# The Globalized Myth of Ownership and Its Implications for Tax Competition

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# The Globalized Myth of Ownership and Its Implications for Tax Competition

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# ABSTRACT

Tax competition (by states) and tax evasion (by individuals or companies) unfold at a dramatic scale. An obvious adverse effect is that some states lose their tax base. Perhaps less obviously, states lose out by setting tax policy differently – often reducing taxes – due to tax competition. Is tax competition among states morally problematic? We approach this question by identifying the globalized myth of ownership. We choose this name parallel to Liam Murphy and Thomas Nagel's myth of ownership. The globalized myth is the (false) view that one can assess a country's justifiably disposable national income simply by looking at its gross national income (or gross national income as it would be absent certain forms of tax competition). Much like its domestic counterpart, exposing that myth will have important implications across a range of domains. Here we explore specifically how tax competition in an interconnected world appears in this light, and so by drawing on the grounds-of-justice approach developed in Mathias Risse's *On Global Justice*.

# INTRODUCTION

Among the most important decisions states face is what taxes to levy, and at what rate. These decisions determine the size of the government's budget, and who foots the bill. Tax policy has repercussions beyond borders. Lower taxes attract companies and individuals from elsewhere. Lower taxes might also entice companies and individuals to find ways of making assets or activities taxable in lower-tax locations anyway without shifting their economic activities.  States compete by designing taxation to attract wealth, or in any way be the location where assets are taxed. Tax competition (by states) and tax evasion (by individuals or companies) unfold at a dramatic scale. States aim to grow their tax base and companies and individuals strive to increase their net assets by leveraging differences across tax systems. But such growth occurs at the expense of states that lose out in competition. An obvious adverse effect is that some states lose tax base. Perhaps less obviously, states lose out by setting tax policy differently – often reducing taxes – due to tax competition.

Is tax competition among states morally problematic? We approach this question by identifying the *globalized myth of ownership*. We choose this name parallel to Liam Murphy and Thomas Nagel's *myth of ownership*. The domestic myth is the (false) view that one can assess a person's justified post-tax holdings, and thus her freely disposable income, by looking at her gross income.[1] The globalized myth is the (false) view that one can assess a country's justifiably disposable national income simply by looking at its gross national income (or gross national income as it would be absent certain forms of tax competition). With that myth exposed, tax competition in an interconnected world appears in a certain light that prompts us to assess it drawing on the grounds-of-justice approach in Risse's *On Global Justice*.[2]

Let us illustrate what we aim to argue. Suppose elections are coming up in country A, and different parties propose to adjust tax rates upwards or downwards. How should a citizen of A think about whether proposed adjustments are just?[3] According to any plausible theory of justice, citizens should consider whether revenues generated under competing tax policies suffice to deliver justice at home. Will A be able to meet the claims of justice citizens of A have against each other and thus against their state? According to one position – commonly called *statist* – citizens need only consider repercussions of changes in the tax regime on domestic justice. Since for statists the scope of justice is domestic, citizens can follow their political preferences to choose among tax policies that enable A to deliver justice at home. In particular, A has no obligation to refrain from lowering taxes even if this leads to a decline in country B's tax base such that B can no longer meet the claims of justice of its citizens.

According to another approach – commonly called *cosmopolitan,* though the kind of cosmopolitan view still formulated for a world of states – citizens should consider the impact of tax adjustments on all other states. Different cosmopolitan options propose different ways to optimize. But all such options recognize an agent-neutral global-justice constraint on the level at which domestic taxes can permissibly be set. That constraint is *agent-neutral* in the sense that it requires every state to optimize the same aggregate measure. Cosmopolitans call for such a constraint because for them justice is global in scope. From the perspective of cosmopolitan justice, lowering taxes in A may be impermissible even if this allows A to move its tax revenue per head closer to the global mean. It would be impermissible to lower taxes in such a situation if other countries lose more than A gains. An important interlocutor in our inquiry, Peter Dietsch, has proposed such a view where the relevant constraint is formulated in

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[1] Murphy and Nagel, *The Myth of Ownership*, 2002.

[2] Risse, *On Global Justice*.

[3] Unless otherwise noted, "justice" is always "distributive justice."

terms of aggregate fiscal self-determination.[4]

Our preferred approach is the *grounds-of-justice approach. The grounds-of-justice* approach recognizes that citizens should consider both the ability of their country to deliver justice at home and its ability to meet its obligations of global justice. But in contrast to the cosmopolitan position, the content of the global obligations of justice may well differ from that of obligations of domestic justice. There are several grounds of justice, differing in scope and associated with different principles of justice. Citizens are free to set tax rates according to their political preferences – as long as their state meets its obligations of justice, domestic and global, and the ability of other states to meet their obligations of justice is not impaired either.

We argue that once the globalized myth of ownership is exposed as false, both statist and the cosmopolitan views on taxation look implausible. The conscientious citizen of A should take guidance from the grounds-of-justice approach for deliberations about taxation in the upcoming elections.  That approach will then also give her a nuanced understanding of tax competition, and determine which of its common forms are morally problematic.

Section 0 shows that tax competition and large-scale tax evasion have become pervasive features of our interconnected world. We also consider reasons for and against the permissibility of tax competition and evasion. The right question to ask is not *whether* but *when* tax competition is morally acceptable. Section 3 revisits the debate about domestic taxation and introduces Murphy and Nagel's myth of ownership. That there is a globalized myth is our topic in section 4, and is by itself a striking result with considerable implications for global property arrangements. We are here interested in that myth for what it reveals about tax completion and thus helps with the question reached in section 2.

In section 5 we argue that Dietsch's proposal succumbs to the globalized myth of ownership. Based on the discussion of Dietsch's position, we can formulate a more comprehensive result: both statist and cosmopolitan approaches to taxation look implausible once the globalized myth is revealed as false. Sections 7 and 8 argue that the grounds-of-justice approach in *On Global Justice* is better suited to bring out what states owe to each other with regard to taxation. The grounds-of-justice approach allows us to determine what kind of tax competition is permissible.

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[4] Dietsch, *Catching Capital*.

# UNDERSTANDING TAX COMPETITION AND WHY IT MIGHT BE MORALLY PROBLEMATIC

Tax competition results if governments set tax policy strategically, attempting to improve tax revenue by offering more attractive incentives than other states.[5] There is much space for competition in an economically interconnected world where tax systems vary enormously.[6] The leaks of the Panama and Paradise papers have exposed to what extent wealthy individuals shift cash, equities, and other security holdings offshore to evade income tax or capital gains tax on resale profits. Tax havens facilitate tax evasion by helping individuals to hide their wealth from their tax authorities. Tax competition is a euphemism for what is at heart plain tax evasion.

The equivalent of 10% of world's GDP is held in tax havens globally. The share is even higher for Russia (50%), as well as Gulf countries and some Latin American economies (up to 60%).[7]

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[5] For an overview of taxes, their types and history, see McLure, Neumark, and Cox, "Taxation | Britannica.Com." See also Smith, *Taxation*; Webber, *A History of Taxation and Expenditure in the Western World*; Adams, *For Good and Evil*; Slemrod and Bakija, *Taxing Ourselves*. For rare philosophical discussions, see Murphy and Nagel, *The Myth of Ownership*, 2004; Leviner, "The Normative Underpinnings of Taxation." See also Scheve and Stasavage, *Taxing the Rich*. For legal scholarship on taxation that touches on philosophical issues, see also Kaufman, "Fairness and the Taxation of International Income"; Christians, "Sovereignty, Taxation, and Social Contract." For the political economic of international taxation, see Rixen, *The Political Economy of International Tax Governance*; Sharman, *Havens in a Storm*; Eccleston, *The Dynamics of Global Economic Governance*. For an interdisciplinary approach to international taxation, see Thomas Rixen and Peter Dietsch, *Global Tax Governance - What Is Wrong with It and How to Fix It*. Earlier Thomas Pogge had already proposed a global resource dividend, a tax on resource extraction, see Pogge, *World Poverty and Human Rights*. In addition, over time various types of currency transfer and financial transaction taxes have been discussed. For discussion of types of global taxation, see Brock, "Taxation and Global Justice"; Wollner, "Justice in Finance." For a discussion of the right to tax from a standpoint of distributive justice, see Cappelen, "The Moral Rationale for International Fiscal Law."

[6] As far as the various types of tax evasion are concerned, we follow Dietsch, *Catching Capital*, chapter 1. For the economic literature on tax competition, see Genschel and Schwarz, "Tax Competition." See also Clausing, "The Nature and Practice of Tax Competition"; Genschel and Seelkopf, "Winners and Losers of Tax Competition."

[7] Alstadsæter, Johannesen, and Zucman, "Who Owns the Wealth in Tax Havens?," September 2017.

Worldwide an estimated US $21-31 trillion is held offshore.[8] 80% of the wealth held in tax havens is held by the top 0.1% richest households. In turn, the richest 0.01% households own still 50% of offshore wealth. In Britain, France, and Spain, the top 0.01% richest households hold 30-40% of their wealth in tax havens.[9]

Multi-nationals benefit from tax competition by shifting profits from states with high tax rates on corporate profits to locations with low rates. Often, the shift is a mere accounting trick: due to violations of or loopholes in the tax code, multinationals claim profits in jurisdictions where they are not realized. Google Alphabet is a case in point: shortly before its initial public offering in 2004, Google transferred its search and advertising business to Ireland. Irish tax law allows Google to shift its tax burden to Bermuda, where the corporate tax rate is zero percent. In 2015, Google reported $15.5 billion profits in Bermuda.

Much like liquid cash, paper profits move on a dramatic scale. On average, in countries like the US, Germany, and France, corporate profits around the world are 50% of what the corporation pays in wages. By contrast, in tax havens like Luxembourg, corporations claim to earn 350% of their wage bill in profits.[10] These enormous apparent differences in productivity are mostly due to 'paper profits' realized in low-tax jurisdictions. By applying low corporate tax rates to a huge tax base, some low tax countries generate large tax revenues. For instance, Ireland charges a mere 12.5% of corporate tax, which is low compared to the EU average of 22%. Yet Ireland's corporate tax revenue amounts to almost 5% of their net national income in 2015 – as compared to the EU average of just above 2%. EU countries as well as the US lose on average 20% of corporate tax income to profit shifting – actual or virtual, which is equal to about half of their public spending on higher education.[11]

Tax competition can also lead corporations to shift their economic activity to lower tax countries. Countries might attempt to attract foreign investment by setting tax rates favorable to investors. This kind of tax competition may lead to a race to the bottom in corporate tax

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[8] Dietsch, *Catching Capital*, 3.

[9] Alstadsæter, Johannesen, and Zucman, "Who Owns the Wealth in Tax Havens?," February 14, 2018.

[10] Alstadsæter, Johannesen, and Zucman.

[11] Alstadsæter, Johannesen, and Zucman.

rates. The average global corporate tax rate dropped from 29% in 2003 to 23% in 2016.

No doubt some forms of tax competition are morally problematic. But is tax competition always wrong, and if so, why? An affirmative answer could proceed as follows. Tax competition is generally morally problematic because it creates a situation where capital owners can pursue their interests by circumnavigating domestic political channels. Corporations and (at least relatively) wealthy individuals exempt themselves from the social contracts of their home countries. Other states that entice them to do so via tax competition undermine the social contract needed to keep political communities viable.

Threats or prospects of tax evasion put downward pressure on taxes on mobile capital, constraining states in setting the size of the public budget relative to GDP according to democratic preferences. Regardless of whether majorities in democratic states favor high rates, states will find it practically impossible to collect high tax rates without shrinking the tax base. Moreover, tax competition can make fiscal regimes become more regressive, thereby widening the income gap between capital owners and others. For instance, to make up for lost revenue due to tax competition concerning capital, countries have to tax labor more heavily or impose expenditure-based taxes (e.g., a value-added tax) that fall disproportionately on lower income groups.

Tax competition hits developing countries especially hard, which lose more than thrice the money they receive in foreign aid to tax havens.[12] Small (that is, less populous) countries tend to benefit at the expense of large countries.[13] Countries incur losses by lowering tax rates. For big (i.e., more populous) countries, the number of individuals and corporations attracted is normally too small to offset losses across all taxpayers. For small countries, relocations more readily compensate for such losses. Countries like Luxembourg, Switzerland or Singapore

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[12] Dietsch, *Catching Capital*, 51. On tax havens, see Sharman, *Havens in a Storm*; Palan, Murphy, and Chavagneux, *Tax Havens*.

[13] Dietsch, *Catching Capital*, 55. For discussion of the relevance of size of countries, see Alesina and Spolaore, *The Size of Nations*.

benefit most, but some poor countries such as Panama also benefit.[14] The biggest losers normally are populous poor countries.

But one might also want to resist the view that tax competition and corresponding tax evasion are morally problematic. Individuals and corporations seek locations where they can flourish. What kind of policies a political community adopts, both domestically and internationally, legitimately matters for their choice of location. The tax rates a political community adopts reflects the community's expectation of how much its members are expected to contribute. Individuals are not destined to stay in the community where they were born, and companies are not destined to remain where they were founded or first registered. In fact, the right to exit a political community is a key tenet of liberalism precisely because it makes the imposition of the majority's political preferences on a minority more palatable. Individuals and companies should be free to build relationships with communities that suit them. Accordingly, there is nothing morally problematic either for countries to design their taxation systems to make themselves attractive for individuals and corporations and thus put those in a position to relocate to a community that suits them.

To be sure, thus far this argument only speaks to tax evasion that involves actual shifting of operations: individuals or corporations relocate and thereby change their membership. They are "evading" taxes only in the sense that they change the community in which then subsequently they owe taxes. Potentially more problematic would be tax evasion that do not involve change in membership but merely a shift in where assets are held, taxes are paid or investments made. What would require closer investigation is whether economic actors could be justified in being members in one location while engaging in tax evasion of sorts. Perhaps in an interconnected world individuals and corporations should have some say in which communities they engage in what ways. We can leave that open. What matters is that there is a case to be made for allowing states to attract individuals and corporations by setting tax rates competitively.

Both the case against and the case in favor of the permissibility of tax competition have no more than prima facie validity. Surely in many cases tax evasion is problematic for violating the

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[14] It is not always so straightforward though: some small countries also find themselves under pressure by developed country to become tax havens, and resist, see Vlcek, *Offshore Finance and Small States*.

social contract. But there is nothing categorially morally impossible about joining a different social contract, and so not all forms of or positive responses to tax competition would amount to an actual breach of one's existing contract. Accordingly, not all forms of tax competition would be problematic either. The challenge is to tackle tax competition in ways that protect *to a legitimate extent* the autonomy of states in deciding which public projects to pursue, and how to finance them, as well as the choice of individuals and corporations to live in communities that suit them.  Consequently, the right question to ask is not *whether* tax competition is morally acceptable, but *when* it is.

# TAXATION AND THE MYTH OF OWNERSHIP

We can make progress regarding the assessment of global tax competition by considering domestic taxation. To wit, that debate provides the context from within which we can identify first the domestic and, in section 4, the globalized myth of ownership.

Among recent landmark approaches to domestic taxation we find F. A. Hayek's view that the state has no business generating the kind of ranking of public purposes taxation requires, nor does it have knowledge to do so. Acting contrary to that advice leads down the notorious road to serfdom.[15] Robert Nozick famously insisted, in Hayekian spirit, that "taxation of earnings from labor is on a par with forced labor."[16] Hayek and Nozick offer a body of thought that gives pride of place to contracts freely made among individuals interacting on markets. Taxation registers as interference justified only for the limited purpose of enabling states to protect economic activity.

But there is a mistake at the core of the libertarian argument against taxation. As Liam Murphy and Thomas Nagel have convincingly argued, pre-tax market outcomes provide individuals with no presumptive ownership claims. [17] Looking at gross income does not suffice to determine an

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[15] Hayek, *The Road to Serfdom*.

[16] Nozick, *Anarchy, State, and Utopia*, 169.

[17] Murphy and Nagel, *The Myth of Ownership*, 2004, 8. That book is written in the spirit of Rawlsian liberal egalitarianism that brings the whole political and economic system of a society under purview of distributive justice, making taxation one component of a larger debate; see Rawls, *A Theory of Justice*. Rawls, however, has little to say on taxation. On a few occasions articulates a preference for a consumption tax over an income tax, and thought the rates for this consumption tax should be flat, see Rawls, 246f; Rawls, *Justice as Fairness*, 161.

individual's freely disposable (post-tax) income. The reason is that taxes must be evaluated as part of the overall system of property rights that they help to create. Taxation could only be theft if the distribution of pre-tax income is justified without considering taxation. But here lies the mistake. To the extent that property can be naturally acquired, as Nozick has it, standards of justification may not involve demonstration of acceptability to others beyond demonstration that the property has indeed been acquired the right way. But property regimes, and the market outcomes within them, are to a large extent conventional. The justification of conventional property turns on mutual acceptability. Importantly, levying taxes may well be necessary to render a private property regime mutually acceptable. To think looking at gross income suffices to determine moral entitlements is to succumb to the *myth of ownership*.

This does not mean nothing could be said about the particular connection between individuals and certain activities that procure income and that would generate certain claims on their side to such income. ("I have worked hard for this, so surely I have a better claim to the proceeds than anybody else, or the political community as such."). But such considerations would enter into a general justification of the property system as a whole, would in that context have to compete with and be limited by other considerations that would have to be mutually acceptable, and would not turn *at all* on any claims about income being pre-tax, gross income.

There are various competing considerations. One is that the property regime needs to be enforced and maintained in order for economic agents to enjoy their entitlements. Countless rules and institutions need to be in place to enable individuals to earn an income, including anything from maintaining roads to keeping people safe. The enforcement of these rules requires resources, which have to be financed out of pre-tax income either directly or indirectly.[18] The justification of a property system that does not allow for any taxation is therefore doomed to fail. For this reason, Murphy and Nagel claim the myth of ownership is not only misguided (a myth, after all), but also incoherent. The incoherence lies in claiming one is

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For the argument that this view does not fit with Rawls's overall outlook, see Fried, "The Puzzling Case for Proportionate Taxation." For discussion, see also Sugin, "Theories of Distributive Justice and Limitations on Taxation: What Rawls Demands from Tax System."

[18] Admittedly, it is not necessary that the state levies income taxes. In principle, government expenses could be fully financed by taxing production at an earlier stage, by corporate taxes, or at a later stage, by wealth taxes. But we take it that adherents to the myth of ownership would object just as strongly to a tax regime that reduces their real gross income to their previous net income by means of corporate taxation or wealth taxes.

entitled to income and therefore immune from taxation even though anybody's ability to earn income presupposes that the state levy taxes.[19]

# THE MYTH OF OWNERSHIP, GLOBALIZED

We agree with Murphy and Nagel that, domestically, there is no justifiable property regime that gives people a right to their gross income. We argue next that there is a globalized version of their myth. The globalized myth of ownership is the view that looking at gross national income suffices to determine a country's justifiably disposable national income. The view we aim to expose as a myth is the natural extension of the Nozickian approach to the global context. If we think of states as individuals, Nozick's approach suggests global authorities have no business to meddle with any given state's national income. Political practice and common sense of many citizens are also predicated on the globalized version of the myth of ownership. Even liberals persuaded by Murphy and Nagel might readily, and often do, endorse what turns out to be the globalized myth of ownership.

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[19] If the assumption that pre-tax income constitutes a baseline of entitlement is a myth, why are specifically so many tax scholars in its grip, or why would they expect the audience for which they write or whose concerns they address, is? This baseline is sometimes assumed for philosophical reasons as articulated by Hayek or Nozick. But more commonly it is made for pragmatic reasons of public policy. Jonathan Wolff has identified three common difficulties in applying ethics to public policy. First of all, in public policy an actual decision is needed. An agreeing-to-disagree attitude is unacceptable. Secondly, there is a substantial status-quo bias and it takes much more than an argument for the merits of an alternative to change that status quo. Finally, much more than the merits of an argument what matters is whether enough people are willing to live with whatever solution is going to be accepted. (See introduction to Wolff, *Ethics and Public Policy*.) These attitudes are strongly prevalent among tax scholars and explain to a large degree why ethical inquiry is uncommon among them. For a tax scholar's response to this analysis, see Sugin, "Theories of Distributive Justice and Limitations on Taxation: What Rawls Demands from Tax System." In a rare normative discussion of taxation, tax scholar Sagit Leviner expresses an attitude common among taxation specialists in legal and economics professions: "In reality, much of the tax scholarship generally suggests that questions of justice cannot form an integral part of the tax debate." She goes on to quote Chicago tax economist Henry Calvert Simons, who has provided a definition of income that has been highly influential for the American taxation system. To argue about justice, so Simons pointed out, "is to reduce the discussion (…) to the level of ethics and aesthetics." (See Leviner, "The Normative Underpinnings of Taxation," 96. The Simons quote is from Simons, *Personal Income Taxation*, 18.) The point of that reference is that ethics and aesthetics are places where perfectly good debates go to die. This attitude towards debates about justice is still common, and was a common reaction among tax lawyers to Murphy and Nagel, *The Myth of Ownership*, 2004. For that reaction, see again Sugin, "Theories of Distributive Justice and Limitations on Taxation: What Rawls Demands from Tax System."

The key idea behind our identification of the globalized myth of ownership is that private property regimes in states depend on the community of states to enable and enforce their conventional rules in concert with one another.[20] To begin with, note that as a result of the local nature of property law, arrangements upheld in country A are not ipso facto legal in B. They become legal in B only if B recognizes A's property arrangements.[21] Consider an illustration.[22] Suppose we establish a new nation on a Pacific island. To determine property laws we must make decisions about "Us-Here," "Them-Here," and "Us-There." "Us-Here" decisions determine property rules within our territory. But persons and things cross borders. Foreigners with possessions penetrate our perimeters, and locals come to possess foreign objects. "Them-Here" decisions concern foreigners who import things and buy, use or sell things here. These rules might well differ from those applicable to residents: foreigners might not be allowed to import the same objects as locals, or might be subject to different regulations regarding acquisition of real estate.[23] Finally, "Us-There" decisions concern transactions of citizens abroad. National authorities have personal jurisdiction in addition to territorial jurisdiction. National laws follow a citizen wherever she goes, and might bar her from certain transactions abroad.

Citizens come to legally own objects only if they act in accordance with rules imposed by a political process in the country where they hold citizenship. Acquisitions or transactions in A that by B's legal standards would not pass muster become legal in B anyway if B's law bestows upon A's citizen's rights to sell in B objects legally acquired in A, even if these transactions are considered tarnished in B. Transactions in B then launder dubious property transactions in A.

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[20] The considerations we are about to present in the next several paragraphs draw on Wenar, *Blood Oil*, chapter 7. Wenar's concern is to establish that in buying morally tarnished products from an oppressive regime we in fact endorse the property regime imposed by that regime, thus the regime itself. What we adopt is the argument that property law is generally local and thus acceptance of property regimes in distant places presupposes a political decision by those in a position to determine local property law.

[21] International law does constrain domestic property law in some domains, such as intellectual property, foreign investments, deep-sea minerals, cultural objects and satellite orbits. Globalization is adding to these constraints. But while these are important developments, they do not undermine our general point For international components of property, see Sprankling, *The International Law of Property*.

[22] Wenar, *Blood Oil*, 104–6.

[23] As Wenar reports, Egyptian law limits foreigners to two residences that must not surpass a certain size and must not be sold within five years of acquisition; Colombian law forbids foreigners from importing used cars; and New Zealand bars foreigners from importing pit bull semen; Wenar, *Blood Oil*, 105.

What is crucial is that since political decisions determine what property transactions – if any – citizens of B are allowed to have with those of A, B must take a stance on A's property regime. The political default is for B to recognize whatever A classifies as legally held in A as something that can be legally brought to markets in B as well.[24] But the default can be overturned, and omitting to take an explicit stance, if only by default, *is* to take a stance: it is to endorse A's property regime. Many countries prohibit import of fresh food; and similarly, any given country could in principle bar import of and trade with any goods from any other country.

One might suppose that recognizing a state implies recognizing its property regime. If so, not recognizing the property regime of another recognized state would be incoherent. But that is not so. The inherently local nature of property regimes in our world of states requires a decision for any given country of what dealings with its people are permitted. There is no principled reason B would not recognize A as a state for purposes of diplomatic interactions while classifying many or all property transactions sanctioned by A as morally so tarnished they would not pass muster in B *and thus* cannot enable objects to enter markets in B as property held by somebody in A. The upshot is that for countries to be involved in international commerce presupposes they recognize each other's property regimes, and thereby enable and enforce them within their own jurisdiction.

The globalized myth of ownership is the (false) view that looking at gross national income suffices to determine a country's justifiably disposable national income. We discuss the globalized myth in two versions. Version 1 is that property arrangements in country A carry over to country B only if B chooses to make it so. But it is only justifiable for B to recognize the property system of A if the property system in A is justifiable to people in A to begin with. If A's property system is not justifiable, B at the very least has the obligation to help make A's property system justifiable, as long as B continues to recognize A's property arrangements. If, for instance, A is unable to meet the basic rights of their citizens for lack of resources, B has to support A in meeting this shortfall. If low taxes in B undermine A's ability to raise sufficient

[24] In legal practice, there is the principle of comity (deriving from a Latin word meaning "courteousness"), that out of respect for state sovereignty and in due deference to reciprocity, courts ought to act with comity towards foreign courts, even if they hold that, as a matter of fact, those foreign courts erred, see Endicott, "Comity among Authorities"; Briggs, "The Principle of Comity in Private International Law." But as Briggs notes, the principle is far from being accepted by all common law courts as a norm for judicial decisions (as distinct from norms of state conduct).

taxes to deliver justice at home, B can either increase its tax rates, potentially losing tax base and even perhaps even revenue in the effect, or compensate A for the shortfall. Hence B's national income is not freely disposable income.

Version 2 is as follows: again, the starting point is that property arrangements in country A carry over to country B only if B chooses to make it so. If B recognizes A's property system, B's own property system expands by allowing exchanges with goods coming in from A. The same argument as in the domestic case applies, only now at an enlarged scope: the tax rates in B must be justifiable not only to citizens in B, but also to citizens in A. Yet justification to citizens in A fails if A cannot deliver justice at home for lack of resources, if lack of resources is due to an insufficient tax base because of tax competition from B.  Therefore, B's national income is not freely disposable income.

For greater precision we write down the argument in a schematic way. We include the domestic myth as well because the development of the global myth draws on it. Suppose A and B are countries that are commercially connected. That is, they permit transfer of objects held under the property system of one country to be transitioned into that of the other.  We first state some basic assumptions about the notions of a property regime and about the justification of such a system that will reappear in the subsequent arguments, and then reveal the domestic and global myth of ownership.  In the statements of the arguments we explain after each premise why it would be plausible, and after each conclusion from which premises it derives. The two versions of the global myth of ownership differ in how they support GMO-P2, but both are consistent with the below reconstruction.

# BASIC ASSUMPTIONS

> [BA1] A's property system consists of rules that regulate how things that count as owned can be acquired, consumed, altered, shared, redefined, sold, exchanged, transferred, loaned or otherwise treated.  Ditto for B's property system.
>
> [BA2] A and B's property systems are (at least largely) conventional and must be justifiable to their citizens, respectively. The task of justifiability that arises for conventional property systems is to explain to those subject to them why this rather than another feasible system is adopted.

[BA3] Justification must be provided *by* those who make the conventional decisions constitutive of a property system, and *to* those subject to those decisions. For domestic property systems in principle those who must offer justification and those who should receive it are the same people.

[BA4] If a property system is unjustifiable, agents or entities accountable for the decisions that constitute that property system are obligated to help as appropriate to create circumstances where the necessary conditions for the justifiability of those arrangements are given.

## DOMESTIC MYTH OF OWNERSHIP

[DMO-P1] Conventional property systems are justifiable to those subject to them only if they are sustainable over time. [Another system should be chosen if the current one is hard to maintain over time; we assume among the feasible alternatives some are sustainable over time.]

[DMO-P2] Conventional property systems are sustainable over time only if those subject to them transfer an appropriate amount of income generated within that system as levies to appropriate entities to maintain an infrastructure and social context (of which that system is part) where money can be earned and spent to begin with. [DMO-P1 and DMOP2 generalize Murphy and Nagel]

[DMO-C1] So A and B's property systems are justifiable to their citizens respectively only if those transfer an appropriate amount of pre-tax income to their state to maintain an infrastructure and social context where money can be earned and spent. [From DMO-P1, DMO-P2, with BA1-BA3 explaining features of terms used]

[DMO-C2] Therefore citizens of A and B are not entitled to all of their pre-tax income. An individual's gross income (pre-tax income) does not determine her freely disposable income (post-tax income). [From DMO-C1; denial of this statement is the domestic myth of ownership]

[GMO-P1] Anything owned by rules of B's property system upon entry into A's jurisdiction is considered acquired and henceforth subject to A's system if and only if A decides so to consider it, and vice versa. [From the discussion earlier in this section]

[GMO-C1] Therefore, A's decision to count objects from B as acquired itself becomes part of *both* A's and B's property system; similarly for B's parallel decision. [From BA1, GMO1-P1; one country's decision to recognize property arrangements in another enhances both systems, opening up possibilities for buying and selling goods and services that otherwise would be unavailable]

[GMO-C2] Therefore A owes justification to citizens of B for the decision to enhance B's property system by counting objects from B as acquired, and similarly for B. [From BA3 and GMO1-C1]

[GMO-P2] A can justify to citizens of B its decision to enhance B's property system by counting objects from B as acquired only if B's system is justifiable to the citizens of B, and similarly for B. [Based on basic respect for citizens in another country, one should be concerned about whether they are subject to a property arrangement that is justifiable to them.]

[GMO-C3] Therefore, if A counts objects from B as acquired even though B's property system is not justifiable to citizens of B, A is under an obligation to help create circumstances where the conditions for the justifiability of B's system is given, and similarly for B. Creating these circumstances may require that B gains access to more resources, either by transfers from A, or, if the unjustifiability of B's property system is due to tax competition from A, then by increasing tax rates. [From BA4, GMO1-P2, GMO1-C2]

[GMO-C4] Therefore, A might have to provide some of its gross national income or readjust its tax rates to make B's property system sustainable over time, and vice versa. [From GMO-C3 and DMO-P1; it remains open in what ways A would have to support B, also reflecting the extent of A's involvement with B – but one way or another, such support might well require some of A's gross national income.]

[GMO-C5] Therefore, A's gross national income does not determine A's justifiably disposable national income, and similarly for B. [From GMO1-C4; denial of this statement is the globalized myth of ownership]

The main implication of exposing the globalized myth of ownership is that the inference from "we have this much national income" to "and therefore this much is our freely disposable national income" is blocked. In a globalized world where literally *any* two countries A and B are interconnected through a chain of intervening countries A, $C_1$,…, $C_n$, B such that any two adjacent countries in that chain are commercially connected, these duties have global dimensions. The phenomenon identified here (interconnected justifiability of property systems) potentially has substantial implications beyond any issues of tax competition. But here we focus on tax competition.

Parallel to what we discussed for the domestic version, the particular connection between a state and income generated within the state might be morally significant in certain ways that reflect on justifiably disposable national income -- but not *simply* because it was income that first accrued at the national level before global consideration entered. Parallel to the domestic case, such considerations would enter as part of a general discussion of global distributive justice, and would in that context have to compete with other considerations. To be sure, the force of the argument would be weakened for countries A and B with rather thin commercial connections, such that only relatively few objects actually pass from being owned in A's property system to being owned in B's. But the main implication of our argument would remain unaffected.

# DIETSCH ON GLOBAL TAX COMPETITION

The globalized myth of ownership has implications for current treatments of the ethics of tax competition. In this section and the next, we show that Peter Dietsch's innovative recent treatment of tax justice presupposes the globalized myth of ownership. In the next section, we also show that the problem we identify by appeal to the globalized myth affects other current treatments as well.

The following principles are at the core of Dietsch's view:[25]

**MEMBERSHIP PRINCIPLE (MP):** NATURAL AND LEGAL PERSONS (THAT IS, INDIVIDUALS AND CORPORATIONS) ARE LIABLE TO PAY TAX TO THE STATE(S) OF WHICH THEY ARE A MEMBER; THEY ARE NOT LIABLE TO PAY TAX TO ANY OTHER ENTITIES.[26]

**FISCAL POLICY CONSTRAINT (FPC):** ANY FISCAL POLICY OF A STATE IS UNJUST AND SHOULD BE PROHIBITED IF IT IS BOTH STRATEGICALLY MOTIVATED AND HAS A NEGATIVE IMPACT ON THE AGGREGATE FISCAL SELF-DETERMINATION OF STATES.

Our first task is to understand what these principles say. MP should be clear enough, but FPC needs some explaining. Fiscal autonomy is fully realized if states can exercise their fiscal prerogative. For democratic states, that prerogative is the ability to determine the size of the public budget relative to GDP, and the level of redistribution in accordance with preferences of their citizens. A fiscal policy of country X is strategically motivated to achieve goal G if absent G, X would not choose that policy. FPC implies, for instance, that it is unjust for X actively to entice people or companies to move away from Y if the ability of citizens in Y to set size of governmental revenues relative to GDP and level of redistribution declines more than X's ability to do the same increases. By contrast, FPC is consistent with states lowering taxes if indeed those result from collective self-determination rather than attempts to attract people or companies.[27]

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[25] Dietsch's proposal draws on joint work with Thomas Rixen, see Dietsch and Rixen, "Tax Competition and Global Background Justice." For the statement, see Dietsch, *Catching Capital*, 80.

[26] The addition that people and corporations are *only* liable to pay taxes to entities of which they are members is not explicit in Dietsch, but captures the spirit of this discussion. Regardless, the point is to start with straightforward principles responding to the challenge formulated at the end of the previous section that can serve as starting point for our inquiry; making this addition facilitates that effort.

[27] Democratic states would have to negotiate mutually acceptable solutions with non-democratic states.

Now that we understand what the principles say, let us assess how to argue for them. MP can be motivated by the thought that being a member means taking advantage of a community's infrastructure and the safety and security it provides, either as an individual or as a corporation. As a matter of fair play one should contribute appropriately to this community. In democracies it is democratic processes that fix "appropriate" contributions. For those who are members of various communities simultaneously (as individuals or corporations), taxation must be devised so partial membership in each is properly taken into account. Taxes on corporate profits should be fairly apportioned according to the extent of operations in a given location.

MP explains why sheltering individuals and corporations from being taxed where they are liable is wrong. Dietsch calls these forms of tax competition "poaching", following OECD usage. Poaching is the depletion of another state's tax base by enticing individuals or companies to move wealth or profits into the state even though they have not registered their residency or undertaken any economic activity there.[28] It is worth appreciating that the most obvious and egregious forms of profit shifting violate the membership principle. Both tech corporations like Google shifting their profits to tax havens as well as individuals parking their wealth in Panama violate MP. Transparency between taxpayers and their tax authorities, as well as among authorities, matters greatly for any institutional implementation of anti-poaching measures. Bank secrecy and refusal to exchange information among administrations are precluded, as are deliberately legally opaque tax constructions that mislead authorities.

Poaching contrasts with Dietsch calls "luring," efforts to encourage individuals or companies to relocate to a different political community or move some of their economic activities there. Luring becomes even more attractive in a world where poaching is precluded. In fact, the downward trend in global corporate tax rates is probably largely the result of luring.

FPC is designed to rule out improper luring of FDI. FPC draws initial appeal from the idea that states should not actively aim to reduce each other's tax base, as a way of supporting their fiscal autonomy. One could also appeal to an ideal of *authentic* collective self-determination, where in each country citizens use democratic processes to determine what kind of public

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[28] The OECD (Organization for Economic Cooperation and Development) report is Harmful Tax Competition – An Emerging Global Issue (Paris, OECD Publications), and poaching is mentioned on p 16. See http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/harmful-tax-competition_9789264162945-en#page1; last accessed January 23, 2018.

expenditures and redistribution they favor. That would mean not to deploy tax policy strategically to attract members, and to respect each other country's own processes of forming collective preferences without having to deal with other country's luring activities.

# FPC AND THE GLOBALIZED MYTH OF OWNERSHIP

Section 2 introduced a prima facie case condemning tax competition and one supporting it. It was clear that both contained a kernel of truth but also required modification. We need a balanced view to tell us what kind of competition is permissible for states, as well as what kind of tax evasion is permissible for companies or individuals. Dietsch proposes such a view, in any event a partial one. Questions remain about the circumstances under which individuals and companies may relocate. But Dietsch's view does answer questions about permissibility of tax competition among states, as well as questions about permissibility of tax evasion among individuals and companies short of resolving to relocate altogether.

But there are problems with Dietsch's solution. It is actually hard to see what is in principle wrong with strategically motivated fiscal policy that diminishes aggregate fiscal self-determination. Singapore, say, being a small country lacks advantages enjoyed by large nations: economies of scale, ability to internalize positive effects it creates in the region or military strength accompanying larger populations. FPC prohibits Singapore from capitalizing on one of the few advantages of being small by adopting policies to attract wealthy individuals and foreign companies, unless aggregate fiscal autonomy across countries stays at least constant. But note that standard cases of luring will tend somewhat to diminish aggregate fiscal self-determination, because other things being equal, corporations that move to lower-tax countries will pay lower corporate taxes than in their previous location – that is precisely the point of the move.  FPC presupposes that countries have obligations to maintain each other's fiscal autonomy under circumstances of global fiscal interdependence, and thus must make it possible for each other to maintain their tax base under certain protective conditions. Countries have these obligations to such an extent that Singapore, Switzerland or Luxembourg might be condemned for disturbing this kind of purified international context even if they entice corporations to shift their actual economic activity, rather than pocket paper profits. But this seems rather implausible. So in its generic form Dietsch's partial condemnation of luring is doubtful.[29]

What would justify Dietsch's position is the assumption that each country has rights to tax income generated by its members absent unfair tax competition. Countries have mutual obligations to respect this baseline. According to Dietsch, whether tax competition is unfair can be ascertained by asking whether the intention behind a tax cut is to steal some of their tax base from other countries.

Recall now that we identified the right of states to their gross national income as the global myth of ownership. If states have no right to their gross national income, they also have no right to the tax revenue they generate from that income. States would have a right to tax income they generate *absent of unfair competition* only if they have a right to their tax revenue *in the first place*. But since they have no such right, *ipso facto* they have no such right to national income generated or tax revenues raised in an appropriately purified international context. What this implies in particular is that any approach to global tax competition that includes FPC is implausible. To be clear: we do not suggest at all that states as a whole unduly claim excessive taxes, or that individuals and corporations shifting their wealth to low-tax jurisdictions or sheltering their wealth from taxation altogether may be justified in doing so. The global myth of ownership implies that the just distribution of tax income among states is not fully determined by where taxes happen to accrue.

The challenge from the globalized myth does not merely arise for Dietsch's proposal. Any approach to ascertain under what conditions tax competition is acceptable that presupposes that states are entitled to their gross national income is misguided. Based on the globalized myth of ownership, any such approach is of the wrong sort to resolve our problem. As a consequence, both certain proponents (or apologists) and certain critics of global tax competition fall prey to that myth.

Proponents and apologists of tax competition fall prey to the myth of ownership to the extent that they take tax income *given prevailing tax competition* as a baseline, not finding tax competition inherently problematic in the first place. This view comes naturally to statists in the

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[29] Singapore is extensively discussed in Alesina and Spolaore, *The Size of Nations*. FPC is worth discussing in several directions. For some more discussion, see Risse and Meyer, "Review of *Catching Capital*."

global distributive justice debate, who limit distributive justice to relations within the nation state. Quite possibly, statists statists would want to resist poaching, perhaps out of consideration for sovereignty.[30] But statists have few resources to condemn luring as a matter of distributive justice.

Critics of tax competition fall prey to the myth of ownership as well, if they assume tax income states *could achieve absent unfair tax competition* as baseline. They believe states are entitled to tax income that arises once the global playing field is cleared of illegitimate competition. *Cosmopolitan* critics would consider the impact of tax policies on all other states and insist on policies that optimize the global aggregate of some measure connected to tax revenue. In this sense, cosmopolitan views recognize an agent-neutral global justice constraint on domestic tax levels. That constraint is *agent-neutral* in the sense of requiring every state to optimize the same aggregate measure. Cosmopolitan conceptions call for such a constraint because for them justice is global in scope. Lowering taxes in A may be impermissible even if this allows A to build its tax base so that tax revenue per head moves closer to the global mean if other countries lose more than A gains. Dietsch's is one such view.[31]

In sum, the globalized myth of ownership affects both statist and cosmopolitan approaches to taxation because, one way or another, they assume that states are entitled to their gross

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[30] For a pristine version, see Nagel, "The Problem of Global Justice." So, indeed, as we argue, the view on global justice offered by Nagel is susceptible to a global version of the myth Nagel himself formulates with Murphy for the domestic context. Similar to Nagel, neither John Rawls nor David Miller nor Michael Blake would acknowledge taxation as legitimate subject for global distributive justice. See Rawls, *The Law of Peoples*; Blake, *Justice and Foreign Policy*; Miller, *National Responsibility and Global Justice*.

[31] For explicit formulations of such views, see Dietsch and Rixen, "Tax Competition and Global Background Justice"; Dietsch, "Rethinking Sovereignty in International Fiscal Policy"; Dietsch, *Catching Capital*; Ronzoni, "Global Tax Governance"; Bamford, "Realising International Justice." In different ways the stance that taxation matters from a standpoint of global justice also would come natural to recognizably cosmopolitan views that do not much engage with taxation, such as Beitz, *Political Theory and International Relations*; Pogge, *World Poverty and Human Rights*; Caney, *Justice Beyond Borders*; Tan, *Justice Without Borders*. While none of these authors themselves offer detailed views on taxation, on their views, closer scrutiny from a global standpoint of taxation and tax competition readily suggests itself. The philosopher who has had most to say on taxation from an explicitly cosmopolitan standpoint is Gillian Brock, see Brock, *Global Justice*, chapter 5; Brock, "Taxation and Global Justice"; Brock, "What Burden Should Fiscal Policy Bear in Fighting Global Injustice?" But while generally philosophers have not spent much time theorizing taxation, many have long been invested in justifications of private property. And after all, what seems plausible about taxation stands and falls with what seems plausible about private property. For discussions of private property, see Waldron, *The Right to Private Property*; Munzer, *A Theory of Property*; Alexander and Peñalver, *An Introduction to Property Theory*; Ryan, *Property and Political Theory*. For an overview of philosophical issues about taxation, see Halliday, "Justice and Taxation."

national income, either as it is or as it would be in a purified international context. We need to examine tax competition in an interconnected world in a very different manner to give an adequate answer to our question from section 2. The following section offers a systematic approach to thinking about tax competition based on the grounds-of-justice approach in Risse's *On Global Justice*.

# THE GROUNDS-OF-JUSTICE APPROACH AND TAXATION: THE BASICS

Principles of global taxation formulated with reference to gross national income of states or the resulting tax revenue have one distinctive advantage: they become quite concrete through using that reference point. Dietsch's FPC is an illustration. To learn from the globalized myth of ownership we now propose another principle, albeit one that inevitably no longer has that kind of concreteness:

> **GLOBAL JUSTICE PRINCIPLE (GJP):** ANY STATE SHOULD DESIGN ITS FISCAL POLICY TO ADVANCE JUSTICE, BOTH DOMESTIC AND GLOBAL. THIS MEANS FUNDS ARE GENERATED TO THAT EFFECT AND NO POLICIES ARE ADOPTED THAT FRUSTRATE THE REALIZATION OF JUSTICE, UNLESS NECESSARY AS PART OF AN OVERALL POLICY PACKAGE THAT ADVANCES JUSTICE.

In contrast to FPC, GJP is formulated without reference to strategy or intentions – only results matter for the rightness or wrongness of fiscal policy. GJP also needs to be concretized by connecting it to a theory of justice, covering both the domestic and the global, as well as the relation between the two domains. We must commit to some theory of global distributive justice, one that does not succumb to the globalized myth of ownership. The grounds-of-justice approach proposed by Risse is one such account.[32] According to that approach, there are multiple grounds of justice, giving rise to multiple principles of justice respectively associated with different grounds. A ground consists of the properties of individuals that make it the case

[32] Risse, *On Global Justice*.

that (some of) the especially stringent demands of distributive justice apply among individuals who share those properties. The most common view in the global-distributive-justice literature is that there is merely one ground: statists think only individuals sharing membership in a state are subject to (then exclusively domestic) principles of justice. Various types of cosmopolitans agree there is only one ground that is global in scope. But they differ on whether that ground is common humanity as such, or membership in the world society, with principles of justice applying in virtue of involvement with global political and economic structures.

The grounds-of-justice approach as developed by Risse theorizes five grounds: shared membership in the state; shared membership in the world society; common humanity; subjection to the global trading regime; and humanity's collective ownership of the earth. Some grounds are global in nature whereas others are not. Some are relational, that is, they arise because individuals stand in certain relations to each other, such as being co-nationals. Others are non-relational, in that they hold without turning on such relations: common humanity and collective ownership of the earth. Risse calls his own development of the grounds-of-justice approach *pluralist internationalism*. After all, recognizing a multiplicity of grounds, as well as recognizing this specific list, is consistent with different proposals for what the principles associated with those grounds ought to be.

According to Risse, both common humanity and membership in the world society are associated with human-rights principles.[33] Humanity's collective ownership of the earth is associated with a principle insisting all human beings have the same opportunity to use resources and spaces of the earth to satisfy basic needs. This principle applies across generations. Moreover, trade justice makes sure power is not deployed to instantiate non-reciprocal exchanges within the basic rules of the trading system as captured by the WTO treaty and other international agreements.[34] Funds necessary to build a just world must be generated through domestic taxes to make sure taxation systems in individual states are globally adequate. But on the view presented here, there is no duty to help other countries become fully just societies. Duties with global reach are more limited than that, but do include a duty of assistance in building institutions so people can live decent lives in the states where they live.

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[33] Risse, chapters 4, 11.

[34] On trade, see work-in-progress by Mathias Risse and Gabriel Wollner, tentatively entitled *On Trade Justice: A Philosophical Plea for a New Global Deal,* forthcoming with Oxford University Press.

From the perspective of pluralist internationalism, MP as introduced by Dietsch continues to hold:

> **MEMBERSHIP PRINCIPLE (MP):** NATURAL AND LEGAL PERSONS (THAT IS, INDIVIDUALS AND CORPORATIONS) ARE LIABLE TO PAY TAX TO THE STATE(S) OF WHICH THEY ARE A MEMBER; THEY ARE NOT LIABLE TO PAY TAX TO ANY OTHER ENTITIES.

However, MP now is a principle we arrive at from within our proposed theory of global distributive justice. Pluralist internationalism not only accepts that our global political reality is one of states. This acceptance is more than a one of short-term political pragmatism. We cannot sufficiently theorize a global political and economic system where the power centers constitutive of states have disappeared for such an ideal to be action-guiding.[35] In a world of states, it is a matter of fair play for members to contribute appropriately.

However, under certain circumstances GJP might license poaching and thus contradict MP. Suppose poaching advances a poor country's economy. Suppose a tax haven can be construed in such a way that income thus generated improves that society so that overall global justice is served well. Effectively this would mean to allow for improvements in global justice that occur in poor countries to the detriment of rich ones. Insofar as rich countries fail to meet obligations towards poor countries, it may be permissible for the latter to make good on claims by poaching.

It would be legitimate for citizens and corporations to engage in tax evasion in a country that does not allow for collective will formation and where taxation only works for the benefits of a select few. Similarly, countries would legitimately shelter evaders from a country that makes no credible efforts to pursue global justice. But excepting such cases, improvements along the dimension of global justice in a world of states must not occur in ways that undermine its very organizing principle.  At the same time, MP as we understand it does not succumb to the globalized myth of ownership because it is to be suitably supplemented with (and thus qualified by) additional implication of GJP.  According to pluralist internationalism, fiscal policy should be

[35] For details, see Risse, *On Global Justice*, chapters 15-16.

set to advance global justice. In the next section, we suggest some implication of GJP according to the ground-of-justice approach.

# THE GROUNDS-OF-JUSTICE APPROACH AND TAXATION: IMPLICATIONS

The main implication of GJP is that tax revenues, though raised and collected within states, are beholden to the pursuit of global as well as domestic justice. One ground of crucial importance from the perspective of taxation is *membership in a state*. According to pluralist internationalism, the ground generates egalitarian principles of domestic justice. Hence states have a duty to raise enough taxes to guarantee basic rights of citizens and pursue egalitarian justice. They also have a pro tanto right to keep tax proceeds raised for this purpose and deploy them to this end. However, the following paragraphs indicate how grounds of justice give rise to obligations that drive a wedge between the amount of taxes a state happens to raise and what it is entitled to.

## COMMON HUMANITY

People have certain rights on the basis of shared humanity. According to pluralist internationalism, our common humanity grounds human rights, which in turn generate obligations of assistance in disaster situations and, in a further-reaching manner, in building institutions capable of protecting these human rights. In our world, many states have not yet been able to build institutions required to meet even basic human rights of citizens. Hence common humanity implies a duty on the side of rich countries to use some tax revenues to finance institution building in other countries. Moreover, the duty of assistance in building institutions plays an important role in regulating tax competition. We return to this issue below.

## COMMON OWNERSHIP OF THE EARTH

According to pluralist internationalism, the earth belongs to humankind together.[36] Each person has a right to the same opportunities to use original resources and space to satisfy basic needs. Resource-rich countries are under an obligation either to allow people without access to

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[36] For elaboration, see Risse, chapter 6.

a sufficient share of natural resources and space access to their countries, or otherwise to make the resources they need available to them where they currently reside. One way of realizing the latter option (assuming the beneficiaries agree) would be via financial transfers, which needs to be financed via tax revenues.

### MEMBERSHIP IN THE WORLD SOCIETY

Membership in the world society is an associative right, held in virtue of belonging to the world society. People can derive specific rights from their membership if the issue in question is first a matter of importance in the person's environment, and if the issue is of global concern. Membership in the world society can generate claims to "global public goods." For instance, people have claims to a reasonably clean environment in virtue of their membership in the world society. A reasonably clean environment is a matter of importance in people's immediate environment everywhere in the world. At the same time, it is a matter of global concern because of the global environmental impact of local pollution and the need to coordinate efforts to safeguard the environment. Such global public goods need to be financed by the community of states together. Hence the need to devote some tax revenue to the production of such global public goods.

### SUBJECTION TO THE GLOBAL TRADING SYSTEM

Being subject to the trading system is another associative ground. The associated principle is that participating states should not enjoy gains "at the expense" of other states. Risse and Wollner develop this principle to show why exploitative terms of trade are unjust from a global perspective.[37] But exploitation cannot only occur concerning terms of trade. Another way of exploiting in the trading system is to engage in problematic competition. Being a member of the trade system involves reducing barriers to trade. Luring production and payroll away from other countries to boost tax revenues may violate the duties associated with membership in the global trading system.

Let us return to tax competition, and more specifically to luring. Under what circumstances is luring unjust from the perspective of pluralist internationalism? What matters is that every state has the ability to meet its claims of justice, both domestic and global. Every state is under two kinds of obligations. First, every state ought to raise sufficient taxes to meet its duties of justice. Secondly, since the realization of global justice is a shared responsibility every state is under an obligation to set tax rates in a way that assists every other state to meet its obligations, both domestic and international. This second obligation is grounded in common

[37] Risse and Wollner, "Three Images of Trade."

humanity. States have an obligation to facilitate institution-building in other states to enable them to meet duties both towards their own populations and to those outside of the state.

To illustrate what this amounts to, consider a world with just two identical states, raising barely enough taxes to meet duties of justice. Corporations and individuals are evenly distributed across both states, leaving them with identical tax bases. A's government seeks to increase tax revenue to fund public projects that would advance justice within A. Suppose the government has two options to do so: slightly raising corporate taxes, or drastically lowering them. The latter option would improve revenue because reducing corporate taxes would induce corporations in B to relocate to A, increasing A's tax base. The companies paying additional taxes in A would more than compensate for the decline in revenue per company. May A reduce corporate taxes?

For pluralist internationalism, the answer depends on whether B would still be able to meet its duties. Common humanity places obligations on states to support other states in building institutions capable of delivering on their duties of justice. Minimally, this requires not taking actions that undermine B's capability to deliver on obligations of justice. Considering that A seeks to raise more taxes to advance justice within A, and given that A and B are identical in relevant ways, B will probably come under pressure in meeting its obligations if its tax base erodes. Hence A must refrain from luring companies away from B. To fund additional spending, A must raise taxes.

Consider a variant where both states raise taxes in excess of what they need to meet obligations of justice. In A, corporations and some political parties lobby for lighter corporate taxes. They advance two arguments. First, they argue private enterprise has been squeezed in the past. Lower taxes would rebalance the relationship between government and private enterprise, enable more investment and increase growth. Secondly, lower taxes might not lead to lower tax revenues, as lower taxes would attract corporations from B. On Dietsch's account, to decide whether lowering taxes is permissible for A we need to ascertain the intention behind the decision. If the legislator is swayed by the first reason, lowering is permissible. If the second is operative, lowering taxes is objectionably strategic. In the messy reality of democratic politics both considerations will matter to varying degrees for parliamentarians and voters. On the ground-of-justice approach, what matters is whether each country can still meet its duties of justice. A is free to lower taxes, thereby luring away corporations from B, as long as B can still meet its duties of justice.

Suppose then B can still meet its obligations of justice even though some corporations relocate to A. One way for B to restore competitive parity is to lower corporate taxes as well. But lowering taxes to the level A has set might contradict democratic preferences in B. Citizens in B might prefer a world where they can maintain their tax base at a higher level of corporate taxation. But A is under no obligation to accommodate such preferences. Rather, membership in a state generates a duty on A to comply with democratic preferences of its citizens.

There is nothing problematic in principle about individuals or companies finding another system of taxation more conducive to their purposes than what they currently have. Moreover, countries may make themselves friendly places for individuals and companies they wish to attract.[38] The only thing that is problematic is for relocations to increase injustice. Large poor countries are especially vulnerable and need special aid to maintain a just domestic order. But we must be careful. It will not normally be the sheer fact that individuals or companies are lured by another tax system's siren call that makes it the case, say, that a country cannot maintain institutions where human rights are respected, or that it becomes so weak as to be subject to exploitation by corporations and other countries. The erosion of just institutions is often one component of a more complex picture.

Similarly, when it comes to assessing the strategic use of luring and thus of the performance of a given state as an agent of justice much depends on details. One might want to say that, on the approach presented here, states are justified in luring individuals and corporations from wealthy countries but not from poor countries. But this would mean we would ask these countries, as a matter of justice, to make themselves attractive only to individuals and companies that are already rather well-situated and would yet further improve their circumstances by moving to these countries. We would ask these countries to deny such opportunities to individuals or corporations from poorer countries. That is implausible.

The practice of luring must be evaluated as part of an overall package. If Singapore attracted individuals and companies also from poorer locations without getting invested in suitable causes of global justice, it would be acting unjustly. Alternatively, Singapore might get involved

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[38] See the related debate about brain drain where we also encounter questions of whether states should not permit certain kinds of movement because this would negatively affect the countries of origins of those who would move; see Brock and Blake, *Debating Brain Drain*.

in other measures to advance global justice. That is, they might lure away individuals and companies from places like Indonesia or Malaysia; but take other measures to aid these or other countries. Luring would be *pro tanto* wrong to the extent that it obstructs the pursuit of global justice. But the *pro-tanto* character of this fact is so distinct that the proper response will not normally be directly and exclusively concerned with intercepting A's efforts to lure away people and companies from B.

# CONCLUSION

For all we know there is enough funding to build a just world. Aggressive tackling of tax evasion and inappropriate tax competition can help enormously to direct funds towards improving justice globally. We have now illuminated this phenomenon philosophically in greater detail. We have proposed a new principle, the Global Justice Principle, and have argued that Dietsch's membership principle can be recuperated under the auspices of that principle:

**GLOBAL JUSTICE PRINCIPLE**: THE FISCAL POLICY OF ANY STATE SHOULD BE DESIGNED SO AS TO ADVANCE GLOBAL JUSTICE; THIS MEANS BOTH THAT FUNDS ARE GENERATED TO THAT EFFECT AND THAT NO POLICIES ARE ADOPTED THAT ARE DETRIMENTAL TO THE REALIZATION OF GLOBAL JUSTICE, UNLESS THEY ARE STRICTLY NECESSARY AS PART OF AN OVERALL PACKAGE OF POLICIES THAT DOES ADVANCE GLOBAL JUSTICE.

**MEMBERSHIP PRINCIPLE**: NATURAL AND LEGAL PERSONS (THAT IS, INDIVIDUALS AND CORPORATIONS) ARE LIABLE TO PAY TAX TO THE STATE(S) OF WHICH THEY ARE A MEMBER; THEY ARE NOT LIABLE TO PAY TAX TO ANY OTHER ENTITIES.

A key step in our argument was to identify the globalized myth of ownership, the belief that a state has unfettered entitlements to its gross national income and the resulting tax revenues. This belief is as misguided as its domestic counterpart identified by Murphy and Nagel. With that myth exposed, we see global tax competition in new light, which led to the Global Justice Principle. The grounds-of-justice approach has ample resources to handle tax competition. Our account avoids the globalized myth of ownership, and delivers more plausible results concerning the permissibility of luring.

How realistic is our proposal, and should we not stick with Dietsch's at least as a pragmatic matter? We would like to resist that idea. Dietsch roundly condemns certain types of luring, but if what we have argued is correct, luring of that sort should be reassessed, also in the messy world of real politics. Luring is bad if, but only if, and to the extent that, it contributes to injustice. Assessing whether it does is inevitably a complex exercise.

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