Analyses and Studies
Analizy i Studia

CASP
Centre for Analyses and Studies of Taxation
Centrum Analiz i Studiów Podatkowych

No. 1(19) | June 2025 pp. 37–51 ISSN 2451-0475

Pillar Two and Tax Justice Movement: 10 Criticisms of the Global Minimum Tax

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In recent years, the Tax Justice movement has played an increasingly important role in the area of international taxation, including the OECD's project on Pillar Two. Groups such as the Tax Justice Network (TJN) have been highly critical of the global minimum tax. Why is this? This article identifies ten (technical and policy) criticisms of Pillar Two from a Tax Justice perspective. The article also discusses the concept of Tax Justice. the anatomy of the Tax Justice movement in relation to Pillar Two, the intersection with human rights law, and the relationship with the United Nations' work in this area.

Keywords: Pillar Two, BEPS, OECD, Tax Justice, social movement, non-governmental organization, civil society, fair share, Tax Justice Network, human rights, journalism, United Nations

JEL Classification: K34

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* The author thanks Alex Cobham and two anonymous reviewers for their help. Any mistakes are the author's own.

1. Introduction

1.1. Background

Since the beginning of the project of the Organisation for Economic Co-operation and Development (OECD) on base erosion and profit shifting (BEPS), civil society organizations (CSOs)[1] have played an active part in discussions on global tax reform. These stakeholders include non-governmental organizations (NGOs) working in the Tax Justice[2] space. For years, these organizations have called for a fairer global tax system, in particular for developing countries, that prevents tax evasion, secrecy jurisdictions, and undue political influence from large companies and the ultra-rich.

One of the most prominent tax topics in recent years has been the global minimum tax (Pillar Two or the Global Anti-Base Erosion (GloBE) Rules), which has been developed under the aus-

[1] The term *civil society* is generally understood as the space which exists between family, market, and the state (World Bank, n.d.).

[2] The term *Tax Justice* is discussed in section 3. The terms *Tax Justice NGOs*, *organizations*, *community* and *groups* are synonymous in this article.

pices of the OECD. Briefly, this is a 15% minimum tax on large multinational enterprises (MNEs). On the surface, this tax seems to align with core Tax Justice objectives, such as preventing tax evasion and ensuring that all companies pay their fair share. Therefore, it seems paradoxical that key Tax Justice organizations such as the Tax Justice Network (TJN) and the Global Alliance for Tax Justice (GATJ) have given the global minimum tax (at best) a lukewarm reception. Pillar Two has been referred to by Oxfam as a "mockery of fairness" (Oxfam International, 2021) and included in the TJN's litany of OECD failures (TJN, 2024). Other Tax Justice groups have reacted similarly.

Obviously, Tax Justice organizations are not ethical arbiters of international tax. However, they are an important part of civil society and for that reason alone, it is worth considering their criticisms in more detail.[3]

1.2. Objective, scope, and limitations

1.2.1. Objective

This article introduces the global Tax Justice movement in relation to Pillar Two as a starting point for a larger discussion on, for example, some of the criticism raised by Tax Justice organizations. The intended audience of this article is the tax community, including tax professionals, tax authorities, policymakers, academics, and students.

1.2.2. Scope and limitations

Although the term *Tax Justice* is difficult to define (see Section 3.1), in practice, this does not seem to cause any noticeable difficulties for groups working in this area. Literally hundreds of examples of Tax Justice organizations can be found on the GATJ website (GATJ, n.d. a). The article also centres around the TJN and the European Network on Debt and Development (Eurodad), which have both submitted input for the public consultations on Pillar Two (Eurodad, 2020; TJN, 2019).[4]

However, the research underlying this article is nowhere near complete, both regarding the organizations mentioned and the issues raised. This is justified as the objective of this article is to provide a starting point for discussion rather than a definite account of the Tax Justice movement. It should be stressed that the ten criticisms have been constructed by the author and cannot be attributed to any specific organization. The author has sought to paint a balanced picture, avoiding misrepresentation and so-called 'straw manning' (that is: creating a weak version of an argument which is easy to discredit). Nevertheless, given the inherent subjectivity of compiling a ten-point programme on behalf of an entire social movement, readers should remain critical on the point of biases.

Lastly, it is emphasized that the article highlights criticisms but does not seek to prove or disprove them. Similarly, no claims are made on the point of salience (Dally, 2016). Some readers may find this approach disappointing – the author concurs that further research on that point would be interesting.

1.3. Structure

After this introduction, Section 2 starts by setting out the legal context of Pillar Two insofar as it is helpful for the present analysis. Section 3 considers the question: *What is Tax Justice?* and provides examples of Tax Justice NGOs. Section 4 addresses the question at the heart of this article: *Why do*

[3] The OECD apparently agrees with this position, having platformed a Tax Justice Speaker (Joy Ndubai) at the public hearing for the Two-Pillar Blueprints in 2019. Even if this invitation was purely for show ('greenwashing') it indicates that these organizations cannot simply be ignored (Mansour, 2020).

[4] This submission of Eurodad is together with 11.11.11; Alliance Sud; APIT Portugal, Asia Initiatives; Church Action for Tax Justice; Centre national de coopération au développement (CNCD-11.11.11); Comité Catholique Contre la Faim et pour le Développement – Terre Solidaire (CCFD-Terre Solidaire); Finnwatch; Global Alliance for Tax Justice; Global Policy Forum; Oxfam; Plateforme Paradis Fiscaux et Judiciaires; Society for International Development (SID); Sisters of Charity Federation; Tax Justice Europe; Tax Justice Netherlands; Tax Justice Network; Tax Justice Network – Norway; and Vienna Institute for International Dialogue and Cooperation (VIDC).

Tax Justice organizations reject Pillar Two? Section 5 then provides a conclusion.

2. Legal context

2.1. Background

The Pillar Two rules are the fruit of the OECD's landmark project against BEPS, which was launched in 2013 (OECD, 2015). From the start, the tax treatment of the digital economy was within the scope of the project but proved highly challenging. In 2020, the OECD presented a solution based on two 'pillars.' Pillar One addresses the relocation of the profits of large multinationals to market jurisdictions, and Pillar Two sets a global minimum profit tax of 15% (OECD, 2020). This two-pillar solution was created within the IF and involved several public consultations. In October 2021, 139 states agreed to introduce this global minimum tax by 2023 (OECD, 2021). However, as of the date of writing, implementation into the domestic law is still pending in multiple countries. Furthermore, in January 2025, US President Trump declared that the United States would withdraw from Pillar Two. The consequences of this are still uncertain, but it will surely have ramifications for the global minimum tax (The White House, 2025).

2.2. The interlocking GloBE rules

Pillar Two provides (1) a system of interlocking GloBE rules that signatory states must implement into their domestic tax systems and (2) a treaty-based Subject To Tax Rule (STTR) allowing countries to impose an additional tax on some specific cross-border payments if these payments are taxed below 9% (Grilli, Weber, 2024; OECD, 2023). Focusing only on the first point, the interlocking rules are designed to ensure that the profits of MNEs with an annual turnover of more than EUR 750 million are subject to tax at a minimum effective rate of 15%, irrespective of the countries in which the MNE operates. The starting point dictates that profits should be taxed by the state in which they originate (source state). If this source state fails to levy a tax at the requisite 15% level, the resident state of the ultimate parent entity must apply a top-up tax under so-called Income Inclusion Rules (IIR). And if the effective rate of 15% still has not been reached, the Undertaxed Profits Rule (UTPR) can oblige other states to ensure the appropriate level of tax. Thus, the UTPR can be considered a backstop for the IIR. Pillar Two also provides a Qualified Domestic Minimum Top-Up Tax (QDMTT), which is a local tax that a source state can levy on a constituent MNE and which the MNE can credit against a top-up tax in a different country based on the IIR or the UTPR (Englisch, 2023).

Additionally, Pillar Two addresses the tax base. The GloBE rules include a substance-based income exclusion, that is, 'carve-outs' based on eligible payroll costs and tangible assets. Without going too far into it, the substance-based income exclusion can reduce the amount of top-up tax payable under the GloBE system in cases where there are genuine economic activities. These rules are complex and require international coordination between multiple jurisdictions, creating a need for automatic information exchange, the application of standard methodologies, and, perhaps, international dispute resolution.

This simplified description above is perhaps misleading as it glosses over multiple issues that have been raised vis-à-vis the technical application of the rules. Consequently, it does not do justice to the actual complexities of this tax, which have proved a cause for concern (see sections 2.4 and 4.2.4).

2.3. The Inclusive Framework

As mentioned in section 2.1, Pillar Two was created within the Inclusive Framework (IF). This is a global tax governance structure that was established in 2016 to facilitate the implementation of the BEPS project (Christians, Van Apeldoorn, 2018; Oei, Ring, 2024, sec.1 and 2). To date, the IF has addressed issues including transfer pricing, transparency, dispute resolution, and the Multilateral Instrument (MLI). As of January 2025, the IF had around 145 members, which is around 75%

of all countries globally (based on the 193 members of the United Nations (UN)).

In principle, all countries and jurisdictions can become associates of the IF, provided they are willing to participate in it on an equal footing with the other associates and are committed to the implementation of the reforms resulting from the BEPS project. This last point may require non-OECD members to align their domestic rules to some extent with OECD standards such as the Guidelines on Transfer Pricing and Country-by-Country Reporting (CBCR).

On paper, the IF might look attractive for developing countries – not least because it operates formally on the basis of consensus (OECD, 2021). Historically, countries in the Global South have been heavily impacted by OECD policies despite not having had seats at the table when these were designed and adopted. In this sense, the IF arguably enhances the inclusiveness of the OECD's tax work. But note that this rose-tinted outline of the IF has been challenged by Tax Justice organizations on multiple points (Krebs et al., 2021) (see section 4.2.8).

2.4. Legitimacy

Although this is outside the scope of this article, the legitimacy of Pillar Two has been strongly questioned. In particular, there are concerns that the OECD may have 'pushed through' Pillar Two on the basis that these rules would be effective, rather than on the basis of their political legitimacy (Fung, 2017; Haslehner, 2023; Mosquera Valderrama, 2023; Peters, 2023, p. 570). Clearly, any doubts about the legitimacy of Pillar Two risk undermining the trust of stakeholders who are already critical, as is the case for Tax Justice NGOs.

3. Tax Justice NGOs

3.1. The Meaning of *Tax Justice*

3.2.1. No single definition

This article distinguishes *tax justice* as a general term from *Tax Justice* (capitalized) in the specific sense of Tax Justice organizations. Neither term has a single, universally recognized definition. However, there is a considerable amount of scholarship on the former (tax justice) in the (siloed) contexts of philosophy, economics, politics, social sciences, religion, and so on (De Cogan, Harris, 2020). This makes it tempting to try to define *Tax Justice* only through the lens of that scholarship – for the purpose of this article, this is not necessarily useful.[5] Instead, this author approaches *Tax Justice* as similar to a 'brand' for a broad collection of ideas and objective relating to fairness and taxation (Cobham, 2024).

Below, this is explored using the examples of the TJN and GATJ.

3.2.2. Example 1: The Tax Justice Network

According to the TJN (emphasis added),

"*Tax Justice refers to ideas, policies and advocacy that seek to achieve equality and social justice through fair taxes on wealthier members of society and multinational corporations. To this end, Tax Justice often focuses on tackling tax havens and curtailing corruption and tax abuse by multinational corporations and the super-rich. Tax Justice encompasses tackling tax havens but also goes beyond tax. [Expanding the debate] into the areas of financial secrecy, financial regulation, criminal law, accountancy, economics and much more. Tax Justice* ***also refers to a growing global movement*** *– the Tax Justice community – which the Tax Justice Network has helped pioneer. A large body of research and evidence from around the world has emerged since the early 2000s, leading to a new powerful and internally coherent worldview referred to as the 'Tax Justice consensus' that is challenging and replacing the 'Washington consensus'*[6]

[5] For example, the conclusion that the TJN is "getting Tax Justice wrong" according the standards of Kant's categorical imperative or Catholic social teaching, rather misses the point.

[6] The Washington consensus refers to a set of neoliberal economic policies for the developing countries, dating back to the 1980s. The 'consensus' is between the Interna-

which has dominated economic thinking since the 1980s" (TJN, 2020a).

Additionally, the TJN focuses on several other topics, including human rights, racial justice, and climate justice, in relation to tax (TJN, 2021). It is not clear to this author what is meant by the *Tax Justice consensus*. This is, however, intriguing, as it might offer a better understanding of the overarching objective of the Tax Justice movement.

3.2.3. Example 2: The Global Alliance for Tax Justice

The second example is to be found with the GATJ, which approaches *Tax Justice* as follows (emphasis added):

"*Time for tax justice! Redistributive and progressive tax and fiscal policies can* ***counteract growing inequalities and raise the public funding needed to invest in public services that are essential to fulfil human rights and advance sustainable development***. *By working together across borders and organisational affiliations, we can build a strong social movement to generate the political will to reform the outdated and broken global tax and financial architecture. Our vision is of a world where fair and progressive tax policies work for all. We want tax and fiscal policies that enable people to share in local and global prosperity, access the public services and social protections needed to fulfill human rights, and benefit from inclusive and sustainable economies that work to eliminate inequalities*" (GATJ, n.d. b)

The GATJ goes on to list its specific goals (as bullet points), namely that:

"*Tax abuses are exposed and curbed; progressive, redistributive and gender-just tax systems are at work in every country; global tax rules work for all countries, people and the planet; transparency practices are implemented across jurisdictions; [and] empowered citizens hold national governments and global institutions to account for Tax Justice*" (Global Alliance for Tax Justice, n.d. b).

This approach to Tax Justice seems essentially compatible with that of the TJN.

3.3. A broad-based social movement

The Tax Justice movement is a very broad social movement. As well as the NGOs, it includes all manner of individual campaigners, journalists, politicians, scholars, fundraisers, and financial backers who have contributed to the work on Tax Justice over the past decades (Forstater, Christensen, 2017). Tax Justice has become a major theme for some development organizations, such as Christian Aid and Oxfam, who see a direct link between revenue raising and combatting poverty (Christian Aid and Tax Justice Network Africa, 2014; On Think Tanks, 2023; Titus, 2022). Furthermore, the Tax Justice movement boasts various research-focused organizations, as well as trade unions (PSI, n.d.) and religious groups (ICRICT, 2025). Over a period exceeding two decades, the collective of Tax Justice organizations has produced a large volume of research, advocacy, and policy proposals.[7]

The Tax Justice movement is not static. For example, the TJN has reportedly inspired no fewer than 29 Tax Justice organizations worldwide (On Think Tanks, 2023). These are not 'franchises' but rather independent organizations, some of which unite even larger groups of activist organizations (Christians, 2013; Elbra, 2018; Seabrooke, Wigan, 2018). The GATJ, which was established in 2013 as a Global South-led alliance of Tax Justice organizations on five continents, is an example of this. To give some idea of the scale, the GATJ is comprised of several regional networks: Tax and Fiscal Justice Asia, TJN Africa, Red de Justicia Fiscal de América Latina y el Caribe, Tax Justice-Europe, and Canadians for Tax Fairness & FACT Coalition. Collectively, this alliance unites hundreds of organizations, some 280 of which are listed on the GATJ website. In turn, some of these organizations involve multiple other organizations. The Dutch

tional Monetary Fund (IMF), the World Bank, and the US Department of the Treasury (*Britannica money*, no date).

[7] Famously, the concept of CBCR was originally an idea of Richard Murphy (one of the founders of the TJN).

organization Tax Justice-NL (TJ-NL) is a case in point. The TJ-NL consists of eight national organizations, including the Federation of Dutch Trade Unions (FNV).[8] This 'Russian dolls effect' means the actual number of organizations involved in the global alliance certainly exceeds 280, perhaps significantly.

3.4. The impact of Tax Justice NGOs

It is difficult to determine the precise impact of the Tax Justice movement. This author would argue that the movement is effective when it comes to publicity, framing the tax debate, and agenda setting. Furthermore, certain organizations (in particular the TJN) provide a setting for thought leadership (e.g. by organizing conferences, fund raising, or commissioning research). In an evaluation of the TJN since 2023, independent researchers have considered the impact of this organization. Among other things, this includes a section on 'policy-relevant uses' for the TJN's Financial Secrecy Index (FSI). The FSI is a ranking of countries that, according to the TJN, are complicit in tax avoidance by individuals (TJN, n.d. b) and has been controversial (Cayman Finance, 2021; TJN, 2021b). According to the researchers, the FSI is now used in a variety of contexts, including as part of sustainability rankings, governance and development rankings, estimating illicit financial flows, and monitoring the UN's Sustainability Development Goals (SDG) (On Think Tanks, 2023, p. 36).

SDG17 (i.e. *Strengthening the means of implementation and revitalization of the global partnership for the SDGs*, which includes tax elements) offers an example of the latter. The evaluation indicators for this SDG include two TJN indexes. These are the FSI and the Corporate Tax Haven Index (CTHI) (TJN, n.d.). This implies that a poor score on either of the indexes has an adverse impact on whether a country meets this SDG. The Netherlands, which scored badly on both indexes, offers an example of this (Sustainable Development Report, n.d.). This article will not discuss the broader question of the methodology for assessing the SDGs. However, the use of the TJN's indexes shows that these reports are filling a relevant knowledge gap in this context.

3.5. Criticisms of Tax Justice research

Tax Justice NGOs and their research have proved controversial in the past (Essers, 2014). In the experience of this author, claims by Tax Justice organizations are sometimes met with a degree of skepticism from tax experts. In addition to questions about the competence of researchers, the question of (alleged) bias arises when it comes to research by advocacy groups. Even when Tax Justice research meets academic standards (rather than journalistic, for example), the dual roles potentially create tension. This is exacerbated by the fact that Tax Justice research can be unorthodox when viewed through the eyes of traditional tax experts. The CTHI offers a pertinent illustration. Here we can see that the TJN reframes the discussion on *tax havens* by expanding the concept of a *tax haven* to include not only jurisdictions typically thought of tax havens (e.g. Bermuda and the Cayman Islands), but also high-taxing jurisdictions which contribute to global tax abuse (as defined by the TJN). The outcomes are unexpected: for example, the Netherlands is the world's seventh largest tax haven according to this index, above Jersey, the Bahamas, and the Isle of Man, among others.

Perhaps unsurprisingly, some of the TJN's research has been controversial. A case in point is the report titled *State of Tax Justice 2023* (TJN, 2023a) in which the TJN claimed that countries may lose "*nearly USD 5 trillion*" to tax avoidance over a period of 10 years. This glaringly large number was quickly challenged by, among others, Richard Murphy (Murphy, 2023) and a well-known tax expert from the United Kingdom, Dan Neidle (Neidle, 2023), who published their respective analyses on their own blogs. This was followed

[8] These organizations are: Oxfam Novib, ActionAid, Both Ends, FNV, Foundation Max van de Stoel, SOMO (Stichting Onderzoek Multinationale Ondernemingen; the Centre for Research on Multinational Corporations), TNI and Open State.

by a response from the authors of the report (TJN, 2023b).

In principle, this is nothing to be alarmed about: academic work can always trigger a debate – in fact, scholarly discussion is essential to academic work. However, Tax Justice claims are different from most academic papers in the sense that reports and indexes often enter the public and policy spheres, before any academic critique is possible (aside from peer review). Journalists and politicians are generally incapable of grasping extremely complicated and specialized tax analyses, either due to a lack of knowledge or time constraints, and so the findings are reprinted uncritically in newspapers across the globe. Once this has happened, any subsequent criticisms of the claims are basically moot: once 'big numbers' have entered the public sphere, it is hard, indeed, perhaps impossible, to correct subsequently any errors.

There is an open question on whether this dynamic is problematic and, if yes, what can and should be done about it.[9]

4. Tax Justice criticisms of Pillar Two

4.1. Introduction

This section turns to the central question of this article, namely the Tax Justice community's negative response to Pillar Two. The author has identified and summarizes briefly ten key points of criticism, each presented separately. The lack of attention for the positive reactions of Tax Justice groups to Pillar Two is explained by the fact that – put bluntly – endorsements are scarce. Some organizations have, rather charitably, made reference to a "*step in the right direction*" but emphasize multiple outstanding issues in the global minimum tax (BEPS Monitoring Group, 2020; ICRICT, 2024; PSI, 2021).

4.2. Selected points of criticism by Tax Justice NGOs

4.2.1. "*The OECD is a rich countries' club*"

First and foremost, it cannot be overstated that the OECD is, from the Tax Justice perspective, inherently extremely problematic. The OECD consists mostly of developed countries and can, therefore, be seen as a '"*rich countries' club*" (Ryding, 2021; TJN, 2023b). It excludes the Global South. Even if developing countries had a truly equal 'seat at the table' for Pillar Two, the rules of the game are already set (Hearson, 2021; Latindadd, 2021). As one commentor wrote, the international tax system has "*been built on top of the tax practices within the imperial trading blocs of the 1920s [and] has historically been against developing-country interests. The direction of current reforms in the OECD Inclusive Framework will only end up reinforcing this status quo*" (Mosioma et al., 2020).

Whether this skepticism is entirely fair can be debated. However, that tax justice organizations take an *a priori* negative view of the OECD (according to this author) is in the view of this author quite understandable. Contrary to the popular belief, a proverbial leopard can indeed change its spots. However, this cannot happen overnight.

4.2.2. "*The 15% minimum rate is too low*"

Next comes the 15% minimum rate of Pillar Two. This rate is contentious because it is lower than the tax rates of many developing countries (GATJ, n.d. c). The Independent Commission for the Reform of International Corporate Taxation (ICRICT) takes a similar position, stating, "*The second pillar introduces a global minimum effective tax rate of 15%. This tax rate is relatively low from a historical and international perspective. Most countries attempt to tax profits at rates higher than 15% – in*

[9] In the interest of clarity: this is not a call for Tax Justice organizations to become 'less effective' when they exercise their freedom of speech. There needs to be a better discussion between Tax Justice organizations and the tax community.

fact, the median corporate tax rate across all countries is estimated to be 25%. There is no clear reason why multinational companies should be allowed to pay less tax than domestic companies" (ICRICT, 2024).

Furthermore, the (relatively low) 15% rate has sparked fears that the "*race to the bottom*" for corporate income tax will simply be replaced by a "*race to the minimum*" (GATJ, n.d. c). In theory, this could have the perverse outcome that developing countries are effectively forced to lower their corporate tax rate as a result of the global minimum tax. The author agrees that this would be problematic but notes that it is unclear whether in fact this scenario would come to pass. After all, this depends on several (still unknown) factors, including domestic implementations.

4.2.3. "*There is a loophole due to substance-based carve-outs*"

In addition to criticism of the tax rate, the Pillar Two tax base has given cause for concern. Pillar Two allows certain carve-outs for substance (see section 2.2). The ICRICT is argues that "*the proposed minimum tax also includes a major loophole: carve-outs for substance. Specifically, a certain amount of profit (i.e. a return on the value of tangible assets plus payroll) – can be excluded from the base of the minimum tax. There is no economic justification for these carve-outs. The carve-outs allow firms that have any real economic activity in a low-tax country to keep paying less than 15% in that country, even a 0% effective tax rate. As a result, they create incentives for firms to move production to countries with tax rates below 15%*" (ICRICT, 2024). This concern about carve-outs is echoed by, for example, the TJN: "*A range of carve-outs insisted on by corporate tax havens in the EU now mean that effective rates even below 10% are likely still to be possible*" (TJN, 2024).

This article will not evaluate the claim made vis-à-vis 'loopholes', but suffice to say that this issue is not straightforward. As regards the reference to "*corporate tax havens in the EU*," the author's reference to the CTHI – the Netherlands is an example of the TJN's "*EU tax havens*" (see section 3.5).

4.2.4. "*Pillar Two is much too complicated*"

Both the implementation and administration of Pillar Two have been flagged as unrealistically complex, especially for developing countries, which may lack the necessary tax capacities in this regard, for example, due to insufficient staffing of tax authorities (Brown, 2023; Eurodad, 2020). Crucially, if the GloBE rules as implemented in different countries do not operate seamlessly, Tax Justice groups see a risk of 'loopholes' which could be exploited by MNEs. It could be argued that developing countries are hit the hardest by the rules that are overly complicated. This in turn could be seen as an example of how the lack of inclusive rule-making at the OECD leads to these rules that are essentially unsuitable for developing countries.

As an aside, the complexity of Pillar Two is not only an issue for developing countries. Other stakeholders– politicians, journalists, academics, and crucially, policymakers – equally may face difficulties untangling the nuances of the GloBE rules and comprehending their policy environment. At what point does tax legislation become so complicated that democratically elected legislators cannot be expected to make informed decisions on it? And has that point been reached in the case of Pillar Two? If the answer to this question is affirmative (which is the view of this author), complexity becomes a major issue when it comes to the question of legitimacy.

4.2.5. "*Bias towards developed countries*"

Even with perfect implementation and application, Pillar Two could result in unfair outcomes, which, according to some Tax Justice NGOs, could affect developing countries disproportionately. This can be illustrated with an example from Eurodad, which raised concerns about top-up taxes on the grounds that the (residence-country based) IIR would be a disadvantage for countries in the Global South, as these are often source countries. Eurodad, therefore, concluded that "*any hierarchy*

between different rule systems ... should give priority to source country rules," as "developing countries are primarily source countries" (Eurodad, 2020, p. 6).

Eurodad mentioned the same issue in 2024:[10] "*Strong concerns have been raised about unfairness with regards to how the rights to tax the profits of multinational corporations are shared between countries. In particular, concerns have been raised about a bias in favour of richer (mainly OECD) countries at the expense of developing countries. As the UN report, World Economic Situation and Prospects 2022, noted, 'the main beneficiaries will likely be a small number of developed countries with existing multinational headquarters, undermining the principle of fairness assumed to underlie the accord.' These concerns have given rise to the Southern-led civil society campaign to 'Reject the Deal of the Rich.' As the rules of Pillar 2 were further elaborated at the end of 2022, it gave rise to an additional concern that the main beneficiaries of the agreement will in fact be the countries that are commonly referred to as 'financial centres' or simply 'tax havens'*" (Eurodad, 2024).

4.2.6. "*Bias towards business*"

The next issue is an alleged bias of the OECD towards business. Unlike BIAC (Business at OECD)[11] and TUAC (Trade Union Advisory Committee to the OECD) (OECD Watch, n.d. b), Tax Justice organizations do not have a special advisory status at the OECD.[12] The consequences of this for Pillar Two and other global tax reforms are not clear from the OECD's website. It remains unclear to this author what influence the different stakeholders – including business and Tax Justice groups – have had in this regard.

This issue is reminiscent of the problem of staff moving through the 'revolving doors' between the OECD and the private sector (Corporate Europe Observatory, 2018) with no cooling down period (TJN, 2024a),[13] raising questions regarding their integrity (Christians, 2017). Whether these ethical concerns are warranted is unclear. However, the mere impression of unethical behaviour is a problem for the OECD as it undermines the trust of stakeholders.

4.2.7. "*Pillar Two is bad for attracting foreign investments*"

Next, there are concerns about the impact of Pillar Two on the tax sovereignty of developing countries, for example, when it comes to the provision of tax incentives to large investment projects (*tax holidays*) (Brown, 2023; Tandon, 2022). Pillar Two is designed to prevent a "*race to the bottom*" that could potentially jeopardize developing countries' ability to attract foreign investment through their tax systems. Furthermore, as has been noted by Shu-Yu Oei and Diane Ring, "*arguments that Pillar Two will eliminate tax competition* ***among developing countries*** *miss the crux of the issue, which is that Pillar Two will not help, and may in fact worsen, developing countries' ability to maintain tax competitiveness vis-à-vis developed countries*" (Oei, Ring, 2024). As was the case for the question of 'loopholes' and the 15% tax rate (sections 4.2.2 and 4.2.3), a substantive evaluation of the present

[10] Together with ActionAid Bangladesh, Asian Peoples' Movement on Debt and Development (APMDD), Centro de Derechos Económicos y Sociales (CDES) (Ecuador), Jubilee Caribbean, Jesuit Center for Theological Reflection (JCTR) (Zambia), Oxfam Morocco, Red Latinoamericana por Justicia Económica y Social (LATINDADD), Tax Justice Network Africa (TJN-A).

[11] Until 2020, Business in Europe was called the Business and Industry Advisory Committee to the OECD.

[12] Interestingly, a group called OECD Watch is "*formally recognized as the representative of civil society to the OECD committee that promotes the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (*Guidelines*)" (OECD Watch, n.d. and n.d. b). However, OECD Watch is not (clearly) mentioned on the Pillar-Two pages on the OECD's website. In private correspondence with the present author, OECD Watch confirmed that it was not involved with Pillar Two. Perhaps this opens an avenue for better access for Tax Justice organizations.

[13] The TJN provides the example of Pascal Saint-Amans (the OECD longstanding head of the Centre for Tax Policy and Administration) to the private sector lobbying firm Brunswick Group in 2022.

issue of foreign investment is not explored any further.

4.2.8. "*The Pillar Two process is not truly inclusive*"

Traditionally, the OECD has been an organization for a selected group of developed countries. On paper, the introduction of the IF is inclusive. In practice, significant questions remain about the inclusivity of global tax decision-making. In particular, this applies to the participation of developing countries (APMDD, 2023; Christensen, Hearson, Randriamanalina, 2020; Eurodad 2022). The following passage from the report *Litany of failure: the OECD's stewardship of international taxation* (TJN, 2024) summarizes many of the key concerns (also applicable to Pillar Two) and is, therefore, worth citing extensively (emphasis added):

"*From a decolonial perspective the right to self-determination taken together with the right to development require global processes of tax coordination and cooperation to be cognisant of power imbalances between countries in the Global North and Global South which are rooted in the legacies of slavery and colonialism. Instead of ensuring meaningful participation by those most affected by illicit financial flows and other aggressive tax avoidance practices,* ***the OECD process engaged in subterfuge that only enabled participation in form but not substance****. In addition, the OECD treats "jurisdictions" such as the British Virgin Islands (which is not a sovereign nation state) on an equal footing as bona fide sovereign nation states. As a result many former colonial powers such as France, the UK and the Netherlands had an outsized share of votes when the GTA was agreed upon.*"

"*Moreover, the OECD is not a legitimate forum for negotiations of this kind because its key members are a group of some of the world's richest and most powerful nations (including many former colonial powers). It has failed to adhere to basic standards of participation, accountability, and transparency and, in so doing, has maintained, reified and arguably exacerbated international structures of exploitation and subjugation anchored in a racist colonial architecture of economic extraction.* ***The predictable outcome of this opaque and exclusionary approach to the governance of a critical public good – tax revenue – is an agreement that will severely prejudice the human rights of predominantly non-white peoples of the Global South***" (TJN, 2024a, p. 10)

The passages cited above show how, in the view of the TJN, inclusivity is part of a much broader historical reality of colonials and the consequences thereof. From this perspective, true inclusivity requires a much more fundamental reckoning with global power imbalances. Establishing an IF where in theory developing countries can have an equal seat at the table is simply not enough. This is one of the reasons why Tax Justice organizations are currently advocating for a UN tax convention as a way of creating a fair system, which also works for developing countries.

4.2.9. "*Pillar Two infringes on human rights*"

The next issue is the relationship between Pillar Two and human rights (TJN, 2021). This requires some explaining. The basic fact that there is interaction between tax and human rights is intuitive when it comes to issues relating to fundamental individual human rights (e.g. the rights to property, privacy, and the equal treatment of individual taxpayers). Additionally, tax can raise questions related to collective human rights (e.g. the rights to education, security, and a safe environment) (Initiative for Human Rights Principles in Fiscal Policy, 2021; Kokott, Pistone, 2022, pp. 71 et seq.). The impact of this second type of human rights is arguably less evident than that of the first type.

From a Tax Justice perspective, tax evasion by MNEs intersects with human rights because "*taxation and fiscal policy play a critical role in redistributing wealth and resources, tackling poverty and inequality, and addressing historical legacies of oppression rooted in slavery, colonialism, and apartheid*" (TJN, 2024a, p. 4) Countries need revenue to meet their obligations under, for example, human rights treaties. Insufficient funding can lead to the

disappearance of public services used by the more marginalized members of society, who are underrepresented in policymaking and arguably more reliant on public spending. Therefore, tax evasion could be considered discriminatory (Warris et al., 2022, 2023). It is in this sense that tax evasion and measures failing to curb it could be considered human rights issues (GATJ, 2023; Holland, 2024).

In 2022 and 2023, a group of top UN-mandated human rights rapporteurs headed by Attiya Warris followed a similar line of reasoning in two letters directed at the OECD, expressing concern about the two-pillar solution. In particular, the human rights experts argued that (A) the 15% tax rate is too low and "*will drive low and middle-income States, notably in Africa, to lose considerable portions of their revenue since their average effective corporate tax is often significantly higher, varying between 20 and 30 percent*" (Warris et al., 2022, p. 5) and that (B) there is a risk of a "*potential race to the bottom, below the 15 percent minimum … for other portions of the corporate income*" as "*not all [of the] declared income of MNEs … will be included in the calculation of the 15 percent*" (Warris et al., 2022). This will, according to the human rights experts, lead to "*lower levels of revenue collection in developing countries [that] would weaken the States' capacity to fulfill their human rights obligations due to their inability to adequately fund social policies and public services essential for human rights … disproportionately affecting the most vulnerable segments of the population*" (Warris et al., 2022).[14]

The letters of the human rights experts raise at least two questions. The first is fundamental: Is it the case that a measure resulting in a reduction of tax income constitutes a human rights infringement if it leads to a reduction of the public sector? This would be a far-reaching and controversial position, in need of further investigation. The second, assuming that the first question is answered in the affirmative, is: Will Pillar Two factually lead to an overall lower level of tax for a particular country? This point is not explained clearly in the letters, which makes the claim that Pillar Two will reduce revenue hard to assess and, therefore, less convincing (Kuźniacki, 2024).

4.2.10. "*The United Nations offers a better alternative*"

This last point is not so much a criticism of Pillar Two as an argument for an alternative: a new global tax convention at the UN. As per the time of writing, there is a political discussion underway on whether the UN should have a role in the area of international taxation (Rita, Mataba, 2025). This is also referred to as the establishment of a UN Framework Convention on International Tax Cooperation – something that Tax Justice organizations have advocated for a long time. The TJN writes that "*Establishing a UN tax convention would allow international tax rules to be determined through a genuinely representative process at the UN that reflects the needs of countries around the world, instead of the desires of a rich and powerful few*" (TJN, 2020b).

The question is whether this view above is overly optimistic. The creation of a UN Tax Convention is a complicated process for various reasons that are outside the scope of this article. Political discussions at the UN level are currently underway, and the convention, while ambitious, does not seem impossible. However, as previously noted, the advent of Trumpism means that the glob-

[14] In 2024, a group of nine civil society organizations, including the TJN and Red de Justicia Fiscal de América Latina y el Caribe (Center for Economic and Social Rights et al., 2024), sent their own letter to the OECD on the latter's (alleged) failure to respond to the UN experts. The organizations called for a true reply to the experts and to make any correspondence public. The OECD replied a few weeks later (OECD, 2024) but, in the view of the CSOs, failed to address the substantive issues raised regarding human rights (Holland, 2024). Shortly after, 46 CSOs (now also including, among others, Amnesty International, SOMO, and OECD Watch) sent a second, more detailed letter (Amnesty International et al., 2024). The civil society responses illustrate a cooperation between Tax Justice organizations and CSOs working on other (human rights) issues. This author is not aware of the response by the OECD.

al tax landscape is currently shifting. In a recent blog, the TJN reported an incident occurring at the start of the negotiation meeting of the UN Tax Convention on 3 February 2025, where the delegates of the US urged other delegates to walk out of the session (Chaparro-Hernandez, 2025; Ryding, 2025; UN Web TV, 2025). However, "*the opening gambit backfired. No country answered the US delegate's plea, [and the delegate] proceeded to walk out alone, leaving the US isolated*" (Chaparro-Hernandez, 2025) The consequences of the US withdrawal are unclear for now.

Will the US withdrawal mean the end of the UN Tax Convention? Or will the absence of a country that now takes a negative view on this type of global tax governance have precisely the opposite effect? According to the TJN, "*Trump's walk-out fumble*" is an opportunity to push ahead with a UN Tax Convention (Medina, 2025). This is also significant for Pillar Two: as long as a UN-based alternative is on the table, reforms to the OECD's global minimum tax will likely be less urgent for Tax Justice groups.

5. Conclusion

In recent years, Tax Justice NGOs have been highly critical of both the global minimum tax and the OECD. At first sight, this is surprising: a 15% minimum tax on multinationals seems to be perfectly aligned with Tax Justice objectives, such as the prevention of tax evasion and ensuring that all companies pay their fair share. One might reasonably expect that Pillar Two would be attractive for organizations like the Tax Justice Network and the Global Alliance for Tax Justice. In reality, however, the reception of Pillar Two by the Tax Justice community seems to have been mainly negative. Why is this so?

After a brief outline of the legal context and the concept of Tax Justice, ten reasons, some of which overlapped, were identified as a basis for future reflection. These ten points are the following:

1. The OECD is a rich countries' club.
2. Pillar Two's 15% minimum rate is too low.
3. The availability of substance-based carve-outs creates loopholes.
4. Pillar Two is much too complicated.
5. There is a bias towards developed countries.
6. There is a bias towards business.
7. Pillar Two is bad for attracting foreign investments.
8. The Pillar Two process is not truly inclusive.
9. Pillar Two infringes on human rights.
10. A UN tax convention would be a better option.

Each of these criticisms warrants further discussion. They challenge existing ideas about global taxation and invite reflection on a wide range of topics. These include tax governance and themes such as human rights, climate, and equality. Tax Justice organizations are important civil society stakeholders. One does not have to agree with the TJN or GATJ to engage with their ideas – if only to prove them wrong. A better understanding of the 10 criticisms of Pillar Two could contribute to better international tax in the long run.

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Received: February 26, 2025
Accepted: March 4, 2025
Published: June 30, 2025

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· **PUBLISHER** ·
Centre for Analyses and Studies of Taxation SGH · Al. Niepodległości 162 · Warsaw 02-554 · Poland
Dominik J. Gajewski (General Editor) · Adam Olczyk (Managing Editor)

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