PROFESSIONAL MISCONDUCT IN INTERNATIONAL TAXATION

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Abstract

This paper explores the space for professional misconduct in international taxation through the exploitation of unique expertise and legal distinctions. In a complex international tax environment, where multiple logics from overlapping social and legal systems meet, there is unique scope for misconduct by professional experts as adjudged by social control agents, such as the state, professional bodies or popular media. These are not trivial judgments. The implications of perceived misconduct are potentially significant – fostering new regulations and enforcement actions, changing social norms, and damaging trust in the profession. Given this, there is a need to systematise our understanding of misconduct in international taxation, including its evaluation and social settings. We emphasise the particular ambiguities that characterise international taxation and discuss how tax professionals may strategically and, as a matter of everyday practice, come to be perceived as engaging in misconduct. We argue that it is helpful to understand misconduct through the analysis of key professional boundaries and we provide case vignettes of important contemporary judgments of professional misconduct in international tax systems.

Keywords: Professionals, Misconduct, Boundaries, International Taxation.

INTRODUCTION

The role played by tax professionals in enabling – and disabling – international tax avoidance and evasion has received unprecedented scrutiny in recent years. Large-scale revelations about actions by tax professionals, such as those exposed in the Panama Papers and the Paradise Papers, as well as critical public inquiries by government authorities, such as the Public Accounts Committee, have fuelled public interest and heightened the political salience of professional misconduct. In the international tax environment, where multiple logics from overlapping social and legal systems meet, there is ample scope for action by professional experts with experience in accounting, financial, legal, and regulatory systems. There is also scope for judgments of misconduct by social control agents, i.e. actors representing a group with the ability to impose sanctions – such as the state enforcing or changing regulations, a professional association finding ethical breaches, or the media imposing reputational sanctions (Greve, Palmer, & Pozner, 2010). These judgments are hugely consequential. They foster enforcement action, and political initiative, as governments target the "enablers" of criticised tax planning (De Widt, Mulligan, & Oats, 2016; Oei & Ring, 2018)[3]. They may challenge norms, as the boundaries between acceptable and unacceptable are reconfigured (Berg & Davidson, 2017; Dallyn, 2016; Gracia & Oats, 2012). They also challenge the ethical environment of professional work (Frecknall-Hughes, Moizer, Doyle, & Summers, 2016), potentially damaging trust in the profession itself.

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[3] E.g. http://www.oecd.org/ctp/administration/oecdtaxintermediariesproject-termsofreference.htm; http://europa.eu/rapid/press-release_IP-18-1841_en.htm; https://www.gov.uk/government/collections/tax-avoidance-enablers.

The contemporary discourse on professional misconduct typically focusses on dynamics at the micro-level, specific to the profession and the organisations under scrutiny. In this paper, we argue that there is a need to systematise our understanding of misconduct in international taxation more broadly, including with regard to its evaluation and social settings. We offer an alternative framework for understanding professional misconduct in international taxation as situated within a macro-meso-micro framework, one that locates misconduct in the context of the international political economy and the social process of evaluation. Existing studies highlight how professional misconduct occurs within established professions, such as deviance from professional values by elite accountants (Suddaby, Gendron, & Lam, 2009), and professionals engaging in behaviour that leads to misconduct or encourages whistleblowing in firms and public organisations (Gangloff, Connelly, & Shook, 2016; Miceli, Near, Rehg, & Van Scotter, 2012). Focussing on international taxation, we suggest that studies of contemporary professional misconduct discussions can be improved by understanding the specific ambiguities that characterise the professional field, and the differing opportunities for engaging in and asserting misconduct within this social context.

As scholars interested in the political economy and sociology of taxation, we understand professional misconduct as behaviours that transgress common normative expectations. Common normative expectations are not given – they are socially constructed and fought over. Where a regulator may see misconduct, a professional body may see perfectly acceptable behaviour. Activities that may be perceived as misconduct may be internalised within practitioners' own conception of 'professional regulation', including their capacity to self-govern behaviour (Robson, Willmott, Cooper & Puxty, 1994). A focus on how normative expectations are contested allows us to focus less on the absolute evaluation of whether an action is "harmful" or "immoral", and more on the social context and battles over what is, and what is not, to be considered misconduct. Assertions of transgression of common normative expectations are often associated with crossing different "boundaries", where the tensions and conflicts between different social systems are most pronounced, and the opportunities for, and struggles over, professional misconduct are most prevalent. Following recent work by Daniel Muzio and colleagues, we emphasise three such boundaries: i) *jurisdictional* boundaries that disrupt professional jurisdictions and separate professional norms systems; ii) *geo-political* boundaries that allow legal and normative arbitrage; and iii) *ecological* boundaries, which distinguish the context of, and influences on, professional work, such as coercive relations with clients (Muzio, Faulconbridge, Gabbioneta, & Greenwood, 2016).

International taxation is a particularly complex social setting, spanning national, social and professional norms, rules and institutions, making professional misconduct difficult to evaluate. Here, we define international taxation as nation states' taxation of income earned through the utilisation of internationally mobile production factors. Professionals here may be lawyers, accountants or economists, and so on, or combinations thereof, who are engaged, in one way or another, in professional tax practice. The boundaries of international taxation offer space for these professionals to behave as "lords of the dance" (Scott, 2008) in establishing best practices, including the permissible scope for misconduct. It is these tax professionals who do the heavy lifting of "institutional work", strategically leveraging multiple logics from different professional systems (Currie, Lockett, Finn, Martin, & Waring, 2012; Lawrence, Suddaby, & Leca, 2009; Suddaby, & Viale, 2011). In doing so, tax professionals may engage in "epistemic arbitrage", exploiting different pools of professional knowledge to create and exploit information asymmetries (Seabrooke, 2014), or act as "double agents" in representing transnational interests while playing off their embeddedness in domestic institutions (Dezalay & Garth, 2016).

Given that behaviour in the complex systems of international taxation crosses different national, professional, and legal systems, we need a way to differentiate different types of misconduct, their social settings, and evaluations. The stakes of defining what is right and wrong in tax practice are very high indeed (Christians, 2017). Differentiation is required to deepen our understanding of how misconduct by tax professionals is judged and perpetuated. Misconduct can be investigated in two ways. The first is as discrete acts in which actors seek to gain a benefit and assess their risk in "getting caught". The second is misconduct built upon a power structure in which benefitting from others' actions that may be labelled misconduct is naturalised or unquestioned (Goodin & Pasternak, 2016). Both types are important in terms of how professional misconduct occurs within international tax systems, either as discrete actions to "get away with it" or as choices made knowing that the system is weighed in your favour. These are dynamics that have, in particular, been investigated in the context of Global Professional Service Firms (GPSFs) (Boussebaa, 2009; Boussebaa, Morgan, & Sturdy, 2012; Suddaby & Greenwood, 2001). Furthermore, setting misconduct in the context of the differing roles played by tax professionals in international tax systems permits insights into the relationships between micro, meso, and macro elements, thus answering recent calls in the organisations and professions literature for studies which integrate different levels of analysis (Currie, Finn, & Martin, 2008; Marchington, Grimshaw, Rubery, & Willmott, 2004). Our discussion contributes to this literature.

This article makes two central contributions. First, we discuss the specific characteristics of international taxation as a complex system. This allow us to identify the particularities of the professional field and the differing opportunities that its social contexts offer for professional misconduct, as well as how these opportunities are judged by different social control agents. Second, we present a framework that we apply to systematise enquiry into professional misconduct in the field of international taxation. In what follows, we first discuss the ambiguities of international taxation. We then discuss the nature and evaluation of professional misconduct, conceptualising misconduct as "boundary transgressions" that involve *jurisdictional*, *geo-political*, and *ecological* borders. Case vignettes of misconduct discussions involving the three borders are provided. Finally, we reflect on the opportunities that our discussion provides for future research into professional misconduct in international taxation.

THE AMBIGUITIES OF INTERNATIONAL TAXATION

As the cornerstone of the modern nation state, taxation touches upon what could be considered to be a vast range of actors in a vast range of economic, social, cultural, and political contexts, and brings conflict amongst interests across society (Goldscheid, Schumpeter, & Hickel, 1976; Tilly, 1992). Yet, despite its importance and reputation as something truly inevitable – something which is encapsulated in the quote often attributed to Benjamin Franklin ("nothing can be said to be certain, except death and taxes") – taxation is also a highly ambiguous field. In many respects, it is marked by a high level of complexity and entanglement with other domains of social life. Tax rules are not always definitive, but rather, as Gracia and Oats suggest, "fuzzy and open to interpretation" (2012, p. 308).

At the international level – where individual states tax income earned from international factors of production – the social setting is marked by multiple logics from different states, different professional communities, and different legal systems. Historically, taxation was significantly premised on the absence of such complexity or fuzziness, assuming that taxable events either "fall within a national tax jurisdiction, and are therefore liable to national tax, or they fall within the jurisdiction of some other state, and are therefore liable to tax there" (Genschel, 2005, p.

60). Yet the growth of multinational commerce and global corporations, alongside technological and economic globalisation, has contributed to the "transnationalisation" of taxation. While the attribution of tax liabilities and credits ultimately rests at the national level, taxation is, in multiple significant respects, an *inter*- or *trans*-national matter.

Politically, this means that international fora, such as the European Union (EU) and the Organisation for Economic Co-operation and Development (OECD), play significant roles in setting and controlling tax regulations at a national level (Eccleston, 2013; Genschel & Jachtenfuchs, 2011; Rixen, 2008). Organisationally, global corporates and advisory firms – in which a substantial proportion of international tax professionals are employed – increasingly instil and embed practices that entangle or outright depart from traditional national cultures through transnational training, interaction, and socialisation (Faulconbridge & Muzio, 2012; Morgan, Kristensen, & Whitley, 2001). Within professional employers and policymaking organisations, the professional division of labour today often has international taxation as a specialised domain, separate from national taxation practices (Picciotto, 1992; Suddaby, Cooper, & Greenwood, 2007). In this regard, scholars have increasingly identified a distinct *trans*national professional community, which is concerned with international taxation and has its own logics and norms (Genschel & Rixen, 2015; Hearson, 2018; Christensen, 2020). In some parts of this transnational tax community, such as wealth management, the shared social understandings are centrally based on an outright departure from national norms and institutions by "freeing its clients from state authority" (Harrington, 2016, p. 247).

Picciotto (1992, 2015) characterises the unique international tax space as fundamentally indeterminate due to its complexity. This complexity arises because of its historically specific foundation principles of "ad hoc" decision-making and its distinct (legalistic) language. These practical ambiguities are exacerbated by a highly complex global policy system (Araki, 2016). This indeterminacy, as Sharman (2010) argues, has enabled the growth of a vast range of international tax planning services and tax havens, together with "the offshore world" in international taxation, through the strategic pursuit of "calculated ambiguity" – "the ability to give diametrically opposed but legally valid answers when responding to the same question from different audiences" (p. 2).

These ambiguities give rise to important considerations about misconduct. However, the international tax space is not equally ambiguous in all its facets and action is evaluated in different ways by different stakeholders. Even in the context of ambiguity, there has been significant international cooperation attempting to provide greater clarity on tax rules, to the extent that we can meaningfully talk about taxation as a key policy area in global economic governance (Christensen & Hearson, 2019). Thus, it is important that we identify and conceptualise the core ambiguities as they relate to professional misconduct, and we will focus on this in the remainder of the paper. First, we contend that the *context* of ambiguity is one core feature. Most existing studies emphasise the "ethical" responsibilities of tax professionals in relation to profession-specific standards of behaviour, rarely considering the broader societal imperatives or settings in which misconduct might be judged (Frecknall-Hughes et al., 2016). We emphasise a broader perspective, as popular attention to the actions of tax professionals in recent years has re-emphasised the difficult questions that arise in reconciling the ethics of international tax practice and the broader societal evaluations of morality (Hansen, Crosser, & Laufer, 1992; Mehafdi, 2000). For instance, recent discussions have highlighted how individuals and firms, advised by tax professionals and taking advantage of the opportunities for arbitrage that they themselves perceive as unproblematic, may be directly undermining national democratic sovereignty (Dietsch, 2015; Harrington, 2016).

The context of ambiguity also relates to the type of professional activity being undertaken. Tax professionals engage in different tasks, the particular nature of which makes them more or less exposed to ambiguity and perceived misconduct opportunities. In general, we can distinguish between "tax compliance" and "tax planning/avoidance" work (Frecknall-Hughes & Moizer, 2015). The former's aim is to ensure compliance with tax rules and regulations through basic tax assessments and reporting, while the latter's is to minimise tax liabilities. In addition, tax professionals perform a variety of "background" services including research, examining legislation, and supporting implementation and defence of tax positions. There is undoubtedly ambiguity related to tax compliance work – for example, questions like "is a new chimney on a building a new capital item or a repair?" or uncertainties around "the figures to be entered in the tax returns (…) (e.g. determining the value of private company shares or real estate)" (Frecknall-Hughes et al., 2016, p. 5). However, ambiguities and risks of misconduct perceptions arguably are most substantial in relation to tax planning/avoidance work, when tax professionals engage in aggressive structuring of transactions or risky interpretations of existing legislation. In this respect, Quentin (2014) argues that tax avoidance typically encompasses filing positions that are weaker or "riskier" in terms of their likelihood of success if challenged by a tax authority.

Second, it is clear that opinions about professional misconduct and potentially unethical or immoral behaviour in international taxation are massively divided and fought over. These differences of opinion inevitably relate to the point of view from which stakeholders evaluate potential misconduct in international taxation. Greve and colleagues conceptualise these stakeholders as "social control agents" with different resources, who will try to impose or resist sanctions – financial, reputational, or otherwise – on professionals perceived to be misbehaving (Greve et al., 2010). Social control agents will "draw the line" on what is and is not professional misconduct, acting as what Abbott calls "audiences", which ratify professional action (Abbott, 2005). These actors can be professional bodies that define and enforce codes of ethics, governments that formally regulate professional conduct, or media outlets and social movements that frame interpretations of professional action and impose reputational costs. What a professional body views as "ethical" and accepted professional practice, regulators or newspaper editors may view as clear instances of morally unacceptable misconduct. Where there are conflicts over professional (mis-)conduct by different stakeholders, social control agents who are successful in asserting their favoured interpretations may be able to translate their victories into (non-)action by enforcement agencies.

In international taxation, Hasseldine et al. (2011) conceptualise the key agents as operating in a "knowledge market" model involving sellers, brokers, buyers, and external "influences". In this setting, tax advisors span the boundary between authorities and taxpayers. Operating as knowledge brokers or gatekeepers, they scope out a unique knowledge and economic proposition by "translating" institutional changes from the sellers – in terms of changes to regulation, and to administrative practices and norms, as well as organisational changes. In such a position, advisors are concerned with strategic demands that may be mutually exclusive, such as meeting client demands, entrenching their own unique knowledge position, abiding with legal compliance, and so forth (Wurth & Braithwaite, 2016).

Tax authorities, in contrast, may be principally concerned with enforcing legislation with underlying political objectives, such as raising revenues (Ganghof & Eccleston, 2004), or avoiding tax issues that will highlight sociocultural problems (Björklund Larsen, 2017). Often those scripting tax policies will present them as technocratic fixes to revenue concerns which are ostensibly politically neutral, especially at the international level (Kentikelenis &

Seabrooke, 2017). In turn, external influencers such as civil society advocates and the media, may emphasise wide-ranging moral obligations of tax practitioners and authorities to politically charge debates, in order to try to constrain particular forms of tax planning (Berg & Davidson, 2017; Seabrooke & Wigan, 2015, 2016). Tax professionals certainly perceive these moral pressures as challenges to their practices, spurring reflective and pragmatic repositioning (Radcliffe, Spence, Stein, & Wilkinson, 2018).

Given the nuances in identifying and analysing professional misconduct in international taxation, we cannot take instances of alleged misconduct for granted. Rather, the existence and nature of misconduct becomes an empirical question concerned with the context and social process that constructs what is and what is not misconduct, and what is to be done about it (Greve et al., 2010, p. 56). To systematise this enquiry in accordance with our key dimensions, we conceptualise professional misconduct as "boundary transgressions" (Muzio et al., 2016).

MISCONDUCT AS BOUNDARY TRANSGRESSION

What constitutes professional misconduct by tax professionals? As noted, we define professional misconduct as behaviours that transgress common normative expectations, as fought over by social control agents. Muzio et al. (2016) outline a perspective emphasising the boundaries that shape these common normative expectations and provide opportunities for (struggles over) misconduct. This is a useful conceptualisation for analysing professional misconduct in international taxation, as it highlights the social and professional context of, and battles over, misconduct. Professional boundaries are continually shifting and are negotiated through inter- and intra-professional dynamics (Abbott, 1988, 2005; Liu, 2015). This gives rise to ambiguities and struggles which, in turn, give rise to perceptions and assertions of misconduct. In particular, Muzio and colleagues highlight three central types of boundaries: *jurisdictional*, *geo-political*, and *ecological*.

First is misconduct associated with *jurisdictional* boundaries. *Jurisdictional* boundaries define the distinctive control over a domain of work that each profession enjoys. Think of the conventional division of labour between tax accountants doing tax reporting and tax lawyers doing judicial defence. In cases where the boundaries of jurisdictions come under heated challenge, claims of misconduct may be evoked. For instance, social control agents may claim misconduct in cases of rapid expansions of professional jurisdictions where there is a perceived divergence from established professional norms. Such divergence from traditional professional ethics has been discussed in the context of GPFSs (Suddaby, Gendron, & Lam, 2009). For instance, observers have identified such misconduct when Parmalat's tax and accounting advisers institutionalised an accepted practice of strategically inflating earnings and concealing debts shortly before the company crashed (Gabbioneta, Greenwood, Mazzola, & Minoja, 2013). The intra-organisational professional community involved had defined its practices as legitimate. However, once these practices had been exposed to the public and powerful enforcement agencies, the labels of illegitimacy and misconduct were asserted. Conflicts of interest may also invite divergence from established professional norms when professional services firms leverage audit work for large corporate clients in order to gain more expansive consulting work (Sikka & Willmott, 1995).

Second is misconduct associated with *geo-political* boundaries. *Geo-political* boundaries define the borders between social systems that inevitably arise when operating in cross-border, multi-jurisdictional settings. This includes different national tax regulations, but also cultural systems and professional norms. Here, social control agents may claim misconduct in cases

where tax professionals arbitrage between these differing social systems, or when they are unable or unwilling to meet differing ethical demands. Consider the USA's 2010 introduction of the Foreign Accounts Tax Compliance Act (FATCA), a heavily sanctioned requirement for all financial institutions on the American market to report information on US citizens' foreign accountants (Palan & Wigan, 2014). These requirements conflicted with long-standing professional norms of confidentiality in Switzerland and other places (Muzio et al., 2016, pp. 14-15). The tax professionals under scrutiny could not meet the expectations on large global "acceptable conduct" of both US regulators, Swiss lawmakers, and clients. In other words, the ambiguity of contradictory norms associated with geo-political borders created an irresolvable professional dilemma, potentially giving rise to claims of misconduct whichever course of action was chosen.

Third is misconduct associated with *ecological* boundaries. *Ecological* boundaries define the borders between the profession itself and its "audience", such as clients, investors and politicians (Abbott, 2005). These audiences, functioning as social control agents with possible means of sanctions, may claim misconduct in cases where tax professionals "trespass" onto the domain of those audiences, or allow outsiders to influence established conventions in the profession. A classic dilemma in tax practice is how to balance serving the broader demands of society and the specific requests of the client (Doyle, Hughes, & Summers, 2013; Frecknall-Hughes et al., 2016; Sikka, 2010). As Field (2017) asks, "Can a tax planner be both ethical and aggressive?". The resolution of such dilemmas may attract criticism when tax advisors engage in "client capture", favouring clients' commercial interests over the public interest and professional norms (Dinovitzer, Gunz, & Gunz, 2014; Leicht & Fennell, 2001).

MAPPING PROFESSIONAL MISCONDUCT ACROSS BOUNDARIES

In this section, we illustrate the value of the "boundary transgressions" framework by analysing the ambiguities of international taxation and the resulting scope of judgments of professional misconduct. We zoom in on three short case vignettes, each one emphasising conflict around a particular type of misconduct.

Global Professional Services and Jurisdictional Misconduct

The rise of GPSFs illustrates the potential for professional misconduct and struggles over its judgment around *jurisdictional* boundaries. In the international tax spaces, global professional services have emerged as a sophisticated tax and audit advisory service, often involving the management of uncertainties and risks that span multiple professional areas, including tax, finance, and law. GPSFs are not merely coalitions of distinct embedded professional groups; the core of their multi-disciplinary practice is the development of company-specific, cross-cutting resources and cultures (Greenwood & Suddaby, 2006). This allows GPSF professionals to dominate international tax service markets, supporting global corporations and individuals in more or less aggressive tax planning, and the management of the regulatory impacts of investment and location decisions using resources that span multiple professional jurisdictions. They also contribute to redefining the core ethics of the professional groups that make up GPSFs, as company-specific cultures oriented towards commercial values may come to dominate and supplant traditional professional ethics (Suddaby et al., 2009).

The activities of some GPSF professionals exemplify behaviour that has become contested as potential misconduct. Global tax professionals representing GPSFs are involved in the everyday practice of tax and audit services, as well as being involved in the shaping of the

institutional and regulatory context of those services (Boussebaa & Faulconbridge, 2019; Picciotto, 2015). At the practice level, GPSFs may be perceived as engaging in jurisdictional "deviance" by exploiting tax-regulatory blind spots, as with the design and spread of the (in)famous "Double Dutch Irish Sandwich" corporate tax structure, for example (Drucker, 2013). This structure was utilised by Apple and others, which created an effectively "stateless" income stream (Seabrooke & Wigan, 2017; Ting, 2014). Media revelations about the structure opened the door to significant arguments about the misconduct of Apple and its tax advisors. Apple, and indeed the Irish government, asserted that global tax planning was perfectly legitimate, the company noting that it conducted its business with "the highest of ethical standards, complying with applicable laws and accounting rules" (Duhigg & Kocieniewski, 2012).

In contrast, various social control agents perceived the behaviour as constituting misconduct. Regulators in the US, Australia, and Europe were notably critical, summoning Apple to defend its actions (Chee, 2018; Schwartz & Chen, 2013; Wade, 2015). While such financial arrangements may be legal and accepted within a particular professional community, the professional exploitation of mismatches was widely seen to deviate from common normative expectations. As noted by the OECD, revelations about Apple and other corporations "encouraged a perception that the domestic and international rules on the taxation of cross-border profits are now broken and that taxes are only paid by the naïve" (OECD, 2013, p. 13). These popular perceptions, divergent from many practitioners' views, were highly influential in policy circles, partly due to forceful civil society activism (Seabrooke & Wigan, 2016). The consequences were tangible. As a direct result of the Apple exposures, regulations were changed (Ireland opted to phase out the possibility of using the "Irish Sandwich" structure), Apple announced that it would restructure its global tax affairs and, furthermore, the European Commission decided that Apple had received €13bn in undue state aid. There may also have been other direct financial costs; in other contexts, the reputational hits from revelations of aggressive corporate tax planning have contributed to a shifting of the costs associated with tax planning for large global corporations (Dyreng, Hoopes, & Wilde, 2016).

Wealth Management and Geo-Political Misconduct

The case of global wealth managers illustrates a prominent recent conflict revolving around *geo-political* boundaries. The industry offers an important contemporary example of professional misconduct judgments in the international tax context. The offerings of wealth managers are highly specialised, providing uniquely tailored solutions and relationships, affordable only for the ultra-wealthy (Harrington, 2016). They are personal stewards of client wealth, helping to manage its accumulation, protection (including from tax and other interventions), and passage within and across family generations (Santos, 2020). The services that wealth managers provide have a high level of complexity, typically spanning decades if not lifetimes, and require and provide a substantial degree of the freedom for them when planning the fortunes. Often, wealth managers will take legal control over fortunes through trusteeships in trust structures. These close relationships between wealth managers and clients are, importantly, distanced from potential regulators and other stakeholders, who have little knowledge of and access to the intricate activity within and across trusts, foundations, and other closed systems. These services allow wealthy individuals to benefit from tax-minimised income from their wealth (which legally becomes "owned" by the trustee) in offshore locations (Rawlings, 2004, 2005, 2011).

While wealth managers typically stay within the letter of the law, a core element of their practice remains international legal arbitrage, which has become contested as misconduct across geopolitical boundaries. The professionals providing wealth management services draw on their ability to master finance, law, tax, property rights, and testamentary regulation, across nation states, in order to identify and manage structures to protect client wealth. This may entail exploiting mismatches in national fiscal and financial systems; for instance, by taking advantage of the "commercialized sovereignty" of offshore locations at the expense of onshore public regulation (Palan, 2002). These practices create tensions between the expectations of outsider stakeholders, such as "onshore" politicians and the media, and "insider" stakeholders. Harrington describes how wealth managers distinguish themselves by playing "cat and mouse" with governments and regulators across multiple nation states, practices understood by the profession itself and its association as being generally acceptable and unproblematic (Harrington, 2016, pp. 233-270).

In contrast, outsiders have constructed wealth management practices as misconduct and the profession has been met with widespread political condemnation in recent years. Following the release of Harrington's (2016) investigative study and recent years' large-scale leaks from wealth management firms, in particular, popular attention has been directed at the professions' activities. There has been a significant backlash. Popular momentum has been carried by a popular perception that specific wealth management activities, notably those performed for high-profile clients, were dubious and problematic (Osborne, 2017). This has resulted in new regulatory action (including a rapid expansion of cross-border exchange of tax information), additional tax enforcement through aggressive auditing by tax authorities, and renewed political calls for the publication of corporate and asset ownership details across the globe (Oei & Ring, 2018). As Oei and Ring (2018) highlight, these perceptions of misconduct entail significant risks in respect of agenda capture and disproportionate action (to the detriment of the professionals in question), but have also enabled previously hidden information to flow, created impetus for reform, and could be helpful in restoring distributional skews (pp. 575-581).

Shell Companies and Ecological Misconduct

Shell companies are simple and typically inexpensive corporate structures that have become increasingly scrutinised in recent years, and discursively associated with *ecological* misconduct. They fall into a range of different legal categories but, at heart, a shell company is an entity with few or no activities or assets. Shell companies are simple products, easy to manage, and may provide a substantial level of secrecy that helps to insulate clients from regulatory liability. To be clear, shell companies often, in essence, do nothing, and most jurisdictions have had legislation and administrative practices in place to pursue fraud associated with shell companies for years. Yet, as Findley and colleagues found, the enforcement of national and international standards for anti-money laundering and transparency associated with shell companies varies greatly around the globe, with some of the laxest enforcement found in the United States and the United Kingdom, enabling these companies to be used for tax avoidance and evasion (Findley, Nelson, & Sharman, 2014). Through the 2000s, shell companies became oft-used vehicles of opacity and secrecy, with authorities too often unable to obtain relevant information and enforce their proper use.

The ease with which shell companies can be established and exploited has led to their involvement in a number of high-profile international scandals, notably in connection with the circumvention of international tax rules, but also in relation to international arms treaties,

money laundering, and corruption (Van der Does de Willebois, Halter, Harrison, Park, & Sharman, 2011). The highly publicised Panama Papers scandal raised newfound questions about the fraudulent use of shell companies by tax professionals operating internationally (Harding, 2016). These cases underscore how the use of shell companies can come to be perceived as misconduct associated with *ecological* boundaries. In particular, the use of shell companies can create tensions between the interests of governments and societies, and those of clients interested in exploiting them for personal gain.

In functioning as intermediaries operating between clients and regulators, professionals working for Corporate Service Providers (CSPs) maintain the most immediate responsibility for ensuring compliance with "know your customer" rules. However, in a global survey of compliance, almost half of CSP professionals did not require the identification for establishing shell companies required by the OECD standards, which were set largely by Global North governments (Findley, Nelson, & Sharman, 2014). Professionals on the regulator side tasked with overseeing compliance also contributed to lax enforcement. As the Panama Papers revealed, professionals on both the practice and regulatory sides had "insufficiently" enforced existing legislation mandating the collection of ownership information, to the benefit of clients seeking refuge from the prying eyes of governments. Underlying these trends is the ramp-up of compliance requirements for financial institutions itself. Namely, new requirements have led to the increasing professionalisation of compliance officers with their own distinct understandings of misconduct (Tsingou, 2018). Such widespread acceptance of a particular practice indicates a normalisation amongst certain professional communities of a client-first interest (Anderson-Gough, Grey, & Robson, 2000).

In contrast, these normalised practices have begun to attract serious negative scrutiny by outsiders. Perceived misconduct has prompted whistle-blowers to leak massive sets of insider documents, fuelling highly critical global media coverage and political backlash (such as the Panama Papers, Paradise Papers, and the "Offshore Leaks"). Whistle-blowers are typically associated with a public service motivation (Caillier, 2017), which can be understood here as an expression of dissatisfaction, from a broader societal interest perspective, with "deviant" practices by professionals. The leaks have generated significant issue salience in an allowing post-crisis political climate, providing unprecedented insights into previously largely secretive practices. The focus of critical outsiders' framing has been about societal fairness and expected contributions to government revenues. These framings have been successful in fostering substantial political scrutiny and counter-action to bring professionals in line with the expectations of critical "onshore" stakeholders (Dover, 2016).

CONCLUSION

This article provides a framework for understanding the relationships between professional misconduct and international taxation. We have highlighted how viewing misconduct via a "boundary transgressions" perspective (Muzio et al., 2016) is useful in highlighting the social context and battles over what is, and what is not, to be considered misconduct in relation to international taxation. This allows an analysis that integrates types of professional actions and distinct forms of misconduct, locating them with examples from the international political economy. Our case vignettes show the value of considering the dynamics of professional misconduct not only at the micro-level but also within these meso and macro system contexts. The approach presented here provides a number of opportunities for informing future research on professional misconduct in international taxation and beyond, across disciplines. First, given the importance of professionals in complex international systems of finance and taxation, it is

imperative to link the analysis of micro-level behaviour to the social contexts that enable or perpetuate misconduct. The framework offered here permits new research questions on the micro-macro interplay by deepening our understanding of the dynamics of misconduct across these different contexts. Second, the framework contributes to the literature on professions and organisations by fostering an understanding of relational dynamics among professionals. Spence et al. (2015) have drawn on the work of Pierre Bourdieu to examine how cultural and social forms of capital, such as class background or developed networking skills, are converted to economic capital in the form of service fees in GPSFs. Previous research has also shown that leading professionals continually signal to each other what practices are reputable (Mazzola, Ravasi, & Gabbioneta, 2006). We know that misconduct is an intersubjective phenomenon and it is useful to understand where different evaluations of misconduct come from and how they are contested.

Third, and finally, our framework aligns with the "Global Wealth Chains" literature in International Political Economy scholarship, seeking to understand how "firms, groups, and individuals engage in innovative forms of multi-jurisdictional wealth creation and protection" (Seabrooke & Wigan, 2017, p. 22). This emerging literature seeks to integrate lessons from law, accounting, finance, sociology, and political economy to study how wealth chains are articulated to create and protect wealth in ways that often flummox regulators. A range of cases with direct tax implications have already been explored, including mining, art, personal trusts, and many others (Finér & Ylönen, 2017; Helgadóttir, 2020; Quentin, 2020; Sharman, 2016). The macro-level impacts of evaluations of professional misconduct in wealth chains are substantial, enabling and constraining the actions of professionals, as well as the games played by states and firms in seeking wealth creation in the world economy. In sum, our framework asks us to reflect on how professional misconduct is contextualised and constructed in international taxation, and what socio-economic and political networks and legacies it rests upon.

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