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Article 2

Creating a Race to the Top in Global Tax Governance: The Political Case for Tax Spillover Assessments

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Abstract

'Reglobalization' requires global governance mechanisms that can promote norm and normative change constitutive of a 'post-neoliberal order'. Mitigating the race to the bottom in taxation, which can harm public provision and social mobility, is a specific challenge requiring the creation of new tools. This requires going beyond the current reporting tools of global tax governance to focus more systematically on government policies. We develop a political case for conducting assessments of a phenomenon known as 'tax spillovers'. These are harmful impacts one country's tax policies have on other countries, that can also undermine the redistributive capacity of the home tax system. We identify five enabling conditions that give tax spillover assessments political salience, traction and feasibility. Devising and theorising policy tools that are politically feasible is a pressing task for the reglobalization project that is deserving of scholarly, as well as practitioner, attention.

KEYWORDS: Tax spillovers, global tax governance, re-globalization, tax competition.

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The 'race to the bottom' in taxation is a well-known proposition in an era of globalization (Plumper, Troeger and Winner, 2009). It refers to countries, states and cities competing with one another by offering tax cuts, reliefs, loopholes or subsidies to encourage the relocation of economic activity and mobile capital to their domain. In the process, however, states can find their own tax base and revenues are eroded, squeezing their 'fiscal self-determination' (Dietsch and Rixen, 2014; Van Apeldoorn, 2018). Governmental capacity to deliver public goods can deteriorate (IMF, 2014; Swank and Steinmo, 2002), while the rising relative tax burden on lower-income groups and less mobile factors of production can increase inequality (Baker and Murphy, 2020). The international impact of this is not spread evenly. Across Africa, for example, corporate tax revenues have shown an average decline of over 20 per cent since the 1990s (Keen, 2013). Even if it does not lead to the extreme scenario of zero tax rates on mobile capital as outlined in the zero-capital-tax-equilibrium hypothesis (Frey, 1990), the 'race to the bottom' involves a progressive downward movement that threatens public provision and social mobility. In this article, we emphasise that a primary challenge for any 'reglobalization' project is to mitigate this race by devising and theorising policy tools and frameworks that are politically feasible.

The dangers of tax-base erosion as a symptom of the 'race to the bottom' were acknowledged and prioritised by both the Group of 20(G20) and the Organisation for Economic Cooperation and Development (OECD) through the launching of the Base Erosion and Profit Shifting (BEPS) initiative in 2013. The major objective of BEPS has been to ensure that multinational enterprises (MNEs) are taxed where 'economic activities take place and value is created'. Neither BEPS, nor the so-called BEPS II modification of rules on taxation rights responding to digitalisation announced in 2019, have entirely neglected government policy. However, the focus has been on increasing the accountability of private actors (Lips, 2019).[1] Changing underlying conceptions of appropriate governmental behaviours and incentives has been much less of a priority. Yet the 'race to the bottom' involves government policy responses that can undermine the capacity of domestic tax systems to engage in redistribution (distributive integrity), while aggravating inequality between developed and developing countries (Rixen, 2011). Because this can be unintentional and is not always fully recognized, efforts to combat the 'race to the bottom' also need to focus on governmental policies through the creation of tools that can more fully illuminate such processes and their consequences.

One of the primary challenges posed by Bishop and Payne's (2020) concept of reglobalization is the need to create feasible global governance mechanisms that can promote norm and normative change constitutive of a 'post-neoliberal order'. Consequently, we

[1] BEPS action 5, for example, specifies 6 categories of taxpayer-related rulings on which authorities should exchange information. See https://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf. The purpose behind this exchange of information is to increase the set of information that authorities have on the treatment of taxpayers in other jurisdictions, so as to reduce the risk of profit-shifting activity. It is quite limited in scope and intent and is not about assessing the levels of tax competition pursued by a jurisdiction or the consequences of that competition.

consider how to encourage a 'race to the top' as a new overarching norm in global tax governance. We develop the normative and political case for conducting assessments of the harmful effects of a phenomenon known as 'tax spillovers.' These are the impacts of one country's tax policies, rules and practices on other countries, or on other aspects of the tax system within the same country, which undermine capacity to raise revenue or use the tax system for redistributive purposes.

We identify five enabling conditions or rationales that combine to give tax spillover assessments some degree of political salience, traction and feasibility.[2] Combined, these conditions make tax spillover assessments a plausible candidate for being an achievable frontier in global tax governance. These are: an empirical data rationale; a minimal normative rationale; a multiple constituency demand rationale; an institutional incentives rationale; and a reputational purpose rationale. Any intellectual project with the aspiration of re-engineering global governance to prioritise alternative values and norms also needs to give serious consideration to the sets of conditions that make change plausible and achievable. In this contribution, we move beyond our recent work, which outlined the soft-law dynamics of a new spillover evaluation framework (Baker and Murphy, 2019), to establish more fully the political case for spillover assessments. We use literature on NGO benchmarking of revolutionary and reformist types to suggest that hybrid modes of working are often essential to increase political appeal and traction (Broome and Quirk, 2015a; Seabrooke and Wigan, 2015). We show how such hybrid modes of working have informed the development of spillover assessment proposals to date. Prior field and agenda presence are important in building broad cross-cutting coalitions of support and developing political momentum for proposals. Ultimately, reconfiguring global economic governance requires the creation of practical tools that can populate the reglobalization agenda, while responding to the demands, concerns and priorities of multiple stakeholders.

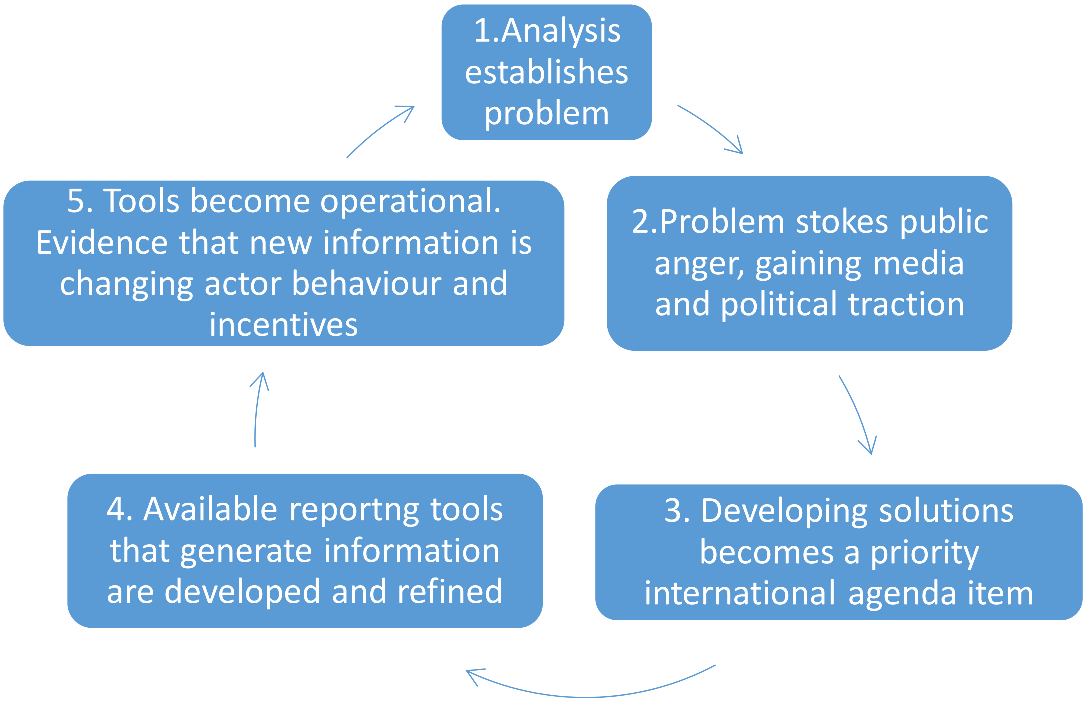
Norm change in tax governance: The nature of the problem

Changing dominant international norms is a long and arduous process. Scholars reflecting on the enduring quality of economic ideas after the financial crisis of 2008 identified their 'path dependent' and 'sticky' characteristics (Blyth, 2013; Underhill, 2015). Norms are widely shared notions of appropriate, acceptable actor behaviours, informed by normative principles of good conduct that are in turn embedded in and promoted by particular sets of governance arrangements and practices (Ruggie 1982; Florini, 1996; Finnemore, 1996; Thomson, 1993). Consequently, norms are even more likely to display qualities of stickiness and path dependence, precisely because ideas are often merely one ingredient feeding into highly contingent cycles of norm change. Norm change can therefore be viewed as a protracted multi-step process.

[2] Much of the evidence presented in this article is a function of the authors being direct and active participants in this new emerging policy field, working closely and engaging in a dialogue with various Non-Governmental Organisations (NGOs) and International Organisations (IOs) to produce a new framework for assessing tax spillovers. Our experience in that exercise has informed the political enabling conditions we identity in this contribution.

Such a multi-step process has been present in the emergence of the new tax policy tools, when the G20 called for Automatic Information Exchange (AIE) and Country by Country Reporting (CBCR) in 2013. Early evidence suggests that the operation of these new reporting and information requirements are inducing a partial norm shift, with AIE reducing the use of tax havens by multinationals and high-net-worth individuals (Ahrens and Bothner, 2019). The introduction of these tools involved several steps. First, following the financial crisis of 2008, with fiscal retrenchment widespread across the G20 from 2010 onwards, a series of public leaks about the tax-avoidance activities of large well-known MNEs, such as Starbucks, Amazon, Apple and Google, stoked public anger and media outcry (Birks, 2017). At the same time, analytical work established that tax avoidance and profit shifting was widespread, depriving exchequers of revenue and depleting public services (OECD, 2013; Henry, 2012; Zucman, 2014; Crivelli et al, 2015). Second, demands for these companies to pay fair amounts of tax became commonplace in political and public debate around the world (Campbell and Helleloid, 2016; Dallyn, 2016; Seabrooke and Wigan, 2016). Third, politicians at the Group of 8(G8) and G20 summits in 2013 provided political momentum by calling on the OECD to begin administering and developing the new reporting mechanisms, with both AIE and CBCR featuring in communiqués (G8 2013; G20 2013). Fourth, the specifics of AIE and CBCR reporting standards were further developed by OECD staff in conjunction with the G20. Both mechanisms increased available information and transparency for tax authorities by giving more detailed breakdowns on MNE activity in the case of CBCR and creating greater access to income recorded in other jurisdictions for tax authorities in the case of AIE. Crucially, the cases of AIE and CBCR illustrate the importance of having practical reporting tools and instruments that combine claims to moral authority with technical credibility (Seabrooke and Wigan, 2016). Fifth, initial evidence on the operation of AIE suggests that it is reducing willingness to use tax havens because this information can now be more easily accessed and publicised (Ahrens and Bothner, 2019). New reporting standards can therefore encourage behavioural changes, but, as with any reporting standard or evaluation framework, implementation and detail can always be questioned. This partial norm change's five step process is illustrated below in Figure 1.

Figure 1: A Cycle of Partial Norm Change in Global Tax Governance



We can see that, even in this truncated account, partial norm change represented by growing opprobrium for tax avoidance and use of tax havens required a complex chain of interdependent events and conditions. In reality, the sequence was not a neat linear one. Part four of the cycle, for example, began to take form initially prior to phase one, continuing through phases two and three, before being finalised in phase four. One of the reporting tools that became a mainstay of the OECD's BEPS framework began to be developed in civil society from 2003 onwards.[3] The above account nevertheless provides useful insights into the types of conditions required for norm change in global tax governance and the kinds of proposals that are politically achievable.

Thinking in terms of contingent multi-step processes also increases awareness of the scale of obstacles likely to be encountered by more ambitious proposals, such as unitary taxation favoured by some tax-justice campaigners (Picciotto, 2012). Unitary taxation seeks to calculate a single global profit for a corporate group based on a consolidated set of accounts. A formulary apportionment would then be applied to determine the correct share of tax owing to each individual country (Avi-Yonah and Clausing, 2007), with each country having the right to set whatever rate it determined appropriate (Rixen, 2011). From a tax-justice perspective such a proposal would potentially be very effective in ensuring a fairer revenue distribution for countries and reducing the potential for tax avoidance. However, the scale of institutional transformation and political will required to make such a proposal work is problematic. States would need to agree common accounting bases, which do not presently

[3] See Murphy (2003). Accounting literatures had been proposing a similar idea since the 1970s.

exist (Sikka and Murphy, 2015). The definition of the corporate tax base would also need to be overseen by some kind of international tax organization (ITO) with sanction powers. Aside from difficulties creating and agreeing on the design of such an international organisation, likely protracted disputes between government winners and losers in revenue terms would be a further political obstacle. The proposal would revolutionize global tax governance, but the scale of shift and degree of international cooperation and agreement required to bring it to fruition make it a distant prospect.

Political plausibility and the often painfully slow pace of international cooperation is also why building on and extending the logics of BEPS, AIE and other reporting requirements, such as the European Union's (EU) directives on administrative cooperation relating to various forms of information exchange, may provide a more feasible direction of travel for international tax reform in the medium term. One criticism of BEPS is that it falls short of protecting states from threats to their 'fiscal self-determination' brought about by tax competition between states, where fiscal self-determination is understood as the ability to achieve policy goals through legislative programmes (Van Apeldoorn, 2018: 484). Following this logic, an adequate protection of fiscal self-determination would need to consider, and at least include, some oversight of the tax rates set by states (Van Apeldoorn, 2018). Most existing reporting and information exchange requirements, although involving public authorities, are about improving available information on the tax-related activities of private actors. There is very little systematic consideration in existing reporting tools of how tax-competition strategies pursued by states can pose levels of risk to other states' revenue-collection capacity or how they might undermine the way the tax system as a whole coheres (Rixen, 2011). Tax spillover assessments are designed to increase available information on such risks.

Following a meeting at Chantilly in France in July 2019, Group of 7 (G7) finance ministers tasked the OECD with preparing a 'comprehensive agreement' on 'the general architecture' of rules for a minimum level of effective taxation of business profits, to be prepared by January 2020 (G7, 2019). Agreeing minimum rates of tax, however, does not necessarily challenge, or change, the overall trajectory of governmental behaviour. As a policy measure it is simultaneously ambitious because it proposes a specific limit, albeit requiring a difficult technical agreement on the reallocation of taxing rights, and minimal because it does little to alleviate the general competitive structural pressures on governments or address the behaviours and incentives associated with that. More meaningful efforts to document and discourage the 'race to the bottom' would require reporting on and evaluating a wider range of tax loopholes, breaks, reliefs and administrative practices, rather than just headline rates of corporation tax. This is where assessing the phenomenon of tax spillovers can make a contribution, particularly through a focus on the impact tax policies have on other areas of the tax system in the same state, or what we call 'domestic spillovers'.

Tax Spillovers

The issue of tax spillovers came to prominence in 2014 when the International Monetary Fund (IMF) published a paper on spillover effects arising from corporation tax cuts (IMF, 2014). The IMF defined them as the effects of one country's tax rules and practices on others (IMF, 2014: 2). The paper distinguished between base spillovers, or losses in inward investment, and strategic ones that result from policy decisions to further cut corporation tax rates. On this basis, the Fund developed econometric equations to generate estimates of both. These were found to have a 'significant and sizable' impact in reducing corporate tax bases and rates in developing countries, with the impact two or three times higher than in OECD members (IMF, 2014: 7). A one-point reduction in corporation tax in all countries would reduce a typical state's corporate tax base by 3.7 per cent, implying a sizable effect, given that average corporate tax rates had fallen by 5 per cent over the previous decade (IMF, 2014: 19). Revenue loss due to spillovers was estimated to be 13 per cent in non-OECD countries (IMF, 2014: 20).

The IMF's work also acknowledged methodological difficulties, with accurate country-level estimates being especially problematic using econometric equations (IMF, 2014: 15). In an effort to provide a foundation for assessing tax spillovers on a country-by-country basis we created a new spillover assessment tool kit (Baker and Murphy, 2019). Our framework moved beyond the IMF's work in five ways. First, we showed that the initial legislative intent behind the introduction of corporation tax in jurisdictions like the United States (US) and United Kingdom (UK) was not solely to raise revenue. Rather, corporate taxes served a defensive purpose, reinforcing or buttressing other parts of the tax system, such as income tax, by reducing incentives to hide income in corporate structures. Second, based on this definition we broadened the conception of spillovers beyond the effects of headline rates of corporation tax to ask whether tax and administrative practices undermine other parts of tax systems, both domestically and internationally. We asked, for example, whether a country's corporation tax policies and practices undermine and pose risks to its income-tax base, or that of other countries. Thirdly, qualitatively evaluating and documenting spillovers provides a more, comprehensive and wide-ranging reading of the scale and extent of potential spillover risks that comprise the 'race to the bottom'. Fourthly, we gave these assessments a minimally normative purpose of discouraging and reducing the harm states do to their own and other countries' tax system as a consequence of their policies. Fifthly, the qualitative scoring system enabled areas of greatest weakness and risk in a tax system to be identified, allowing targeted reform agendas to be formulated and proposed.

In simple terms, spillovers are the often unseen and largely unmeasured externalities and risks that arise from the pursuit of tax competition (most commonly for mobile paper profits). The framework we advance is informed by the observation that such competition can change the structures of tax systems, domestically as well as internationally (Rixen, 2011). In developed countries a common pattern is to cut nominal rates of corporation tax, with average corporation tax falling from 32 per cent in 2000 to 25 per cent in 2015 across the OECD, but simultaneously to expand the number of entities liable for corporation tax (broadening). This shifts the burden from highly profitable and mobile MNEs to smaller and medium-sized companies. When nominal corporate taxes on retained profits fall below income tax, there is also an incentive to classify income as corporate. Authorities then face incentives to address that by reducing the top rates of income tax or reducing taxes on financial investments to avoid appearing to flatten the income-tax structure. All are examples of 'domestic spillovers' caused by tax competition that weaken the overall redistributive integrity of a tax system and push relative tax burdens towards lower-income groups and less mobile factors of production such as labour (Baker and Murphy, 2020). In developing countries, tax competition and the resulting relocation of paper profits – or other special deals – often simply reduce the overall tax base, because of limited administrative capacity to collect more income tax or broaden tax bases. These are international spillovers and they harm developing countries the most. Our framework uses three systematic scoring grids (domestic spillovers, international risks generated and vulnerability to international risks) to assess the risk levels posed by the practices characteristic of specific parts of tax systems, both domestically and internationally.

In applying this in a UK spillover assessment, we found the biggest domestic spillover risks posed to the UK's income tax base were from limited 'close company' provisions that encouraged the shift of income into corporate structures at lower rates, and from the weak administration of capital gains (at lower rates) that allowed income to be disguised as capital gains. The most prominent international spillover risk that the UK generated for other jurisdictions was the ease of creating a company and of allocating income earned elsewhere to that company (Baker and Murphy, 2019c). In this way, spillover assessments can identify policies that undermine other parts of the tax system and harm its redistributive capacity, and those policies most likely to harm other tax systems, undermining developing countries' capacity to pay for public goods.

Assessing National Policies

Moving beyond current global governance tax initiatives, which mostly increase information on the activities of private actors, requires assessing and reporting on national tax policies and their spillover risks. Such reporting exercises on national policies have become increasingly common (Cooley and Snyder, 2015). Peer review and multilateral surveillance exercises function through a mix of formal recommendations and informal dialogue, public scrutiny, comparisons and even rankings of countries. This is followed by public reactions to the publication of results by electorates, interest groups, public officials and politicians (Pagani, 2002: 5-6; Broome and Quirk, 2015a; Shafer, 2006.) Such review and grading processes create the basis for 'symbolic judgements' on countries' relative performances that function through unfavourable comparisons with peers (Broome and Quirk, 2015b: 828; Sharman, 2007). These symbolic judgements can in turn unleash a 'politics of bad performance', sparking a review of existing practices, while providing ammunition for critics of the status quo. More subtly, such evaluations and reviews can gradually reframe policy dialogue and debates, as well as notions of appropriate behaviour.

So-called benchmarks are essentially evaluation frameworks that collate and report information on particular government policies. One of the major insights to emerge from the benchmark literature is that measurement systems and forms of evaluation are difficult to separate meaningfully from their underpinning political values and preferences (Broome and Quirk, 2015a, 2015b; Broome, Homolar and Kranke, 2018). Normative criteria are often projected into many existing evaluation exercises by specifying appropriate conducts, behaviours and good practices (Broome and Quirk, 2015b: 826.) Most existing benchmarks, rather than offering watertight scientific measurement, effectively engage in a form of 'norm evaluation', with the consequence that they most commonly reinforce pre-existing norms (Broome, Homolar and Kranke, 2018: 3.) In other words, benchmarks have to date largely been conservative governance tools concerned with maintaining existing established norms. According to such logic, however, and given the fundamental underlying normative quality of many existing ones, they could also be designed to challenge and change existing normative logics.

The finding in the benchmark literature that choice of norm is usually prior in the construction of multilateral evaluation frameworks is pivotal (Broome and Quirk, 2015a, 2015b; Broome, Homolar and Kranke, 2018). A first step in designing a benchmark or evaluation framework is the choice of norm (or behaviours to be encouraged/ discouraged). Creating new benchmarks that reflect and promote different values and priorities is a practical contribution scholars of global governance can make to the reglobalization project. Those with experience, understanding and knowledge of how many existing ones function can usefully apply that expertise in designing new prototype benchmarks and evaluation frameworks. We see this activity as a significant part of the reglobalization agenda, as both an intellectual and practical undertaking.

One important contribution to the benchmark literature distinguishes between reformist and revolutionary benchmarks as ideal types (Seabrooke and Wigan, 2015). The former seek to create change within a dominant system, flowing in the same direction as *'established normative trends'* (Seabrooke and Wigan, 2015: 889). They are also expected to have prior issue-salience and are generally advocated by large-scale established NGOs. These organisations then outsource benchmark creation, or refinement tasks, to outside experts, before seeking buy-in from a range of stakeholders. By contrast, the latter seek to change both how the basic units of the system are seen and the logics of the system itself. Expert activists – usually connected to smaller, less established NGOs – then attempt to persuade larger NGOs, stakeholders and authorities of their case, and to contest, dispute and overturn dominant methodologies by presenting alternatives that shine a different light on a particular problem or issue. This ideal-type distinction is indeed a neat heuristic device. In practice, as active participants in the field, we found that practical realties necessitated a pragmatic, hybrid, flexible mode of operation, involving a combination of reformist and revolutionary logics.

In the rest of the article we document and reflect on our experiences of designing a spillover assessment framework and the sets of politics and progress that has entailed to date. In particular, we identify five enabling conditions that have been present in the spillover case that have given the issue, field and agenda presence, and were similarly present when AIE and CBCR were introduced. These elements can be considered necessary, but not sufficient, conditions. Veto points and the absence of political will from large states remain the biggest obstacle in any case of global governance reform and the most significant factor hampering extensive meaningful take-up of spillover assessment.

Political Enabling Conditions Present in the Spillover Case

The framework for conducting national spillover assessments that we created (Baker and Murphy, 2019) has several conscious design features that are intended to deepen and broaden its appeal for a range of actors. In presenting these features we are not claiming that they are a scientific threshold, but rather a guide to the kind of strategic thinking required to position proposals to give them the best chance of political acceptance. Our more limited claim is that populating the reglobalization agenda with specific politically viable tools requires attention to the conditions that give proposals field and agenda presence and enables cross-cutting constituencies to be built.

An Empirical Data Rationale
As with AIE and CBCR, tax spillovers became an issue with salience and traction due to empirical analysis that quantified the phenomenon. Using econometric techniques to highlight that harmful spillovers were most pronounced in developing countries, estimating a 13 per cent revenue loss, the IMF research established them as a real-word problem (IMF, 2014). Within a year, two European governments implicated in the notorious 'Double Irish with a Dutch sandwich' profit-shifting scheme – The Netherlands and Ireland – commissioned their own analyses of the spillovers produced by their jurisdictions (Kosters, 2015; IBFD, 2015). Rather than mute potential criticism, however, these assessments gave further momentum to calls for country-level spillover analysis. For development NGOs, these reports became a focus of criticism and a point of reference for how not to conduct spillover assessments, sparking a search for alternative methodologies. Oxfam, ActionAid and Christian Aid all began to call for governments to enter willingly into spillover assessments, while highlighting the inadequacies of the Dutch and Irish assessments (ActionAid, 2018; Oxfam, 2015; Christian Aid, 2017). Oxfam instigated events in the UK parliament to discuss and promote spillover assessments (APPG Inclusive Growth, 2017), while Action Aid and Christian Aid began to commit budget to the issue by commissioning their own analyses (Action Aid, 2018; Christian Aid, 2017).

In keeping with reformist benchmarking, therefore, the IMF analysis established issue salience with large established NGOs which began to pursue questions of how national, or country-level, assessments might be conducted in a dialogue with outside experts. In this way 'tax spillovers' became an accepted, if contested, part of the discourse of international tax governance and a credible way of analysing and identifying 'race to the bottom' dynamics. In 2018 the platform for collaboration on tax (PCT), involving the IMF, OECD, the United Nations (UN), the World Bank Group (WBG) and stakeholder groups, issued a statement declaring a broad aspiration to 'analyze and report on the spillovers and opportunities from changes in the international tax environment on and for developing countries' (PCT, 2018). A call for the UK government to conduct a regular spillover assessment was made in the UK parliament in 2016 (APPG RT, 2016). Likewise, tax spillovers remain part of the ongoing research programme of staff in the Fiscal Affairs Department in the IMF, with further papers and books planned (Discussions with IMF Staff, December 2018). The European Commission's Directorate General for Customs and Taxation is also involved in discussions on how spillovers might be assessed, including considering qualitative approaches (Correspondence with European Commission officials, February 2019).[4] In short, the IMF analysis of 2014 has given spillovers field and agenda presence. In keeping with previous scholarship in international political economy on the importance of viable policy proposals in technical areas like finance and tax having prior presence, spillover assessments now have both institutional access and a body of established prior work to draw on (Porter, 2003; Baker, 2013).

A Normative Rationale

In the area of tax, existing literature has established the potency of fusing expertise with moral authority (Seabrooke and Wigan, 2016). Tools like CBCR fed off public anger at the palpable sense of injustice at the limited tax payed by many leading multinationals. To penetrate public consciousness and develop political support, technical proposals are most effective when harnessed to claims about morality, justice and fairness. Technical instruments, with a clear message about the rightness of their objectives, stand the best chance of building political and public support. The benchmarking literature has also established how choice of normative objective informs the design of evaluation frameworks (Broome and Quirk, 2015a).

Cognisant of both these observations, we designed our spillover assessment framework, with a minimally normative objective that would appeal widely and resonate morally with a range of actors. Recognising the merits of building on established prior empirical rationales, we used the IMF's finding in 2014 that spillovers were resulting in significant harms for developing countries by reducing tax bases. In our formulation, spillover assessment was given the purpose of identifying (and discouraging) harms caused by tax competition, both domestic and international, in terms of lost revenue and the undermining of the overall 'distributional integrity' of a tax system. Rather than seeking to advance a complex argument about the unjust and morally problematic nature of 'luring' capital through 'strategic intent' (Dietsch and Rixen, 2014; Dietsch, 2015), we made a more straightforwardly intuitive claim that governments should seek to minimise the harms caused by their tax policies. Demonstrating 'strategic intent' is difficult and can be contested, while unintentional but avoidable harms remain part of the problem of the 'race to the bottom'.

Preventing unintentional harms becomes a challenge in an era of globalization because global competitive forces can have unintended distant consequences, creating a need to protect

[4] As authors, we were invited to participate in these in March 2019.

governments and individuals from avoidable harms (Linklater, 2002: 329). Negligence, or failure to take due care to prevent the risk of harm to others, is ethically problematic, because harms that could have been avoided still occur, even if they are largely unintentional (Linklater, 2002: 330). Enabling unintentional harms caused by tax competition to be better identified and understood by governments, international organisations and civil society actors alike is something to which spillover assessment can contribute, paving the way for remedial action.

Reducing inequality is now widely accepted as a priority agenda item for the G7 and established organisations such as the OECD, the IMF and the World Bank, while tax is increasingly recognised as the primary means of effacing inequality (Piketty, 2014; Saez and Zucman, 2019; Baker and Murphy, 2020). Normatively, our framework works with the grain of this aspiration, while recognising the practical difficulties of making progress because of the structural pressures governments face. Ultimately, a gap exists between such rhetoric and much tax practice. The stark reality is that many tax systems are structured in ways that exacerbate domestic and international inequality. A variety of partly concealed reliefs and preferential arrangements can undermine other parts of a tax system and its functioning as a whole, while luring capital from other jurisdictions, both intentionally and unintentionally. For example, in other research we estimate that 81 per cent of UK personal wealth is held in heavily tax-incentivised assets at a cost of £86 billion a year to the tax base through what are effectively social tax expenditures (Murphy and Baker, 2020; Morel et al, 2018). By evaluating such practices and their consequences, while publishing information on them, spillover assessments can stimulate reform debates.

Rather than contributing to the ‘race to the bottom’ in taxation, our spillover framework takes a position that advanced states have a moral and ethical imperative to lead a new global ‘race to the top’ by demonstrating good behaviours and generating negligible international (and domestic) spillover risks. The spillover framework has the purpose of encouraging and promoting such behaviours. Achieving such norm change, even gradually, would be transformatory. It would challenge the dominant competitive logic of the existing system, ‘reversing existing normative trends’ (Seabrooke and Wigan, 2015). Spillover assessments with the kind of normative purpose and methodological design we propose are usually characteristic of revolutionary benchmarks. Yet, at the same time, by working with a concept that is already accepted by major international organisations and NGOs, with the aspiration of gradually encouraging domestic policy changes, the proposal is also strategically reformist. Combining reformist and revolutionary elements in this way increases the likely acceptance of and support for spillover from a number of parties, while retaining a clear objective for change that guides the design of the assessment framework and its overall purpose.

A Multiple Constituency Demand Rationale

In designing a spillover assessment framework we sought to give the assessment exercise multiple uses for multiple actors and to create incentives for a range of domestic actors to support entering into such assessments. Most importantly, spillover assessment has to appeal to governments by offering sources of information they might find useful. We set out several potential uses for governments in the tool kit (Baker and Murphy, 2019b: 2). Spillover assessments can assist governments to identify how loopholes, reliefs and or administrative shortcomings pose risks to the tax base and the tax system as a whole, as well as revealing how their targeted removal might raise additional revenue without increasing rates or extending the tax base. Spillover assessments can also document whether incentives and other arrangements to encourage particular behaviours built into the tax system are working to best effect, or are maybe having unintended consequences that undermine other parts of the tax system or tax base with detrimental social consequences. They also provide an enhanced view of how the tax burden is distributed and whether specific groups and sectors are paying appropriate shares. A range of business and industry groups may also find such information useful. Governments may also want to know about the effectiveness of their tax administration and whether the funds they invest in these agencies are being used to best effect. Finally, spillover assessments can give governments a sense of their own vulnerability to aggressive tax competition practices abroad, as well as how such vulnerabilities could be reduced. Consequently, spillover assessment has been strategically framed as a device and source of information for promoting informed, constructive policy dialogue about how tax systems cohere as a whole and weaknesses that could be addressed.

In civil society, spillover is already on the agenda of the largest best-resourced development NGOs. Such a group of NGOs focused on taxation and inequality issues, including Oxfam, Action, Eurodad and the Tax Justice Network, recently called in the London Declaration for spillover assessments to take a qualitative form and to go beyond corporation tax in order to evaluate a wide range of potential domestic spillovers (GIFT, 2019). The World Bank-sponsored platform for promoting civil society dialogue on fiscal matters, the Global Initiative for Fiscal Transparency (GIFT), increasingly views spillover assessments as a way of increasing transparency, information and deepening and enriching civil society dialogue on tax revenue cycles, particularly in developing countries where information and data can be scarce and administrative capacity limited. GIFT is developing proposals for spillover assessment in some of its latest commissioned research (dialogue between authors and GIFT, December 2019). Spillover assessments in this reading are seen as a means of increasing information on the functioning of tax systems and their practices for a range of stakeholders, including civil servants and tax administrators, industry professionals, trade unions, political parties, campaign groups and business lobbies from different sectors.

Multiple appeal and the cooperation of numerous parties is seen as essential to the plausibility of spillover, not least because surveying multiple parties with experience of the operation of a tax system in order to build up assessors' impressions of how widespread certain practices are, is integral to the spillover methodology we propose. In this regard, a process of building coalitions to support the introduction of spillover assessments in a number of developing countries, especially in Latin America, is already underway through the GIFT initiatives. In the European Parliament, the Socialist and Democrat party groups have been urging the European Commission to start undertaking spillover assessments of European states (SDG, 2019), with the Commission itself engaging in a discussion about the forms a spillover methodology might take. In short, the spillover framework we created was a response to a prior demand from a range of organisations, interest groups and bureaucracies which were already thinking in terms of how to evaluate them. Spillover assessment is not a distant abstract proposal. Rather, it involves the creation of a specific toolkit that already has political traction and presence in a variety of settings.

The biggest obstacles to spillover assessment becoming an established feature of global tax governance are the reservations of large advanced states. For example, a recent IMF paper on the negative spillover effects of cuts in US corporation tax (Beer et al, 2018) is unlikely to improve the Trump administration's negative attitude towards multilateral governance more generally. As one OECD official conceded, the problem with any form of multilateral peer review, especially when large states are involved, is that assessments can only cover what that a government wants or consents to (Confidential discussions with the authors, September 2019). The current US government has strongly defended US-owned digital companies in recent G7 debates about taxing digital companies, while European governments were muted in their criticisms. Likewise, when the European Union released a blacklist of non-cooperative tax jurisdictions in 2017, it identified smaller jurisdictions but, as with previous declarations, left out six EU member-states that met the criteria: Malta, Luxembourg, Ireland, Cyprus, Netherlands and the United Kingdom. The United States also managed to avoid the blacklist, despite providing very little cooperation (Lips and Cobham, 2017). This is part of a more general pattern in which tax 'blacklists' tend to identify the usual suspects amongst smaller states (Sharman, 2010), with larger states reluctant to be critical of one another.

For these reasons, we have avoided framing spillover assessment as a form of 'blacklisting', because this is likely to strike too adversarial a tone and run into opposition from larger states. In this respect, the spillover proposal is different from proposals such as the financial secrecy index (FSI), which would essentially act as a tool for exposing the tax secrecy provisions of larger states (Seabrooke and Wigan, 2015; Cobham et al, 2015). How to extend global tax governance to persuade states to engage in more systematic evaluations of their own tax policies is a key and difficult challenge, but at least new forms of effective cooperation on taxation matters have emerged in recent times (Christiensen and Hearson, 2019). Notably, buy-in from governments and stakeholders, deciding voluntarily to enter into policy dialogue in order to obtain useful information from the exercise, rather than simply being on the receiving end of criticism, has been present in the case of other assessments of government policies and practices. Such an element was, for example, an important factor in building stakeholder consent for corporate governance assessments, which have informed the design of this framework (Baker, 2012).

Ultimately, the nature of the current political leadership in the United States and the United Kingdom, with their relative embrace of tax competition, means the multiple constituency demand rationale, despite being present in the spillover case, is also the weakest of the enabling conditions. Nevertheless, parliamentarians in both the EU and the UK have made noises supportive of spillover assessment, indicating that it not only has issue presence, but some political support in both jurisdictions.

An Institutional Incentives Rationale

To be feasible, spillover assessments will require traction with established international organisations, fitting with their working methods and conceptions of bureaucratic turf. The fact that both the European Commission and the IMF have for some time talked about the existence of tax spillovers as a significant problem means that the first test is largely passed. The second test is more problematic. The IMF, for example, obtains much of its authority as a reputational intermediary (Broome, 2008) from an epistemological commitment to rigorous econometrics as a foundation for powerful evidence-based policy prescriptions. The 2014 IMF paper thus used econometrics to establish spillovers as an agenda item in international tax governance. However, at the same time, that paper expressed reservations about using such methods to arrive at accurate country-level estimates. The Fund has not sought to position itself as the institution to conduct country-level spillover assessments. Moreover, if, as we contend, spillover assessment should be deployed to seek to improve policy dialogue and identify targeted reforms, more qualitative forms of assessment, such as the one we propose, do have a prior track record (Baker, 2012).

In this respect, our tool-kit consciously draws on the working methods of previous World Bank assessment exercises, notably the corporate governance Reports on the Observance of Standards and Codes (ROSCs). We purposely sought to reproduce aspects of that methodology and logic. These World Bank reports were qualitative and remedial, as well as diagnostic, and involved collating assessors' impressions of how widespread particular practices were based on widespread stakeholder consultation, interviews and questionnaires, as well as analysis of legal statutes and regulations (Baker, 2012). Moreover, these assessments were intended to publish information for a range of stakeholders, resulting in and catalysing an enhanced stakeholder policy dialogue that would help identify reform paths, empowering certain regulatory authorities. Because of their function in catalysing policy dialogue, the assessment process was voluntary and involved a reciprocal exchange between regulatory authorities and assessors. We recognise that such a voluntary opt-in approach is likely to be necessary if spillover assessments are actually to take place and have domestic resonance, even if that reduces the critical tone of reports. In other words, qualitative tax spillover assessments are informed by a precedent of previous qualitative evaluations of country-governance practices, as a prior from of multilateral assessment that fits with the logic and skills profile of an existing institution and its working methods. The proposal for an alternative methodology for assessing spillovers contained in our assessment framework, although characteristic of revolutionary benchmarking, also has a reformist aspiration. It is perhaps unsurprising, therefore, that the World Bank-funded GIFT programme has shown most interest in piloting domestic spillover assessments in selected developing countries as a tool for increasing fiscal-revenue-cycle transparency, precisely because they resonate with working methods with which key personnel are familiar (GIFT, 2019).

A Reputational Purpose Rationale

Finally, as already documented, existing forms of multilateral assessment and benchmarking are usually informed by a clear sense of purpose and engage in norm evaluation (Broome, Homolar and Kranke, 2018). Our spillover framework has the very clear intent of identifying and discouraging forms of tax competition and policies that pose the biggest threats to other countries' tax bases, while potentially undermining the coherence of a tax system as a whole. The framework contains a systematic method for grading these risks. Likely to be more prominent, however, are the policy dialogue and recommendations that suggest ways for governments to ameliorate these risks and enhance the security of their own tax revenues. Spillover assessments are designed to contribute to changing the reputational incentive structures around what is acceptable and appropriate behaviour (Sharman, 2007). However, for the time being, we have left open the question of attaching sanctions to bad performance. Existing research suggests reputation on taxation matters works most effectively when accompanied by legally enforceable sanctions (Eggenberger, 2018; Hakelberg, 2016), although that has usually involved large states targeting small states. The problem is that spillovers arising from states pursuing tax-competition strategies can characterise all states in different forms, without states necessarily crossing the threshold to carry the stigma of being a tax haven, which is what 'blacklists' and sanctions have usually been aimed at. Peer pressure and policy dialogue to reduce harmful spillovers may not be an ideal best-fit solution, but they remain preferable to a world where they are simply ignored or accepted.

Conclusions

Reglobalization is a useful and interesting concept because of its compelling call to imagine alternative futures and to consider how global governance might be refashioned. But it should also be seen as a practical call to action for scholars of global governance, within which they can become active participants in re-designing global governance mechanisms and processes. In this contribution, we have presented a new governance tool that already has some political traction and field presence with a range of actors. As a practical project of governance with aspirations of normative change, reglobalization requires that such tools are strategically framed and positioned. Our experience as actors in the field to date suggests such tools will need to: be grounded in solid robust empirical research that establishes that a particular set of processes constitute a problem requiring a solution; have a clear sense of defensible, moral, normative purpose; be capable of appealing to and fulfilling the demands of multiple constituencies, creating coalitions of support amongst governments and civil society; fit with existing institutional incentives, priorities and methodologies; and, finally, have a clear sense of how reputational incentives can be used to promote changes in behaviours and norms.

In designing a form of tax-spillover analysis we have been mindful of these considerations and have used them to inform the design of the proposed framework, with a view to enhancing its political appeal and plausibility. We acknowledge that the support of powerful states, given their previous reluctance to expose their own tax policies to much in the way of outside scrutiny, remains a significant likely obstacle. For this reason, we have avoided framing the assessment exercise as a form of 'blacklisting'. Instead, we have emphasised the intent of promoting enhanced policy dialogue to identify and suggest reform pathways to reduce harmful spillovers, rather than merely to 'name and shame', although this does not rule out that possibility. The tool-kit we have created is merely one step on the road to reforming global tax governance. It has the advantage of a prior institutional footing and organisational backers in current policy debates. Drawing on the literature on benchmarking, we have shown how the proposal has involved a pragmatic combination of reformist and revolutionary elements. AIE and BEPS have been important developments in global tax governance, but the appropriate norms for framing and informing national government tax policies have not received sufficient attention to date. Tax spillover assessments are one means of addressing that. The conditions and rationales we present help to give us a picture of how a cycle of norm change might emerge in global tax governance without, of course, guaranteeing such an outcome.

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