

Special issue I

International Tax Challenges for Developing Countries. Introduction

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**Special issue I: International Tax Challenges
for Developing Countries.**
Introduction

Yvette Lind

Introduction to: “Special issue I: International Tax Challenges for Developing Countries”

To be published in the *Nordic Journal on Law and Society (NJOLAS)* fall issue of 2020

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Copenhagen Business School hosts a conference concerning inequality within the international tax regime on the 14th of September. This conference brings together researchers who are at the forefront of their respective fields in order to identify, discuss, and to underline future challenges associated to inequality in the international tax context. These discussions will subsequently be published in three separate special issues:

1. “*Special issue I: International Tax Challenges for Developing Countries*”, forthcoming in the *Nordic Journal on Law and Society* in the end of 2020
2. “*Special issue II: Inequality within the International Tax Regime*”, forthcoming in the *Nordic Tax Journal* in the spring of 2021
3. “*Special issue III: Comparative Perspectives on Inequality within Taxation*”, forthcoming in the *Nordic Journal on Law and Society* in the fall of 2021

The papers attached to this working paper issue concerns the relationship between developing- and developed states with an emphasis on present shortcomings when allocating taxing rights in a fair and sustainable manner. In “*A Different Unified Approach to Global Tax Policy: Addressing the Challenges of Underdevelopment*” Ozai and Magalhães contribute with a commendable introduction to the historical development of international tax policy. Illustrating how the Global North has taken to foster the Global South and aided through the implementation of legal transplants gathered from the North. And as with the case of legal transplants in general, many of these tax mechanisms have failed to factually assist the tax systems and financial development of the South as they have been implemented without any consideration to differing legal cultures nor the specific prerequisites within these individual states. Thus, enforcing the perception of developing states being a homogenous group rather than individual states and further perpetuating that the challenges imposed on these states are of a purely domestic nature rather than acknowledging the unequal relationship stemming from, for instance, past colonialism.

Emblad eloquently links into this reasoning when exploring the relationship between states in the North and the South in his paper “*Breaking with Sovereignty – An Essay on Power relations and global redistribution of tax revenue*”. Through the inclusion of the term ‘economic-ideological forces’ he explores the currently unequal relationship through the lens of tax sovereignty. This critical analysis concludes that the concept of sovereignty has become a tool for maintaining established power relations in-between states. Advising states in the South to break free from this understanding of

sovereignty in the hope of revising the international tax order. Proposing alternatives on how states may allocate taxing rights between themselves in the hope of a fairer outcome between the North and the South.

After previous authors having recognized the unequal relationship between the North and the South, Riccardi Sacchi analyses the ongoing work at international level in her paper *“Implementing a (global?) minimum corporate income tax: an assessment from the perspective of developing countries”*. With the objective to focus on the BEPS project, Pillar Two in particular, she assesses the Global Anti-Base Erosion (GloBE) proposal from the perspective of developing states. This analysis comprises not only the international tax context in which the GloBE proposal have emerged but also the policy rationale and mechanics behind the rules constituting the GloBE package. Her insightful analysis concentrates in particular on the income inclusion rule, the ordering criterion and the introduction of substance carve-outs. Concluding that the ambition of the GloBE proposal to foster economic development is at the very least doubtful and poses the question of whether Pillar Two is necessary at all.

Lammers supports this reasoning in his paper *“Less is More – Developing countries can gain revenue by giving up taxing rights”* when arguing that all proposals attached to the Unified Approach are highly technical and would require much in terms of capacity of developing countries considering necessary efforts. Claiming that the potential tax revenue for developing states is rather modest. Therefore, he extends several alternative policy options aimed at reducing complexity, while also aiming to award developing states additional revenues. These alternative discussions include the continuance of the current practise of awarding tax incentives to attract foreign direct investment in the South.

Navarro Ibarrola analyses the practise of granting of corporate income tax incentives as a means of attracting foreign direct investment from a Latin-American perspective in his paper *“Tax sparing clauses as a policy instrument of developing countries and their descent: evidence from the Latin-American tax treaty network”*. The paper examines the rationale of tax sparing, as well as the relevance of this policy instrument in the Latin-American tax treaty network by analyzing all clauses adopted in it. Contributing with additional insights concerning the decline and plausible collapse of tax sparing clauses in Latin-American tax treaties due to the enforcement of CFC rules and the possible adoption of an income inclusion rule as proposed in the OECD GloBE proposal (Pillar 2).

Lastly, these authors have been working on above described papers since the fall of 2019 and the papers have already undergone several revisions. Comments and feedback are greatly appreciated as they will, after final revisions based upon comments in connection to the conference, be submitted to peer-review by the end of September.