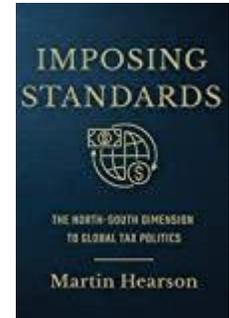


**Martin Hearson.** *Imposing Standards: The North-South Dimension to Global Tax Politics* (Cornell Studies in Money). Ithaca: Cornell University Press, 2021. 246 pp. \$19.95, paper, ISBN 978-1-5017-5598-9.



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Martin Hearson's *Imposing Standards: The North-South Dimension to Global Tax Politics* is a timely monograph that dives into the puzzling history of tax treaty negotiations between higher-income countries in the global North and lower-income countries in the global South during the last half-century. Hearson investigates how the international tax regime constituted by a treaty network of over three thousand bilateral agreements has come to harm the global South and its development trajectory. The book strives to explain why lower-income countries have historically signed international tax agreements contrary to their long-term interests. It is composed of eight chapters, including the introduction and conclusion. Chapter 2 examines the history of international business taxation, and chapters 3 and 4 elucidate his theories of tax competition and transnational policy communities, respectively. The remainder of the book examines the case studies of the United Kingdom, Zambia, Vietnam, and Cambodia. Overall, it is a compelling read that illumin-

ates new directions for inquiry in the international business taxation subfield.

If, as Hearson suggests, tax treaties do not necessarily attract inward foreign direct investment (FDI) and harm capital-importing countries, and if lower-income countries are not genuinely motivated by tax policy competition, then there are two critical questions. Why do lower-income countries sign such treaties in the first place, and why do they give so much away in the process? Hearson's main argument is that the complexity and obscurity of international tax "give considerable power to actors whose authoritative command of technical knowledge is recognized, allowing them to shape others' preferences" (p. 21). For the perceived roles of tax treaties are constructed differently by different actors along two axes: global North to global South, on the one hand, and the extent of a person's technical knowledge, on the other. Along these axes, actors negotiate treaties in a framework of bounded rationality, meaning they use cognitive shortcuts to filter available information. A lack of complete information and ca-

capacity in the global South is responsible for tipping the balance in favor of the global North. The transnational tax policy community centered at the Organisation for Economic Co-operation and Development (OECD) also codifies the “right way of doing international tax,” and the ideas held by tax specialists shift the focus from a consequential logic to a normative one (p. 22). By focusing on the veto points in the treaty negotiation process, Hearson argues that specialists often hold a de facto veto power over nonspecialists within their governments and over business lobbies, demonstrating that “the power of transnational capital is mediated through ideas” (p. 24). Through his focus on transnational elite networks, Hearson adopts the assumptive foundations of a constructivist ontology combined with a historical institutionalist approach to make a compelling case about the structural inequity of the international tax regime.

The depth and breadth of Hearson’s comparative historical research are remarkable and are of the highest caliber of qualitative studies in the international business taxation literature, of which there are relatively few, to my mind.[1] In this highly sophisticated and nuanced historical narrative, Hearson contends that “institutions created from decisions in the past condition the possibilities for actions in the future” and explains that preexisting institutions reflect the interests of more affluent countries and have historically constrained the policy choices for countries in the global South (p. 156). *Imposing Standards* contrasts with traditional studies on the international tax regime that tend to focus on the issues of tax avoidance and tax evasion by unscrupulous individuals and multinationals, and tax havens.[2] Instead, the book breaks new ground by theorizing tax in the context of North-South relations, accounting for the enduring influence of great power politics and illuminating the structural inequity hardwired into global tax governance.

To substantiate his empirical and theoretical claims, Hearson draws on a rich evidentiary base

consisting of seventy-five interviews with ninety-one stakeholders involved in the treaty-making processes, participant observation in international meetings, official historical documents, and secondary sources. Chapter 2 examines the provenance and evolution of the international business taxation regime from 1920 to 1963, which laid down the legal and doctrinal foundation for the modern-day tax treaty network. In it, Hearson argues that capital-exporting countries expressed a strong preference for cooperation among themselves, which gave them “repeated and insurmountable first-mover advantages” vis-à-vis capital-importing nations (p. 31). Put simply, during the interwar period, lower-income countries did not join the League of Nations’ Committee of Technical Experts, which initially convened a small club of rich European nations in the early 1920s, until meetings in 1927 and 1928. By that point, they could not influence the trajectory of draft bilateral conventions, and there was considerable path dependence. Hearson’s book confirms similar findings in historical studies such as Sunita Jogarajan’s *Double Taxation and the League Nations* (2018). Moreover, it shows that the culmination of the League’s work on international business taxation was heavily influenced by European powers and favored the interests of capital-exporters. These deliberations set the tone for the Organisation for European Economic Co-operation (OEEC) and OECD’s subsequent work on double taxation, which resulted in the highly influential 1963 Model Double Taxation Convention on Income and Capital.

In *Imposing Standards*, Hearson encourages readers to look beyond two received wisdoms about tax treaties, namely that a *tax competition motivation* encourages capital-importing nations to negotiate double tax treaties to attract investment and that there is a persuasive *logic of appropriateness* concerning tax norms and technical rules promulgated by the OECD since 1963. First, in chapter 3, Hearson tells us there is little empirical evidence to support the claim that capital-im-

porting nations pursue tax treaties to attract inward FDI and thus characterizes tax competition as a social, rather than material, fact. Hearson refers to this fact as the tax treaties myth. In the book's five case studies, he turns the conventional logic on its head by demonstrating that "capital-exporting countries are frequently the ones initiating and driving negotiations" (p. 5). Hearson explains that we must consider tax competition through a cognitive lens, noting that the *idea of tax competition* is "potent in political debates" and that "economic decision making is sustained regardless of the shaky evidence that it brings welfare gains, especially to lower-income countries" (p. 50). Hearson grounds his theory in the logic of bounded rationality, which stands for the proposition that actors are not perfectly rational and that "people process information through a cognitive-psychological framework" known as a heuristic (p. 53). Historically, a lack of capacity in capital-importing countries has led them to acquiesce to the aggressive demands of capital-exporters. Thus, the norms and rules underpinning international business taxation are "hegemonic ideas" that coerce lower-income nations into conformity with the preferences of higher-income countries (p. 65). In the cases of Zambia and Vietnam from the 1970s to 1980s, for example, Hearson shows that an eagerness to attract investment and lack of technical expertise led negotiators to make concessions their governments later regretted. However, changes in the negotiating capabilities of lower-income countries led to a shift in approach with the global North. Thus, for Hearson, the tax treaties myth is an unsubstantiated claim that has historically prejudiced the view of nonspecialist decision-makers in the global South due to lack of technical capacity, leading them to agree to unfair deals.

Second, Hearson argues that the dominant narrative operates via a different causal mechanism at the international level. Chapter 4 investigates the role of the international tax community and the politics of expertise. International taxation experts are part of a global policy community

centered at the OECD, which is a site of epistemic authority. "The politics of knowledge is a critical part of the political economy of the extant tax regime," Hearson tells us (p. 68). As tax treaty specialists become socialized into the transnational policy community of experts that transcends government and business, they reify the norms found in the OECD's Model Tax Treaty and Commentary on the grounds of economic efficiency and act as authorities and gatekeepers domestically. Following the Bourdiesian tradition, Hearson finds that the transnational tax policy community is a "site of competition for monopoly of the right to determine the law" and that it "divides those qualified to participate in the game and those who ... are in fact excluded" (p. 80). For example, at the domestic level, Hearson analyzes the British Inland Revenue Service's relations with other branches of government in chapter 5 and finds that nonspecialists "faced a 'potential firewall' if met with opposition from the specialists" (p. 80). The OECD also acts as an authority vis-à-vis the global South, and policy convergence with the OECD standard is promoted because of its logic of appropriateness. This takes place despite that these very norms are injurious to the distributional interests of capital-importing nations. At root, Hearson tells us, tax treaties are concerned with dividing the tax base between opposing parties with competing claims, and lower-income countries have been denied their fair share. Subsequent chapters on the case studies of the United Kingdom, Zambia, Vietnam, and Cambodia furnish strong primary source evidence for Hearson's bold claims.

Hearson's monograph is to be lauded for its adoption of a qualitative historical method—a rarity in the legal and political science literatures on international business taxation, which tend to be dominated by empirical or doctrinal studies. Furthermore, the depth and breadth of research are evident in the carefully selected case studies, which permit within-case comparison and illustrate divergent patterns of tax regime develop-

ment in the capital-importing nations under investigation. Hearson's theoretical claims about the socially constructed tax treaties myth, and epistemic authority of the transnational tax policy community, are supported by the evidence across a broad range of outcomes. Perhaps most importantly, Hearson gives us an important new paradigm for understanding tax treaty negotiations and the historical evolution of the regime *ex-post*. As a highly technical academic subfield, international business taxation is rarely studied through an ideational lens, and it builds on two significant traditions in the international relations subfield. For example, Hearson adds to our understanding of the widely used concept of epistemic communities pioneered by the constructivist Peter Haas, which the author construes as "a network of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain or issue" (p. 70).<sup>[3]</sup> Hearson tells us that the epistemic communities literature struggles with "establishing causal links between national and international settings," so he proposes the more useful concept of a "transnational policy community" (p. 70). A transnational policy community "refers to a group of officials, whether public or private, that exhibits particular characteristics including similarities in education and career development, a strong sense of affinity to each other, and a set of interests defined and articulated in terms of widely accepted principles" (p. 70). The shift from epistemic communities to transnational policy communities is not merely semantic. Instead, this concept adds two new dimensions to our understanding: Hearson accounts for both public and private actors, and the "autonomous logic that sustains the community's normative core and is derived from taxation principles, which cannot be reduced purely to these individual interests or to a capital-friendly logic of globalization" (p. 71).

Similarly, Hearson's work builds on work on the international diffusion of economic liberalism.

Beth Simmons et al. propose that global policy convergence is driven by coercion, competition, learning, and emulation.<sup>[4]</sup> Hearson shares their concept of policy diffusion and emphasizes the concept of hegemonic ideas as an explanatory factor. In contrast with Bayesian theories of social learning, which contend that actors evaluate all information at hand before deciding, Hearson grounds his approach in boundedly rational learning. Hearson argues that the tax treaties myth is a hegemonic idea and heuristic that influences lower-income country policy preferences through bounded rationality. Applying the insights of prospect theory, Hearson relaxes the rigid rationality assumption common to other studies and makes three novel conclusions: governments may emulate other countries' policies notwithstanding potential doubts about the efficacy of an approach; their choices may be imperfectly rational; and they may have an imperfect understanding of the relationship between reform and future trade and investment flows. In sum, *Imposing Standards* is built on a foundation of sophisticated comparative and historical research that supports the *ex-post* claims about tax treaty negotiation between the global North and global South during the last half-century.

*Imposing Standards* is timely and compelling historical study of international business taxation, and it deserves a place on the reading lists of advanced courses in international tax law and policy. There are few grounds upon which to critique the work save for minor methodological and theoretical limitations. First, it appears a lynchpin of Hearson's book is that there is empirical uncertainty about the reality of tax policy competition and the role domestic tax law plays in attracting inward FDI. On these grounds, Hearson downplays their causal relevance, and instead focuses on networks and ideas. Yet despite the importance of this claim for the overall argument, Hearson dedicates relatively few words to the discussion of the empirical literature and relies on secondary studies and meta-analyses (p. 52). Although *Impos-*

*ing Standards* is qualitative and historical, the argument would be more persuasive if the author had used original data to disprove the prevailing logic about tax competition and inward investment. Another example is the following assertion found in the final paragraph of the work: that “an imbalanced tax treaty system that serves the interests of OECD member states and multinational firms” is “to the detriment of development” (p. 168). While the point is fascinating, here, again, the author could have done more empirically to flesh it out for readers.

Second, Hearson takes for granted that there is a “hard law” foundation of the “international tax regime” found in tax treaties that constitutes its “DNA” (p. 8). To be sure, there are a host of scholars who agree with this conceptualization of international taxation, such as Diane Ring, Peggy Musgrave, Yariv Brauner, and perhaps most notoriously, Reuven S. Avi-Yonah. Avi-Yonah’s works controversially defend the notion that an international tax regime *as such* exists, along with its own basic norms such as the single tax principle and benefits principle.[5] However, this point is vigorously contested in the literature, and there is a robust debate about the nature and existence of an international tax regime given its obvious dissimilarities with cognate areas of international law such as the regulation of trade in goods and services adjudicated by the hard law World Trade Organization (WTO). For example, H. David Rosenbloom argues that there are no mechanisms to enforce specific principles of international tax law. [6] Furthermore, in his David R. Tillinghurst lecture, Michael Graetz suggests that there is no such thing as a “1920s international tax compromise” at the League of Nations and that tax remains the fundamental purchase of states.[7] The ongoing debate about the hardness of international tax law is thus highly consequential for Hearson’s overall argument about the North-South dimension of tax politics, for if international tax law is truly the fundamental purchase of states, they can unilaterally defect from global norms and rules, which

would render Hearson’s argument about the hegemonic status of the OECD’s tax norms less persuasive. Therefore, Hearson’s characterization of the tax treaty network as hard law could have been further elucidated, and the author missed an opportunity to situate his insightful theory within the contours of a well-established academic debate.

Minor quibbles aside, *Imposing Standards* is an important, well-written, and astutely argued book that casts light on a hitherto unexplored chapter in the history of global tax politics, contributes a novel theoretical approach, and establishes a new paradigm for the international tax discipline.

#### Notes

[1]. For an outstanding example of historical research on the formative era of international tax cooperation during the interwar period at the League of Nations, see Sunita Jogarajan, *Double Taxation and the League of Nations* (Cambridge: Cambridge University Press, 2018). For an excellent discussion of feminist perspectives, see also Lisa Philipps, “Discursive Deficits: A Feminist Perspective on the Power of Technical Knowledge in Fiscal Law and Policy,” *Canadian Journal of Law and Society* 11, no. 1 (1996): 141-76.

[2]. See, e.g., Gabriel Zucman, *The Hidden Wealth of Nations* (Chicago: University of Chicago Press, 2015); Thomas Rixen, *The Political Economy of International Taxation* (New York: Palgrave MacMillan, 2008); Ronen Palan, *The Offshore World: Sovereign Markets, Virtual Places, and Nomad Millionaires* (Ithaca, NY: Cornell University Press, 2003); Ronen Palan, Richard Murphy, and Christian Chavagneux, *Tax Havens: How Globalization Really Works* (Ithaca, NY: Cornell University Press, 2010); Thomas Rixen, “Tax Competition and Inequality: The Case for Global Tax Governance,” *Global Governance* 17 (2011): 447-68; Ronald B. Davies, Pehr-Johan Norbäck, and Ayca Tekin-Koru, “The Effect of Tax Treaties on Multinational Firms: New Evidence from Mi-

crodata,” Working Paper Series 883, Research Institute of Industrial Economics, 2010; Peter Dietsch and Thomas Rixen, *Global Governance: What is Wrong and How to Fix It* (Colchester, UK: ECPR Press, 2016); and John Mutti and Eric Ohrn, “Taxes and the Location of US Business Activity Abroad,” *National Tax Journal* 72, no. 1 (2019): 165-91.

[3]. See Peter M. Haas, “Introduction: Epistemic Communities and International Policy Coordination,” *International Organization* 46, no. 1 (1992): 1-35.

[4]. Beth A. Simmons, Frank Dobbin, Beth A. Simmons, Frank Dobbin, and Geoffrey Garrett, “Introduction: The International Diffusion of Liberalism,” *International Organization* 60, no. 4 (2006): 781-810, 782.

[5]. Diane Ring, “International Tax Relations: Theory and Implications,” Boston College Law School Research Paper No. 97, *Tax Law Review* 60, no. 2 (2007): 83; Peggy B. Musgrave, “Sovereignty, Entitlement, and Cooperation in International Taxation,” *Brooklyn Journal of International Law* 26, no. 4 (2001): 1335-56, 1336; Reuven S. Avi-Yonah, *International Tax as International Law* (Cambridge, UK: Cambridge University Press, 2007): 1-8.

[6]. David H. Rosenbloom “Cross-Border Arbitrage: The Good, the Bad, and the Ugly,” *Taxes* 85, no. 3 (2007): 115-18.

[7]. Michael J. Graetz, “Taxing International Income: Inadequate Principles, Outdated Concepts, and Unsatisfactory Policies,” *Tax Law Review* 54 (2000-2001): 261-336, 270.

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