax justice refuses to see it otherwise.

The last point made is particularly important: corporation tax is a small tax, and although much more significant in developing countries than developed that is at least

in part because of the massive underinvestment in domestic tax authorities in those countries, which should be, but has not been, a sufficient priority for tax justice campaigners.

And to fail to recognise the importance of other taxes, and to even to refuse to endorse their capacity to address issues like the funding of Covid in developing countries, as TJN has done recently, is utterly irresponsible.

More than that though, this inappropriate concentration of effort has, as already noted, meant that TJN has failed to innovate. I will address ways it might do so, with enormous potential benefit, in blogs to follow this one. To do that is, I think, important. TJN is what I now consider a failed NGO (it is no longer recognisable as a campaigning organisation, and actually says it is not on its website) that needs to be called to account. My suggestion is that TJN has either to reform, or for the sake of the world's tax systems, which I am reliably assured it has been doing its very best to undermine by working so hard to oppose the Biden deal, it has to be called out as the opponent of tax justice that it now is.

The reality is that the need for tax justice is as strong as ever. But without a vision, without a policy programme that is innovative or adaptive , and with aggression rather than diplomacy being its approach to the international organisations it has to persuade to change, TJN is not under its current leadership remotely close to being able to deliver on tax justice. I deeply regret that. It profoundly pains me to have to say this. But the time has come to do so. Tax justice demands it and that is what I have always been willing to make sacrifice for. I have stood up against many to fight for tax justice. And if, as I now think is proving to be necessary, that requires that I call out the failings of an organisation I helped create and direct, but which has profoundly lost its way, then that is what I will do.