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Powering ideas through expertise: professionals in global tax battles

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INTRODUCTION

Let us begin with a dog-eared yet overlooked quotation from Max Weber on ideas and interests:

Not ideas, but material and ideal interests directly govern men's conduct. Yet, very frequently the 'world images' that have been created by 'ideas' have, like switchmen, determined the tracks along which action has been pushed by the dynamic of interest. (Weber [1946](#): 280)

This conception of ideas provides an important reminder for the treatment of ideas and power in the social sciences. Ideas are projections of collective being that do not belong to particular actors but guide interests. It is also important to recognize that ideas and interests are linked to notions of virtue and moral authority. This contribution discusses how ideas and power are linked to expertise and moral authority. Our focus is on how ideas are powered through expertise, noting that the persuasiveness of ideas has little value if not conveyed with moral force. Knowing how things work best is more

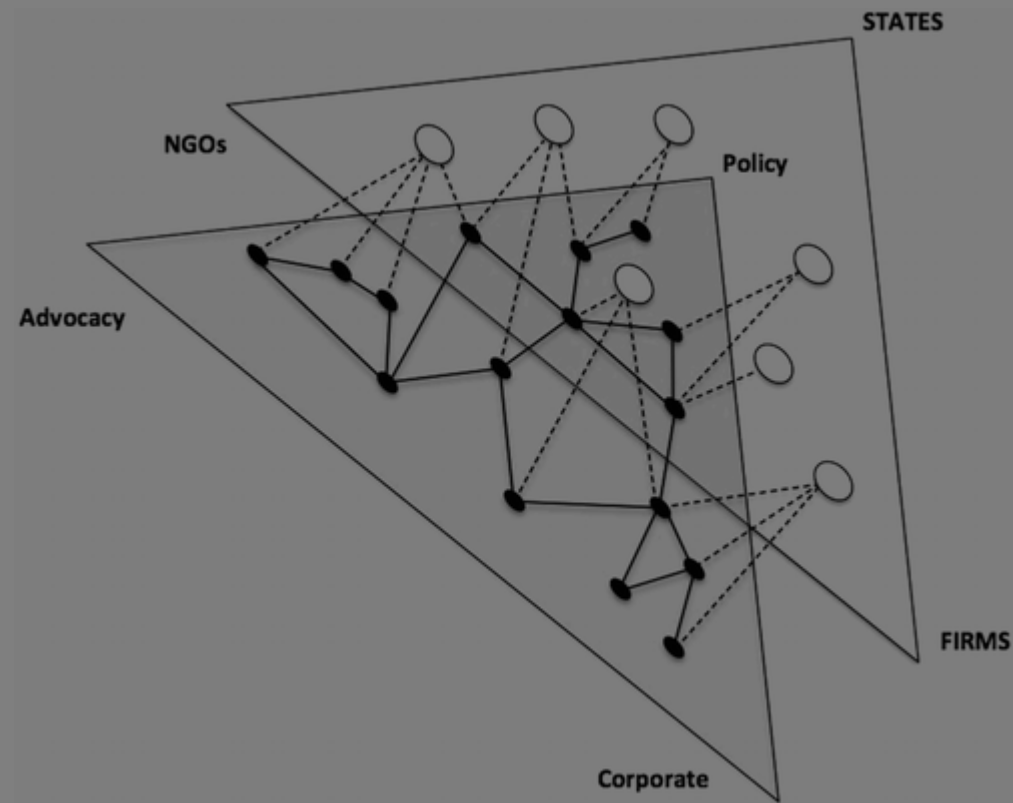
compelling than ideas can be identified with battles are important through interests

To show draw on a case of (NCs) account European Union (EU), Nations (NGOs) reporting international advance scrutiny



interactions are required to foster more creative governance solutions in such areas (Campbell-Verduyn and Porter [2014](#); Seabrooke and Tsingou [2014](#)).

Figure 1 Professional and organizational networks



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Martin Carstensen and Vivien Schmidt ([2015](#)) usefully delineate three types of ideational power. The first is power through ideas, which is persuasion with ideational elements. The second is power over ideas, which refers to agenda setting and protection, to the exclusion of alternative ideas from the table. The third is power in ideas. Here, hegemonic conceptions of what ideas are appropriate and thinkable 'govern' action. Our focus is on power through ideas, where professionals attempt to fuse expertise with moral claims. Previous literature on ideas helps us to identify how they do so. For example, John L. Campbell's ([1998](#)) distinction between cognitive (causal means-end relationships) and normative (how things should be) ideas links expertise to beliefs, as well as distinguishing how they can operate in the foreground (in debate) or background (broader social change). Campbell notes how these kinds of ideas inform policy programmes, form paradigms, mark public sentiments and create frames (cf. Carstensen [2011](#)). Mark Blyth ([2002](#)) hypothesizes that ideas are important for institutional change because: they reduce uncertainty; provide coalition building resources; empower agents to contest existing institutions; can attract resources to build new ones; and are important in co-ordinating agents' expectations. Those putting forward ideas need to legitimate their activity by drawing on causal and principled beliefs. Blyth's and Campbell's keystone work is important because it speaks to what structures exist in constraining ideas and the agents who can create change. From this view experts are important not only for shared causal beliefs, which can be exploited by politicians, but also for the moral authority that can empower agents to contest existing institutions.

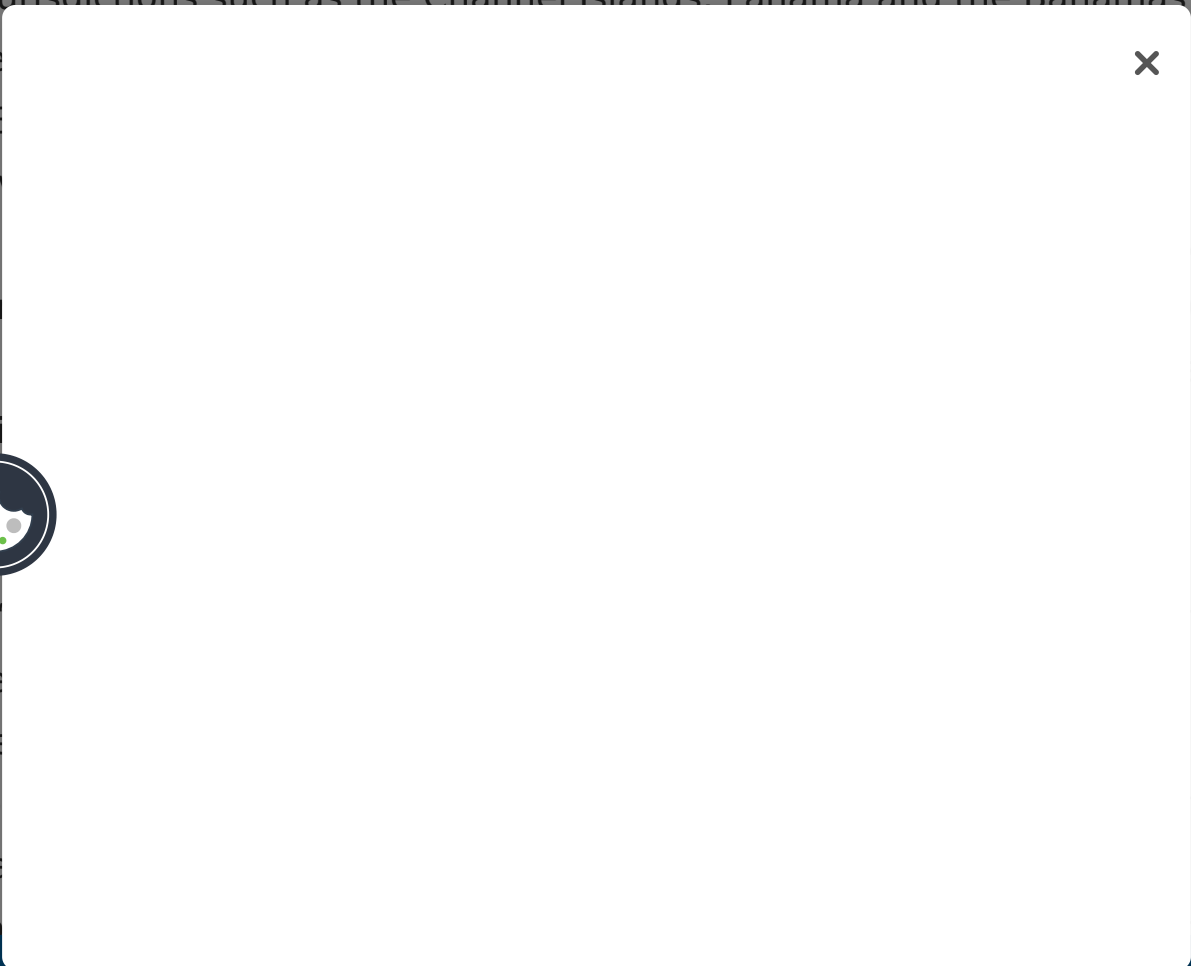
To our mind, the literature on ideas has several exceptions. First, there are several types, especially strategic communication, that focus on ideas in the foreground. Second, the knowledge that experts rely on is often professional expertise and moral claims to authority. In the foreground, this is often technical



corporate sector, noting mechanisms for tax avoidance. Such experiences can inform how persuasive ideas are and whether they can get political and public support. For example, it is common to talk of issue salience, which suggests public recognition and political traction. Crises typically augment salience. Robert Henry Cox and Daniel Béland (2013) have recently discussed how we can also talk of 'valence', the emotional quality conveyed in an idea. While the general population may be split on positional issues, such as tax, a crisis can create a window of opportunity for ideas to have both salience and valence. Cox and Béland note that post-financial crisis sustainability policies garnered valence, and skilled entrepreneurs could put that to use. During the financial crisis the notion that MNCs, such as Starbucks or Apple, were not paying their fair share in taxation and using 'offshore' to avoid taxes had high valence that grounds claims to moral authority. Those seeking to persuade others of the importance of CBCR had an opportunity to power their ideas through expertise and experience.

IDEAS FOR GLOBAL TAX JUSTICE

The fiscal and socioeconomic impact of corporate reporting has, over recent years, attracted considerable attention. Such concerns have a rich lineage. By the 1920s and 1930s, jurisdictions such as the Channel Islands, Panama and the Bahamas were used to conceal income from taxation (Picciotto 2011: 23). These jurisdictions were developed as a means of solving the problem of tax avoidance in developed countries. The development of investor protection and the emphasis on corporate reporting in emerging regions (subsidiary companies) allows an MNC to optimize its tax structure. These are price sensitive and length parties and information



market, the problem of arriving at arm's length prices for goods traded within an integrated MNC are acute.

While the international tax governance architecture encourages tax competition between states, it is not a level playing field for all. Most notably, the OECD's Committee on Fiscal Affairs launched its report, 'Harmful Tax Competition - An Emerging Global Issue' in 1998 (OECD [1998](#)), which led to a blacklist of offending 'tax haven' jurisdictions (Sharman [2006](#)). Similarly, the development of tax information exchange agreements (TIEAs) was based on providing information only on request and in circumstances where the requesting authority had considerable information beforehand (McIntyre [2009](#)). The Bush administration's withdrawal of support for the OECD process in May 2002, on the principle of non-interference in tax jurisdictions, signalled the end of the first round in multilateral approaches to tax governance. Activity for global tax reform shifted from the organizational policy surface to the professional policy surface, as we discuss below.

This changed with the recent financial crisis. On tax evasion, the United States (US) acted unilaterally with the extraterritorial Foreign Account Tax Compliance Act requiring foreign financial intermediaries to report on US accounts to the Internal Revenue Service on pain of exclusion from US capital markets. In 2009, prompted by the G20, the OECD revamped its peer review process and bolstered tax information sharing agreements against tax havens. These measures were made. To address the issue, the 2013 update to the OECD Guidelines on the Transfer Pricing Principles for Multinational Enterprises and Independent Member States (the Capital Markets Review) and the Consolidated Action Plan on Base Erosion and Profit Shifting (BEPS) policy. At the same time, the OECD implemented major reforms to the reporting requirements for this host of initial public offerings (IPOs) and CFC rules. The BEPS Action Plan, CFCR did not eliminate the reporting requirements. A key change in the BEPS Action Plan was the reporting requirements for the investor-owned market. The BEPS Action Plan also addressed



Consolidated accounts provide a performance overview that, for MNCs, amalgamates the contributions of multiple entities within a group and across jurisdictions. CBCR requires firms to provide separate reports for each jurisdiction, providing the potential to redress tax base erosion and profit shifting. As one would assume there are many professionals and organizations that have a clear interest in blocking such reforms.

CBCR was first introduced to reduce corruption in the extractives sector and redress symptoms of the resource curse. It was aggressively pursued by the advocacy community, where expertise on corporate financial reporting are thin on the ground. NGOs are well positioned to campaign on issues that have clear moral claims, such as human rights abuses, but less well positioned to deploy technical prowess in areas like accounting (Seabrooke and Wigan [2015](#)).

A number of NGOs have engaged with issues of international taxation. Amidst the rush to promote the issue of tax fairness, one organization has emerged as the clear leader: - the Tax Justice Network (TJN). The Tax Justice Network is a small NGO founded in 2003. Established as a vehicle for research and high-level advocacy work, TJN is now a central player in both the organizational and professional networks around tax justice issues. To do so, TJN relies on a specific set of professional skills mirroring the cross-disciplinary content of international taxation. Those core to the organization possess skills spanning economics, accounting, political economy, law and government (Seabrooke and Wigan

[2013](#)). TJN has been active for 10 years as a major economic and social justice organization. It is a major player in the UK at a UK university. It is the author of a major report on capital flight. It is a chief economist and chair of the Picciotto key academic member of the OECD. It has been financing ventures meeting



published CBCR in the form of a template for an international accounting standard (Murphy [2003](#)).

TJN's combined expertise is crucial for their interventions on the highly complex issue of international taxation. The professionals associated with TJN seek to persuade those in the policy, corporate and advocacy worlds of how CBCR is technically possible, politically desirable and morally just. The proposal for CBCR confronts large MNCs, global professional advisory firms and international organizations pursuing agendas aligned with the status quo in international taxation.

The technical and moral changes CBCR requires would change the current legitimization of the state's relationship to international capital. Professional competition and coordination contains not only proposals for best practice on dealing with thorny policy issues, but also interests about the political economy of taxation. Regulators, activists and practitioners are engaged in competition over the role of the state in dealing with corporate tax avoidance. There are three basic positions that can be described as maximalist, minimalist and mediatory. Activists want a redistributive and maximalist state harnessing capital for the provision of public services. CBCR would assist the renewal of the welfare state and address inequality. Practitioners seek a minimalist risk-mitigating state; that commercial sensitivity is protected, uncertainty minimized and that the state's relation to capital is primarily that of a night watchman supporting a

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The IASB closely aligns its organizational tasks with the expertise of its professionals, who are mainly accountants, economists and other capital market actors (Leblond [2011](#): 449). This combination of professionals permits the IASB to have a ‘semi-open approach’ in permitting, in particular, expertise and skills that conform to the organizational agenda, while excluding others (Botzem [2012](#); Campbell-Verduyn and Porter [2014](#): 420). The IASB is known in the literature for its expert consensus and unaccountability. The IASB develops international rules for accounting in the form of International Financial Reporting Standards (IFRS). IFRS are required in 116 jurisdictions worldwide, including the EU, which transposes IFRS into EU hard law through an institutionalized endorsement process. The EU has a long history of acting as a ‘hardening agent’ for accounting standards (Newman and Bach [2014](#)), even if they differ in practical national implementation (Thiemann [2013](#)).

The accounting standard addressing geographical disclosures by corporations is IFRS 8 on ‘operating segments’. It allows corporations to choose between two methods of defining an operational segment. While the ‘line of business’ method allows a corporation, like Apple, to report financial information according to product lines, such as tablets, phones and laptops, the ‘geographical segment’ method deploys geographically disaggregated performance as its ordering principle. The rub here is that geographical segments are not defined at the country level but, for instance, as ‘North

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Since the launch of the EITI, policy debates around CBCR have blossomed into professional competition and co-ordination over the benefits of minimalist and maximalist forms, as well as over the technical practicalities and political desirability of such corporate financial reporting. CBCR has manifested in legislative initiatives in the US and the EU. It is now an active policy debate within the OECD, World Bank, International Monetary Fund and the UN. The 2010 US Dodd Frank Act contained Section 1504, which requires MNCs in the extractives sector to report all payments made to governments in each country in which they operate. In the second half of 2013 the European Council passed into law two pieces of legislation, the Accountancy and Transparency Directives, which requires large non-listed and all EU listed firms within the extractives and logging sectors to generate financial reports on a country-by-country basis. This requirement, in maximalist form, has also been incorporated in the Capital Requirements Directives (2013/36/EU) for European banks, credit institutions and certain investment firms, with support voiced by PriceWaterhouseCoopers (Euractiv [2014](#)). CBCR has been raised as a solution to a range of issues addressed in the OECD's

Base Erosion and Profit Shifting (BEPS) on the Effective G8 process:



As noted in the 2004 began providing a network of underlying understanding connected to

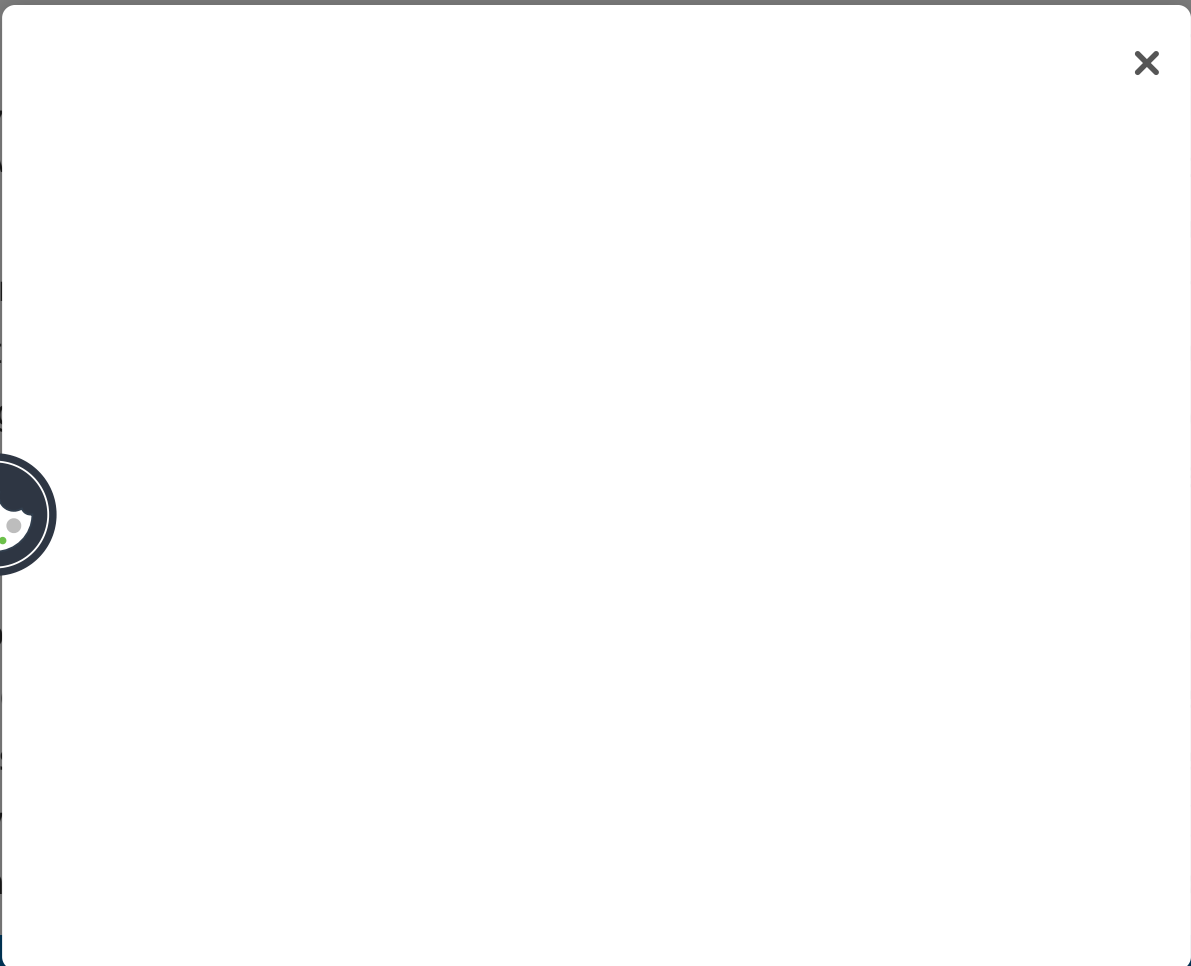
compliance mechanism. Following campaigning from professionals associated with TJN and other NGOs engaged with tax justice, PWYP adopted CBCR in 2005. Global Witness, a leading NGO in the network, released 'Extracting transparency - the need for an IFRS for the extractive industries' that was penned by Murphy.⁵ PWYP reporting demands now included information on commercial performance on top of existing requirements for absolute payments and reserves (Global Witness 2005: 1).

By 2005, with support from professionals associated with TJN, PWYP were campaigning for CBCR to be introduced in IFRS 6 for the extractive sectors, and subsequently pushed for its inclusion in IFRS 8. Although establishing a working subgroup on CBCR, the IASB were resistant and proved reluctant to act on, or enact, the changes PWYP demanded.⁶ This position has not changed. The reaction from the IASB has been to reject CBCR outright:

The IASB has also been asked to consider adding 'country-by-country' reporting requirements to its agenda. Feedback from the 2011 Agenda Consultation strongly and consistently highlighted that this should not be a priority for the IASB. (IASB 2013: 22)

Frustrated with the EU endorsement of IFRS 8, which maintained segment reporting, the PWYP coalition and TJN pushed their agenda at the European Parliament. Sven Giegold, Alliance, invited M and the disclosure to count reporting Europe TJN v In October CBCR re Commis open - y consulta

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European firms. The recent revival of the long-dormant project of a European Common Consolidated Corporate Tax Base (CCCTB) rests on unfolding comprehensive CBCR across the EU. In May 2015, the competition commissioner, Margrethe Vestager, stated that 'we need at least the automatic exchange of information on tax rulings and a common consolidated corporate tax base'. The Commission has also established a public consultation on whether all MNCs should have to publicly disclose certain tax information, as a barometer to assess shifts in public opinion and the grounds for moral claims (European Commission [EC] [2015](#)). Murphy participated in debates at the OECD on the role of CBCR in ameliorating profit shifting and, in July 2015, gave testimony on corporate secrecy and CBCR at the European Union's Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect and Committee on Economic and Monetary Affairs.⁹

There is a new emphasis on CBCR as technology that can ease the rift between the state and international capital. As a form of corporate financial reporting, CBCR fuses technical expertise with claims to how firms should pay taxes. Prior to the emergence of CBCR, accounting standards served a constituency perceived solely in terms of investors. That has changed, with NGOs providing an active voice on accounting issues, provided they have the right professionals to power their ideas with expertise.

Crucially, what was at first promoted as a limited purpose technology, combatting corruption, has become a tool for policy-makers. This is clear in the way that the technology has been promoted.



As matters currently stand, CBCR has gone from an idea to a new international standard with the potential to address issues of corporate transparency and tax compliance. The OECD has adopted a version of CBCR closely resembling Murphy's original maximalist proposal and invited Picciotto, a key member of TJN, to share his ideas for a unitary taxation system.¹⁰ Unitary taxation would require MNCs to provide combined worldwide reports, to which an agreed formula for the apportionment of the tax base to fiscal authorities on a country-by-country would be applied. CBCR is a necessary component of this revolutionary proposal, since unitary taxation requires firms to provide global accounts with maximalist data from country-by-country-reports feeding into a formula for apportioning profits according to a series of real economy criteria.

CONCLUSION: SWITCHMEN IN GLOBAL TAX BATTLES

The case we presented above maps how ideas are powered through expertise. The main battle here is between professionals from the advocacy world who seek to persuade regulators and practitioners that corporate financial reporting should be fairer. On the face of it, this is a fight between Tax Justice Network and International Accounting Standards Board. The former is a tiny NGO, the latter is the policy guardian over reporting for corporations and that advance that persuasively activists, lobby or policies. David be w powerful and they often est coherent post-cris policy co

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make significant advances in their David vs Goliath struggles. These professionals link claims to technical know-how, how things work best, to moral claims about how things should be.

In the CBCR case, the professionals associated with TJN were able to place this corporate financial reporting technology into policy debates with success. Whether or not CBCR is an actionable idea is no longer a point of contention in professional battles. Rather, the form of CBCR, be it minimalist or maximalist, is the concern. As an idea, CBCR has become a switchmen pushing along the dynamics of interest. While TJN may be seen superficially as a garden variety NGO, it is a loose organizational form through which particular professionals with specific skills co-ordinate to push forward an activist agenda on global tax policy (Seabrooke and Wigan [2013](#)). In our case, this capacity rests to a large extent on professional expertise. The professionals associated with TJN were able to engage a broader NGO network, notably PWYP, and substantially push forward their idea on financial reporting to others on how this issue should be treated. They grafted their agenda into the political sphere by circumventing the traditional transnational authority, the IASB, and by instilling CBCR as an alternative and preferred form of corporate financial reporting. TJN were able to draw upon a skill set scarce among the wider NGO community and commensurate with the skills of those traditionally tasked with crafting accountancy standards. In doing so, CBCR is now part

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4 Richard Murphy's primary authorship of the CBCR template has been confirmed by multiple interviews with regulators, practitioners and activists during the interview period noted above.

5 Interview with Richard Murphy, Downham Market, January 2013.

6 Interviews with John Christensen and Richard Murphy, separately, London, March 2013.

7 Interviews with Richard Murphy, Downham Market, January 2013, and Sven Giegold, Brussels, March 2013.

8 Submissions to the consultation are available at:

<https://circabc.europa.eu/faces/jsp/extension/wai/navigation/container.jsp> (accessed 26 November 2015).

9 The hearing can be viewed at: <http://www.europarl.europa.eu/news/en/news-room/content/20150624IPR70439/html/TAXEECON-Committees> (accessed 26 November 2015).

10 Sol Picciotto now leads the BEPS Monitoring Group and is actively pushing for CBCR and unitary taxation at the OECD.

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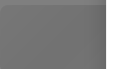
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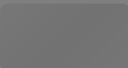
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