

The International Tax System is There to Achieve Justice

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Allison Christians & Laurens van Apeldoorn, [Tax Cooperation in an Unjust World](#) (2021).

I love everything about this book, *Tax Cooperation in an Unjust World*, by Allison Christians and Laurens van Apeldoorn. It's short, it's readable, there's no mystery about the point (and the authors don't belabour it), and it's important.

The main claim: our international tax system has justice at its heart. And when we fail to attend to its justice consequences, we enable states with great wealth to “facilitate[] and feed[] off continued human suffering.” (P. 1.)

Six chapters comprise the monograph. Chapter 1 explores two principles that the authors claim explain (and perhaps also guide) international tax arrangements. The principle of entitlement, which supports states' claim to some share of the wealth generated in their state and by their people; and the principle of fair cooperation, which supports states' claim to an equal share of the net benefits of cooperation between those states.

Chapter 2 turns to a puzzle that has plagued scholars (and perhaps to a lesser extent, policy-makers). If states (particularly middle- and low-income states) have a justifiable claim to tax revenue associated with activities arising in their state, by their people, and as the result of fair cooperation, why do they cede their rights to tax that income (in either domestic law or tax treaties)? Two explanations are investigated: countries cede their rights because they think it is an effective way to compete with their neighbours for investment or they cede them because they face pressure to do so from higher-income states (and maybe also from states with similar incomes).

With that groundwork laid, the authors set off on their argument. Chapter 3 articulates a “duty of assistance.” The thrust of the duty is that states that do not have “subsistence rights deficits” should leave taxing rights with states that do have those deficits. Only once subsistence needs can be met (in middle or lower-income states), should the principle of entitlement (for the higher-income state) be triggered. The authors argue that the pursuit of justice includes or requires this duty.

Chapter 4 brings the duty of assistance to life. The authors offer a variety of options and mechanisms that reasonably affluent states can (and, they argue, should) adopt to have their international tax policy accord with the duty of assistance.

Chapter 5 offers an “in the alternative” argument. If the reader doesn't agree with the duty of assistance (or its scope and application), the authors argue that the principle of entitlement is nevertheless truncated for affluent countries where the partner is a country with subsistence rights deficits. The analysis requires revisiting equal benefit and entitlement principles and the argument turns on quantifying cost saving associated with specified subsistence deficits.

Chapter 6 offers some concrete examples of their “in the alternative” argument. The crux of the argument is that even current arrangements are malleable enough to facilitate accounting for subsistence deficits in tax system design. Chapter 7 concludes.

The chapters that explore the theoretical grounding for the principles and the duty of assistance are fascinating, but I'll focus here on offering some more texture on the concrete proposals that live in Chapters 4 and 6.

Chapter 4 attends to actions for capital-exporting states that would help support the states with subsistence rights deficits. The major suggestion in this chapter is for capital-exporting states to ensure that business profits are subject to tax at residence, while giving source states (a rough proxy for states with subsistence rights deficits) the ability to tax that income at source. The goal is to create a backstop or minimum level of corporate taxation using a pass-through mechanism. States with subsistence rights deficits must take up the room yielded by capital-exporting states. In exploring each stage of the proposed mechanism, the authors address the design features, the effect on tax base allocation, and the feasibility of the reform proposal.

Chapter 6's pragmatic analysis focuses on accounting for the cost of subsistence rights deficits. The authors demonstrate (and this is true for many of their claims in the book) that their argument does not require great leaps from some current practices. In this chapter, they look at how multilateral profit needs to be adjusted to reflect available knowledge about the costs, for example, of paying individuals less than a living wage to work or enabling uncompensated environmental degradation. The chapter explores two methods for accounting for those cost savings – through expanding the range of withholding taxes and reconfiguring our approach to profit allocation.

This book is an important contribution to the international tax literature and more broadly to the tax justice and human rights justice literatures. There is a small section near the end of Chapter 6 where the authors reply to possible critique, but it's hard to imagine anyone could have one.

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