

Towards legitimacy in global tax governance?

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Navigating Global Tax Governance

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A NEW MODEL OF GLOBAL GOVERNANCE IN INTERNATIONAL TAX LAW MAKING



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Normative vs. sociological uses of term

- Normative: „The United Nations is a legitimate institution of world politics.“
 - Right to rule
 - Objective criteria
- Sociological: „Many people believe that the United Nations is a legitimate institution of world politics.“
 - Belief in the right to rule
 - Subjective perception
- Not necessarily correlated

Keohane's framework for assessing legitimacy of global governance institutions

- Starting point is democracy: human rights, free decision making, equal political participation → Ideal global governance institutions should be democratic
- Expectations from global governance institutions need to be lower than from states
 - No global public, no sense of „common fate“
- Legitimate ≠ just → lower threshold for legitimacy
- Procedural element: Accountability and transparency

Criteria for assessing legitimacy of institution

1. Minimal moral acceptability
2. Inclusiveness
3. Integrity and transparency
4. Accountability towards relevant stakeholders
5. Compatibility with local democratic institutions (possibly: enhancing local democratic institutions)
6. Comparative benefit (better than no institution or feasible alternative institution)

Minimal moral acceptability

- Respect of human rights
 - Security
 - Subsistence
 - liberty

Inclusiveness

- Keohane's realistic (pessimistic) view: „The constraints of world politics, however – in particular, the inequality of power among states – means that in world politics inclusiveness does not imply equality of voice. That would be unrealistic.” (p. 101)
- Inclusiveness in participation vs. inclusiveness in decision-making
- What do you think?

Inclusiveness in the BEPS Inclusive Framework

- Christensen/Hearson/Randriamanalina 2020
- 48 interviews with attendants at IF meetings
- Attendance of lower income countries low at working parties
 - High costs of attendance
 - Technical knowledge, „intimidating environment“
- But some avenues for impact: association, collaboration, individual authority

Integrity and transparency

- Integrity: Congruence between goals and activities
- Transparency:
- UN Tax Committee reports of sessions:
<https://www.un.org/development/desa/financing/what-we-do/ECOSOC/tax-committee/documents>
- OECD:
 - Some meetings public in last years: <https://www.oecd.org/tax/beps/oecd-g20-inclusive-framework-on-beps-meeting-january-2021.htm>
 - But meeting notes of other sessions not available
- Substantive meetings vs. „theatrical meetings“

Accountability

- Information, accountability standards, possibility to sanction
- What are the accountability mechanisms of OECD, UN, etc.?
- Report to the G20
- Public
- The power of funding!

Compatibility with democratic governance within countries

- „We do this because the OECD/UN wants us to and we have no choice...“
- vs.
- „The OECD/UN suggested an interesting policy, let’s discuss whether this is suitable to our country.“
- What is more accurate in your context?
- „It was felt that collectively agreeing on a set of common rules may in fact help countries to make their sovereign tax policy choices.” OECD. Addressing Base Erosion and Profit Shifting. Paris: OECD Publishing, 2013., p.29

Comparative benefit

- Better results than an alternative feasible institution or absence of an institution
- Results can be substantive or procedural
 - Substantive: e.g. more efficient / fairer tax collection
 - Procedural: e.g. people working together in a cooperative way
- What do you think? Would we be better off without global governance?
- Would we be better off under a different institutional architecture? Would this be feasible?

Literature

- Keohane, Robert O. 2011. Global governance and legitimacy. *Review of International Political Economy* 18 (1). Routledge: 99–109. [[Link](#)]
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- R.C. Christensen, M. Hearson and T. Randriamanalina. 2020. At the Table, Off the Menu? Assessing the Participation of Lower-Income Countries in Global Tax Negotiations. ICTD Working Paper 115. Institute of Development Studies, Brighton. [[Link](#)]

Thank you!

Questions? Comments?

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