Only 58 years ago, the great German scholar Klaus Tipke wrote that the term "taxation" had rarely been mentioned in this world on an international level, while taxes, duties and their collection would remain "local matters". In this turbulent time of digitalization and globalization, global tax policy has suddenly become a 'hot topic'. Financial and tax matters have entered the political agenda. "Legitimacy issues" in tax matters seem to be more closely linked as they aim to improve justice and fairness as moral goals of a larger regime.

Principle-based tax reform

Many comments in the public hearings and public consultation documents with respect to Pillar I and Pillar II (and also during the BEPS project) have suggested that the current reform should be a principle-based reform. However, surprisingly the debate about the applicable principles in international tax policy is still rather limited. In very dynamic times such as the present one, it is more than ever required to discuss the fundamental goals of international tax policy and to review its main design principles. It seems evident that under current circumstances a principle-based approach to international tax reform per se (whether such as the following should be at the forefront of the debate) is required. In any case, the international tax regime seems to be far away from an effective taxation of the Weltgesellschaft, which is the moral difference between intra-individual and inter-nation equity. The discussion should aim to reform tax policy to better frame the actual goals of international tax policy and its main design principles. My book – Justice in International Tax Law: A Normative Review of the International Tax Regime (IBFD 2019) – should be read as a contribution to this crucial task of tax law academia to challenge axiomatic positions in the current debate and to improve international tax policy purposes.

International tax law as international law

The issue for referring to political philosophy lies in the fact that there is no or a very minimal international constitutional framework from which states and policy makers can derive guidance for the design of the international tax regime. Moreover, other sources of international law such as customary international law, general principles of law or general treaty law are not helpful to structure international tax policy. These sources might even be a cause for injustice in the current system as they play a major role in their legal validity in general and the legal validity of the international tax regime in particular. Therefore, we should not underestimate the fact that the OEC and the Inclusive Framework have to develop their regulations properly in an environment without clear international law sources. The latter is a challenging task and major difference to domestic tax policy.

Incentive tax policy and the role of value imputation

We are all affected by, and are also calculated in a certain system, and that the tax system is always a sign of a specific understanding of the state and the relationship between the taxpayer and the state. However, at an international level we have to be critical about what I call "value imperialism", i.e. that we force the value of goods or services on the society. The global basic structure is the concept of the state through international tax policy. If other words, incentive tax policy decisions should be considered from the perspective of the Weltgesellschaft as a whole, to take into account the perspective of an inhabitant in a state with a low tax to GDP ratio but also from the perspective of an inhabitant in a state with a high tax to GDP ratio. The main goal of international tax policy should, therefore, still be taxation and not harmonization as harmonization of tax systems requires political consensus within a society. There is, however, no global consensus on the design of the tax system and even more important there is no global society comparable to a domestic society as will be discussed in the following with reference to the term "basic structure".

The global basic structure?

If we lack the most recent international tax policy proposals there seems to be a tendency to argue that we have a global responsibility to be multilateral in a certain manner or at least at a certain level as digitalization and globalization have turned national borders and global policy makers. Therefore, stay in. In other words, there seems to be a responsibility to "share the pie" and to achieve global equal treatment even if this would mean a misalignment of taxation and value creation. In my view, this sounds reasonable, however, we should not underestimate the fact that we are far away from a taxation of the Weltgesellschaft or world society and are far away from having a global basic structure which would require the same moral goals as within a state such as global treatment and distribution duties.

What's next?

It is a decisive task of tax law students to challenge academic positions in the current debate and to help to better frame the actual goals of international tax law and its main design principles. My book – Justice in International Tax Law: A Normative Review of the International Tax Regime (IBFD 2019) – should be understood as a step towards this very complex debate about justice in international tax law as a crucial issue as there seems to be strong political forces for a significant reform of the international tax regime towards more integration and more harmonization, even though, the underlying arguments in favor and againstintegration and harmonization are often not disclosed.