Chapter 11

Conclusion

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This book has been a collaboration between 20 authors who are all working on issues that link taxation with development and emancipation in the Global South in all sorts of different capacities. Together, we have offered ten chapters that explore four relevant themes: global tax governance and developing countries, external assistance for tax capacity building, tax incentives and attracting sustainable investment, and harmful and helpful tax practices for sustainable development. The book paints a picture of the difficulties countries in the Global South face when they participate in international tax relations, whether bilateral or multilateral, but each chapter also highlights opportunities for how the international community can do better in this regard.

In this concluding chapter, we as editors reflect on the lessons this book offers. The nature of edited volumes is that they offer a broad range of chapters on a given topic. As such, this chapter is not the conclusion of a carefully laid out argument, that we now neatly wrap a bow around, but rather a summary of the common ground between the contributors. We also purposefully refrain from offering specific advice to any developing country or developing countries as a category. We feel this is not our place as we advocate country-specific and country-owned solutions. We also don't want to perpetrate the myth that developing countries all share similar interests or development paths, as in modernization-type theories of development, with regard to taxation.

Nevertheless, there are returning themes throughout the chapters: issues that are important, things whose absence obstructs and whose improvement advances the nexus between taxation, development, and developing countries' revenues. Topics that tax practitioners, development professionals, and academics all should

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recognize as indispensable for improving fair, balanced, and sustainable international taxation.

We wish to highlight five of those key issues that we believe are paramount in moving tax relations between high-income countries and the Global South, and their respective tax subjects, towards a more just outcome: data, transparency, inclusiveness, home-grown policies, and eradicating double standards. All chapters in this volume touch upon at least several of these topics. Summarizing them in the conclusion leads us to the lessons we ourselves, and hopefully you as a reader—whether you have read all chapters back to back or made a curated selection according to what concerns your interests, can take away from this volume.

11.1 The Importance of Data

Three chapters in this book make use of novel datasets, in which the authors themselves were involved in creating those sets. Chapter 10's use of the *Corporate Tax Haven Index* is a reaction against what the authors argue are the biased and incomplete characteristics of official blacklists by governments or international organizations. The *Global Tax Expenditures Database* from Chap. 9 remedies the lack of systematic reporting on tax expenditures, even though these can account for a significant part of government revenues. CIAT's *BEPS Monitoring Database* which forms the basis for Chap. 3 was created to transparently monitor in which ways their members implemented the BEPS minimum standards.

Good quality data is a prerequisite for good policy. This is certainly true for tax policy in developing countries. Developing countries often do not have access to the granular, centrally collected and high-quality data that, for example, the OECD offers to its members. The lack of high-quality economic statistics on taxes in developing countries is well-recognized issue (for more elaboration, see Prichard 2016). The same goes for donor policy. The OECD Development Assistance Committee only introduced a specific code for aid towards domestic resource mobilization (DRM) in its development statistics in 2015. This meant that although aid for DRM was an agenda item in the UN financing for development policy conferences since the early 2000s, specific data was unavailable which in turn makes it hard to coordinate.

Data is not only important for policy design; it also empowers developing countries in international negotiations. In a timeframe of less than 5 years, developing countries have, on paper, become partners on equal footing in the BEPS Inclusive Framework (IF). The two-pillar reform efforts on taxing the digitalized economy (OECD/G20 Inclusive Framework on BEPS 2020)—that are ongoing at time of writing—are enormously complex, however. It is strikingly hard to anticipate what consequences the reforms BEPS IF countries are signing up to will entail. Without access to good quality economic and tax-related data, it is next to impossible.

11.2 The Importance of Transparency

Transparency is a second thread running through this book. This applies to both government policy and taxpayer transparency. Taxation is at the foundation of societies' social contracts, and transparency is an important feature of that. It increases tax certainty, increases trust in the fairness and performance of the tax system, and holds governments accountable. Transparency also was one of the key elements of the G20-led OECD reform programs on exchange of information and BEPS (OECD/G20 Inclusive Framework on BEPS 2020).

The sixth and seventh chapter in this book both tackles the issue of tax incentives. Tax incentives can be performant tools for attracting foreign investments but can quickly tip over into preferential tax advantages or even harmful tax regimes. Both chapters mention the importance of transparency to ensure these incentives stay cost-effective and fair. Arguments in the same vein are made in Chap. 9 on tax expenditures. High-income governments are not off the hook in the context of developing countries though, as Chap. 10 shows how preferential tax regimes can have negative spillovers in the Global South. All these chapters mention a myriad of reform suggestion for their respective topics. But the common ground here is that increased transparency might not automatically result in better government policy but in almost all cases is a necessary condition for improvement.

On the other side of the social contract is taxpayer transparency. Ensuring every taxpayer is treated equally and that people can't evade or avoid paying taxes is just as important for improving trust in the tax system. The OECD's programs on automatic exchange of financial information and multinational country-by-country reporting are important multilateral milestones in this regard. Yet, many developing countries—despite being part of those programs—are not yet sharing and receiving this information (OECD/G20 Inclusive Framework on BEPS 2020). This is mostly due to reciprocity requirements and a lack of technical capacity to meet those. The fourth chapter on improving donor coordination considers the current assistance for improving transparency in developing countries through these programs. The fifth chapter's main concept of Medium-Term Revenue Strategies can be an important tool for coordinating donor efforts to develop the necessary capacity to step into these exchange systems. Moreover, donor governments could consider foregoing reciprocity for a set period of time while allowing developing countries to use the resulting revenues for meeting the necessary conditions for reciprocity.

11.3 The Importance of Home-Grown Policies

The previous paragraph already mentioned taxes as the heart of the social contract. What follows from this is that national tax policies should follow the preferences of countries and not just be an implementation of blueprints that are considered acceptable internationally. This is not at odds with countries learning from each

other at the regional or multilateral level or with the sharing of best practices but emphasizes that tax policy should ultimately follow a specific country's needs. This is especially important in the context of developing countries where a power relation vis-à-vis high-income countries, who are also aid donors, unavoidably exists.

Country ownership is an important consideration when donors provide external assistance in tax matters. Donor-driven reform is a plausible trap; whether due to information asymmetry, conditionality, or any sort of other interests that are involved. Chapters 4 and 5 deal with these matters of how to design technical assistance programs with respect to country ownership. The recently introduced concept of Medium-Term Revenue Strategies is one potential tool that can help in this regard. The same goes for policy coherence, as envisaged in Chap. 4, to ensure development objectives and tax policy are in line aids with producing assistance programs that match a partner country's needs. This also holds true for the interaction between investment treaties and taxation, which Chap. 8 investigates. Investment treaties, especially those providing arbitration, can constrain or even undermine a country's efforts to pursue its optimal tax policy.

A more radical, but nonetheless worthwhile, exploration of homegrown policies in Chap. 2 is the case studies on unitary taxation with formulary apportionment and destination-based cash flow taxes in African countries. The author agrees that neither is a panacea nor easily implemented. However, contemplating alternatives to the transfer pricing system in which developing countries have had no say in designing should be a viable option to them. Similarly, the first chapter problematizes the power imbalances in international tax negotiations and how this leads to biased outcomes (in their case, the transactional profit split method). The takeaway here is that what might be good for international tax governance as a whole and provides stability is not necessarily what's best for developing countries.

11.4 The Importance of Eradicating Double Standards

"Do as we say, not as we do" is practically a cliché for when someone wants to criticize development practices. But there are instances where even well-meant and evidence-based advice to developing countries leaves a slightly sour taste because high-income countries themselves don't apply it.

The two Chaps. 6 and 7 on tax incentives are nice examples of this. Well-designed tax incentives can be an important tool for developing countries to attract sustainable investment. But they have to be transparent and monitored because they can quickly become ineffective and thus a drain on a country's finances. Or they can lead to a harmful competitive dynamic. There are few people who would argue these points, including the policy officials in high-income countries or international institutions working with developing countries on tax matters. Yet compare this with the negative spillovers generated by the tax conduct of high-income countries, as explained in Chap. 10, and one can quickly see how this relates to the "do as we say" cliché.

Another more sinister example are blacklists imposed by high-income countries, such as the EU's list of uncooperative jurisdictions. This list has been criticized extensively for listing certain countries while failing to apply their own criteria to EU countries (Lips and Cobham 2017; Lomas 2017). Chapter 10 again exposes this double standard by showing how high-income countries' tax regimes themselves provide a harmful dynamic to developing countries.

Less obvious, but nonetheless important, are the double standards that come along with aid and technical assistance from tax reform. Donor-funded reforms are often held to high standards, for example, the medium-term country-wide consensus on tax reforms as the ideal in Medium-Term Revenue Standards (see Chap. 5). On the one hand, this is understandable since donors should want their funds to be well spent. But on the other, donor countries themselves often do not adhere to those same standards they expect from developing countries.

Ultimately, this is symptomatic of an international tax system whose principles were designed in a colonial context. These have of course been altered over the years, but the biases towards residence, and thus high-income countries, are still in place (see Chap. 1). Advice towards improving developing countries tax systems, without recognizing this fact, places the burden of adjustment solely on developing countries. Eradicating certain obvious double standards is one way to help improve fair and sustainable tax relations between countries.

11.5 The Importance of Inclusiveness

Finally, a last common thread throughout this volume is the importance of inclusiveness. In order to achieve a fair, sustainable, and equal outlook on taxes in the context of sustainable development, developing countries have to become truly equal partners at the negotiating table. For a long time, the lack of participation was symbolized by the institutional divide between the more inclusive United Nations Committee of Experts on Tax Matters and the OECD as the dominant institutional forum on tax governance.

On paper, the creation of the BEPS Inclusive Framework is a huge step forward in this regard. It formally hosts 137 member countries, actively works with regional organizations such as ATAF (OECD/G20 Inclusive Framework on BEPS 2020), and helps developing countries with technical implementation through the Platform for Collaboration on Tax (2019).

In practice, however, observers note that participation for developing countries is still difficult. This is due to both practical reasons, for example, language barriers, personnel costs or technical capacity (Mosquera Valderrama 2018; Mosquera Valderrama et al. 2018), and power imbalances. The latter means that high-income countries voices carry more weight due to their economic size. Our first chapter examines the consequences of these imbalances in detail within the context of transfer pricing regulations. It is visible in other domains too, however. One example would be the digital economy negotiations that basically come down with trying to

find an agreement between the USA and France (as a leader of European countries on this issue). Developing countries, with India at the front, have tried to steer the negotiations towards their preferences in a common G24 statement (G24 Working Group on Tax Policy and International Tax 2019). The options they put forth have not been included into the OECD texts, however.

At the time of writing, the final compromise has not been reached yet, and it is difficult to predict what the impact of the proposals will be (Hearson 2019). Yet, serious criticisms remain on how developing countries' interests are not being served by the BEPS IF. Instead, they risk being drawn into whichever compromise can appease the game between great powers (Christians 2019). A place at the table clearly does not guarantee inclusive participation. If we want to further develop countries' interests, then we should continue to scrutinize this process and dare to question its legitimacy when appropriate.

11.6 To Conclude

We want to conclude with one final remark. From a narrow perspective, tax relations between countries can sometimes look like a zero-sum game. After all, income that is taxed by one country cannot be taxed by another if every country respects the foundational tax principle that double taxation should be avoided. This perspective is made explicitly in the political economy literature on tax but is equally present in law research, and it is also echoed by policy officials. It implies that making international taxation more equitable inevitably means that high-income countries must give up some revenue. This perspective is not false per se and is surely part of the explanation for why it is so difficult to change established tax norms. It also helps explain why the UN has been and to a large degree still is marginalized as a forum for international taxation. But viewed from a broader perspective, that includes development policies, this perspective is misguided as a foundation for policy.

High-income government should allow development departments to be part of their taxation policies with developing countries. All too often tax policy with development countries is decided in finance departments without consultation with development departments. Establishing disadvantageous tax treaties or blocking progress in international tax negotiations on one hand while delivering official aid for development on the other simply is incoherent and counterproductive from a national perspective. A similar argument can be made from an international perspective. The international community has decided that development is part of its responsibilities. The Millennium Development Goals and Sustainable Development Goals are testament of this. This is not only for moral reasons but also because development is a public good for the international community. Development leads to better government capacity which leads to more stable environments for security and economic opportunities. Taxation is part of this, and for these reasons, the needs of developing countries should be an element in revising international tax principles.

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