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## **Offshore and the New International Political Economy**

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Offshore finance provides an incubator and testing ground for propositions concerning fundamental debates in International Political Economy. The common feature among offshore financial products is calculated ambiguity: the ability to give diametrically opposed but legally valid answers to the same question from different quarters. Thus offshore allows individuals and firms to enjoy simultaneous ownership and non-ownership, to be high profit and loss-making, heavily indebted but also debt-free, and for investment to be foreign and domestic. The advantages conferred to individuals and firms, however, tend to undermine the stability of the financial system. Using indirect governance techniques, transnational networks of regulators have sought to coercively simplify offshore finance, with mixed results. Focusing on ambiguity as central to offshore finance complements earlier theoretical treatments of this realm from law, anthropology and International Relations. Empirically, the recently enhanced surveillance of offshore centers has produced new data facilitating future quantitative studies, which complement more anthropological approaches to this subject.

In August 2007 financial markets across the world were roiled by a crisis originating in the US sub-prime mortgage sector. The global credit system threatened to seize up as wary banks suddenly hoarded liquidity. Central banks across the world poured billions of dollars of emergency credit into the inter-bank market, and a slew of major financial institutions went bankrupt or were nationalized. Closely associated with the crisis, but also the preceding long boom, were financial innovations pioneered in Offshore Financial Centers (OFCs), also known as tax havens. Although the exact causes and consequences of the global financial crisis will be argued long after it has passed, the growth of securitization, collateralized debt obligations, hedge funds and off-balance sheet vehicles have been key. The offshore finance industry proved so successful at re-packaging debt and diffusing risk that no one could be quite sure who owed what to whom. It is impossible to understand this process and these devices without a proper understanding of the offshore locales in which they were created and traded. This article will undertake just such an analysis, but will also argue that the importance of the offshore world runs much deeper than any particular crisis or finance industry fad. Despite their tiny populations and diminutive geographic presence, OFCs have a hugely disproportionate presence in global finance and the world economy more generally. Studying these centers provides new insights into existing and emerging issues at the heart of International Political Economy (IPE).

Despite the variety of offshore products and services provided by disparate financial centers, this article is focused on a common thread running through many manifestations of the offshore

phenomenon: the pursuit of a calculated ambiguity. This idea refers to the ability to give diametrically opposed but legally valid answers when responding to the same question from different audiences. In this manner individuals and firms can perform such sleights of hand as taking on the advantages of ownership while divesting themselves of the liabilities, borrowing without taking on debt, simultaneously reporting high profits and none at all, and ‘round-tripping’ domestic capital as foreign investment. This ambiguity can provide handsome dividends for a variety of actors. Wealthy elites in the West, increasingly mobile expatriate professionals, as well as the new rich of formerly-Communist Europe, Asia and the developing world more generally have all been able to reduce their tax liabilities as well as safeguard their wealth from the consequences of divorce, litigation and political instability. Predictably, Western multi-national corporations have also been beneficiaries as they have built up more and more Byzantine offshore structures to defer tax liabilities and flatter their balance sheets. Also among the more enthusiastic new consumers of offshore products are pension and sovereign wealth funds. Although the prominence of banks and the Big Four accounting firms in marketing offshore finance would be expected, the central role of international law firms in cross-border finance must also be kept in mind (Picciotto 1992, 1999). Specialized offshore service provider firms have often privatized a core governmental prerogative in drafting their own banking, company and insurance legislation and then scouring the globe for amenable parliaments to rubber stamp this quintessentially commercial law.

Less well understood by market actors, regulators and scholars, however, are the collective and systemic consequences of these ploys designed to cultivate calculated ambiguity. These may well

include the sort of pervasive ignorance and mistrust that can lead to crises of confidence in the financial system and the global economy more generally. Speaking of the exotic financial vehicles behind the sub-prime crisis (in the United States carefully structured to fall outside the remit of the Securities and Exchange Commission, Office of the Comptroller of the Currency, Federal Deposits Insurance Commission and the Federal Reserve), the Chairman of the Fed noted with obvious frustration: “I’d like to know what those damn things are worth” (Nelson D. Schwartz “One World, Taking Risks Together,” *New York Times*, 21 October 2007). Twelve months later equivalent concerns were argued to have brought the global financial system perilously close to collapse.

This article is divided into three main themes. The first argues that the best way to understand the essence of offshore finance is by looking at how offshore products provide the calculated ambiguity referred to above. Specifically, Asset Protection Trusts provide ownership and non-ownership; chains of offshore shell companies facilitate reporting of simultaneously high and low profits; Special Purpose Entities are used so corporations can borrow without taking on debt; and, finally, “foreign” direct investment can in fact be domestic money exported and re-imported through offshore centers. The second theme relates to the response to offshore from transnational networks of regulations generally based in and representing large, core states. This response has come in the form of a number of overlapping multilateral initiatives with the common goal of coercively simplifying the ambiguity provided by offshore, usually premised on the self-interest of core states. But rather than being the direct imposition of these powerful states, governance in this sphere is at least as much an indirect process of socialization and classification effected by

international organizations and transnational networks of regulators. Progress has been uneven. Despite some significant achievements, the interests of powerful parties within OECD countries benefiting from access to offshore services, and even more so worries about incurring competitive disadvantage in a global market place, mean that offshore centers have continued to thrive. The final section looks at how to integrate and advance the inter-disciplinary study of offshore centers and offshore finance in both theoretical and empirical terms, once again working from the basis of calculated ambiguity. This draws on the insights of three scholars from diverse disciplinary perspectives: Ronen Palan (International Relations), Sol Picciotto (law) and Bill Maurer (anthropology). Empirically, one successful change effected by the multilateral initiatives is to generate much more data on offshore finance than were previously available, creating new opportunities for scholars to pursue this research program. While this shift is particularly helpful for quantitative treatments, the methods of anthropologists and geographers should also continue to be fruitful.

## DEFINING OFFSHORE

The definition of Offshore Financial Centers or tax havens has proved troublesome in the past, the condition of “offshore” may be very much in the eye of the beholder (Doggart 2002; Orlov 2004). A US Internal Revenue Service report simply states: “The term ‘tax haven’ may be defined by ‘smell’ or reputation test: a country is a tax haven if it looks like one and if it is considered one by those who care” (Gordon 1981: 26). Often it is a case of “small place, big money”: 400 banks housed in a single shed in the South Pacific island of Nauru, over 80 percent

of the world's hedge funds domiciled in the Cayman Islands, or, perhaps, 200,000 companies legally resident at 1209 Orange St, Wilmington, Delaware (van Fossen 2003, 2009; Spencer and Sharman 2008). While the stereotypical picture is of a tropical island paradise, an IMF publication classified the UK as an offshore center in 2007, and others have argued the United States should qualify as well (Zoromé 2007; Langer 2002, 2005). Most definitions of offshore centers and tax havens have commonly included characteristics like low or no taxes, tight financial secrecy, and light regulation. The rough working definition adopted here is that an OFC or tax haven is a jurisdiction that has designed its financial regime to offer international financial services to non-resident firms and individuals. In the last decade "offshore" and even more so "tax haven," have become pejoratives, thanks to purported links with a variety of financial crimes, including money laundering, corruption, the financing of terrorism, as well as tax evasion.

Although jurisdictions have deliberately structured their tax and legal codes to attract commerce from abroad since ancient times, offshore centers are a recognizably modern phenomenon (Palan 1998, 2003). In the early part of the twentieth century the growing divergence between fiscally modernizing European states and their conservative micro-state neighbours had the unintended consequence of making places like Monaco and Liechtenstein havens for tax avoidance and evasion (Donaghy 2001, 2002). Immediately after the Second World War, the Bank of England deliberately ignored certain colonial offshore centers' efforts to illegally entice much needed US dollars into the newly-impooverished British Empire. The unanticipated rise of the Eurodollar market gave another fillip to offshore centers. By the 1970s, however, the pioneering offshore

centers had become the subject of deliberate emulation by small countries with few other options for economic development as they sought to attenuate their former imperial dependence (Picciotto 1992; Palan 2003; Chavagneux, Murphy and Palan 2009). Depending on the definition employed, there are now somewhere between 40 and 70 offshore centers (Errico and Musalem 1999). This group is divided into a small number of successful exemplars that have garnered a majority of the business and attention, and a much larger number of marginal players aspiring to emulate the success of the former. The value of assets offshore has been estimated at over \$11 trillion (Tax Justice Network 2005), and is growing rapidly. However, trying to specify the amount of wealth in various offshore centers is in many ways profoundly misleading. For in keeping with the fundamental ambiguity that is in many ways its defining characteristic, money held offshore is usually simultaneously held onshore as well, rather than being piled up under lock and key in vaults and safes.

The best way of understanding what the dozens of offshore centers do is briefly to examine what they sell. The main attraction of new products, but also more traditional offshore wares, is the calculated ambiguity provided. Individuals may preserve the advantages of asset ownership while divesting themselves of the liabilities; offshore subsidiaries may allow firms to report high and low profits; firms may raise loans but avoid taking on debt; and the same investment can be foreign and domestic. In general, offshore products allow investors and firms to have their cake and eat it too, in Ronen Palan's apt phrase (Palan 1998).

#### Enjoying Ownership and Non-Ownership



The first offshore product considered to illustrate the idea of calculated ambiguity is the Asset Protection Trust, first created in the Cook Islands in 1984. Here the aim is to maintain practical control over assets and income, while also establishing a legal separation that insulates the agent exercising control from legal liability. A trust is conventionally more like a contract than a company: having no legal personality of its own, a trust is instead a legal relationship between a party conditionally alienating assets, the party enjoying conditional benefits of these assets, and a party to manage the assets and ensure the conditions are adhered to (ITIO 2002; Lorenzetti 1997; Marcus and Hall 1992; Silets and Drew 2001; Sterk 2000).

In 2004 the peer-to-peer music file-sharing network Kazaa was sued by record industry bodies in the United States and Australia. Having earlier been driven out of the Netherlands and observed the fate of Napster, Kazaa had set up corporate defenses. It split and re-combined ownership, control, assets and revenue in intersecting chains of companies. Some companies were subsidiaries, others acted as corporate directors of other members of the group. The strands came together as Sharman Networks with a trust legally based in the South Pacific island state of Vanuatu (Todd Woody, "The Race to Kill Kazaa," *Wired*, 2 February 2003). The success of legal action against Kazaa depended on penetrating the network of companies and trusts to discover the true ownership. Kazaa had set up a corporate structure whereby for the purposes of being sued the ultimate beneficiary of the trust was the International Committee of the Red Cross (unbeknownst to them), but for the purposes of exercising practical control and collecting profits the beneficiaries were Kazaa executives. As the legal hosts of the structure, the ni-Vanuatu authorities levy no income taxes, have no tax treaties, and impose prison terms on any party

disclosing financial information. Not being a member of the World Trade Organization or TRIPS, Vanuatu does not have any modern intellectual property rights law. Although the court case succeeded in taking down Kazaa's website, despite legal pressure and extensive surveillance of the Kazaa executives, the question of ultimate ownership was never solved. As a direct result, control of the advertising revenue that had been generated (valued at up to \$60 million annually) remains a mystery.

Even apart from systemic consequences, the use of ambiguity offshore can and does sometimes go awry. A prominent example is the Marcos family, who established several Liechtenstein foundations (Doggart 2002: 209-213; Jeeves 1998; Wanger 2005), in order to create a state of ownership/non-ownership of assets looted from the Philippines during Ferdinand Marcos's presidency in the period 1965-86. At one level these mechanisms were a great success. In terms of non-ownership, the foundations first concealed the scale of the former president's massive corruption while he was in office, and then successfully insulated the money against the 17-year campaign of successive Philippines governments to recover the stolen assets. However, the legal fiction of non-ownership overlaying the presumed reality of Marcos family ownership took on a life of its own. The supposed front men on the foundations' governing councils were able to successfully capture the assets in question, escaping the claims of both the Marcos family and the Filipino government, and disappearing with several billion dollars (Chaikin 2005).

### Being High Profit and Low Profit

One of the most striking disparities in offshore centers is often the huge number of resident

companies relative to the number of resident people, e.g. 446,000 companies versus 22,000 people for the British Virgin Islands (BVI FSC 2008: 1). Although there are a wide variety of uses for offshore companies, a prominent example is the use of multiple offshore subsidiary companies for onshore firms. In their ideal world, firms would be able to exhibit high profits for investors and low (or even negative) profits to tax authorities. The use of offshore financial centers and products has greatly assisted many firms in achieving this ideal world. The point of entry is when firms report their profits to two different audiences, tax authorities in private, investors in public, using two different procedures, creating ‘tax profits’ and ‘book profits’ respectively. When corporate income tax was first introduced, it was assumed that these two values would be similar if not identical. In fact, however, thanks to opportunistic accounting lurks the two values have diverged, and at an accelerated pace over the last decade. Depending on the year, between a third and a half of large US corporations pay no tax on their profits (GAO 2002). The most extreme examples see corporations simultaneously reporting massive profits to investors but substantial losses to tax authorities. Describing the situation as one of “parallel universes,” Desai (2005) attributes this increasing divergence to the growth of information and communication technology that allows the generation and functioning of massively complex corporate structures, but also the availability of tax haven-based subsidiary companies (Desai 2005: 188). These allow profits to be moved across space, from country to country, and across time to bring forward book profits while pushing back tax profits. Thus the chains of hundreds of companies in jurisdictions like Delaware, Luxembourg, Hong Kong and the Bahamas to hold intellectual property, perform treasury functions and manage intra-group debt for the same onshore parent.

Returning to the systemic implications, the benefits to firms of being able to be high and low profit to different audiences creates serious tax avoidance problems. Beyond the contribution of corporate tax itself, this kind of systematic avoidance reduces the legitimacy of the tax system as a whole, which in turn causes compliance problems with other aspects of the tax code (Rawlings and Braithwaite 2003). Furthermore, the use of chains of offshore subsidiaries severely degrades the quality of information available to the market. Véron et al. (2006) provide a stylized illustration of these and other techniques with reference to their fictional company Smoke and Mirrors, Inc., before then applying these lessons to a string of contemporary corporate scandals. Their damning verdict is that using these schemes and scams makes “it possible to ‘manage’ the accounts for a given year by making them say almost anything one pleases” (2006: 44). Beyond threats to proper market function, the degraded quality of information available again threatens the legitimacy of capitalist systems based on public companies in the eyes of the general public (Tweedie 1983; Cloyd et al. 2003).

### Borrowing without Incurring Debt

Companies face the conflicting demands of raising capital through borrowing, while also seeking to preserve their credit rating and share price by minimizing indebtedness. A particularly stark, and in the end disastrous, illustration of an offshore strategy employed to reconcile these conflicting imperatives is Enron’s use of Special Purpose Entities (SPEs) to borrow while keeping the resulting debt off its balance sheet. (To be sure, Enron also used these Entities for other important tasks, e.g., artificially inflating its own share prices, and smoothing out volatile

earnings and avoiding tax.) (Schwarcz 2002; Caitlin-Brittan 2005; Véron et al. 2006).

To legitimately keep borrowings off its balance sheet and hedge investments, Enron had to substantively transfer risk to another party (the SPE), which in turn had to have at least three percent independent equity. Through a series of complex transactions involving offshore SPEs, for a while Enron succeeded in having its cake and eating it. It kept borrowings off its balance sheet by ostensibly transferring risk to a third party, while avoiding the costs of securing genuinely independent equity by guaranteeing the value of its own shares with those very same shares. The vehicles for this process of transfer were more than 600 entities based in the Cayman Islands and 800 in Delaware. As long as the share price kept on rising all good things did indeed go together, but once the share price began to decline the reverse occurred. Enron's share price fell; the SPE's value fell as a result and it was unable to perform its hedge; this triggered Enron's guarantee of the SPE's value; the off-balance sheet liabilities were brought back on to Enron's balance sheet, further reducing the share price (Schwarcz 2002: 1310-11).

As noted above, on an individual basis this calculated ambiguity, owning and not owning, borrowing without taking on debt, can be highly advantageous. But systemically the consequences may be far from benign. If the use of these and other offshore products means that no one is sure who owes how much to whom, or who is bearing what risks, some shock can trigger a crisis of confidence and liquidity. This seems to be exactly what happened with the freezing up of inter-bank lending from August 2007.

### Foreign Investment with Domestic Money

The final incarnation of offshore ambiguity is especially important for the developing world: foreign investment using domestic money sent on a round-trip via offshore centers. The failure to appreciate the importance of offshore conduits has considerably warped understandings of foreign direct investment (FDI) in developing countries, especially with regards to China. China is held up to others as an example of economic development and poverty reduction on the basis of its ability to attract FDI. Even taking into account its vast population and size, China has received a disproportionate share of FDI in the developing world. There is good reason to think that China's success in this domain has been significantly over-stated, however, in that much of this 'foreign' investment is in fact local money sent out of the country and then returned via offshore shell companies (Vlcek 2007, 2008). In such a manner, domestic money acquires the foreign status (and associated benefits) of the intermediating offshore company.

The top ten investment sources for mainland China in the first five months of 2007 (jointly providing 86 percent of total FDI) in descending order are: Hong Kong, the British Virgin Islands, Japan, South Korea, Singapore, the United States, the Cayman Islands, Samoa, Taiwan and Mauritius (<http://www.china-embassy.org/eng/gyzg/t340052.htm>). It comes as no surprise that the United States, Japan and Korea are among the leading investors, and Hong Kong has long been recognised as a conduit for investment between the two Chinas. But the British Virgin Islands (population 22,000), the Cayman Islands (47,000), Samoa (214,000) and Mauritius (1.25 million) need further explanation. One answer would be that investment from the British Virgin Islands, for example, is re-labeled investment from some other foreign country, in which case the

implications for understanding investment in China and the Chinese economy overall are slight; either way, the investment is still foreign. But with the exception of the three OECD states and the Republic of China on Taiwan, much of the rest of the investment (including that from Hong Kong) is in fact domestic Chinese money sent out of the country and reintroduced using offshore companies. The investment becomes legally foreign, and therefore qualifies for special regulatory and tax concessions. Illustrating the out-bound leg of the journey, China is the second-largest foreign investor into the Cayman Islands, placing ten times more investment there than in the United States (Vlcek 2008). Thus a substantial share of China's 'foreign' investment is in fact local funds 'round-tripped' through offshore centers (for an extended treatment of this question, see Vlcek 2007). Further reinforcing this conclusion is the fact that more BVI companies are created for Chinese investors than for those of all other countries combined, approximately 40,000 new companies every year (BVI FSC 2008).

The same dynamic may also exist elsewhere in the developing world. For example, Mauritius is the largest source of FDI into India, raising suspicions that the same practice of 'round-tripping' may be common there also. Beyond China, however, caution is in order, as it is common for 'conduit' or 'turn-table' offshore centers to make indirect foreign investment more profitable than the direct route from exporting to receiving countries (Doggart 2002; Langer 2002; Rawlings 2007). Sorting out quite what is genuine foreign investment that happens to be routed through offshore centers, versus round-tripped domestic money masquerading as foreign is difficult, precisely because the latter will try to mimic the former as closely as possible. Developing country governments try to guess whether they are really gaining substantial foreign

investment, or just losing out on tax revenue on domestic wealth. But courts and governments in India, South Africa and Indonesia have made plain their opinions in restricting or terminating tax treaties with various havens over the last six years on the grounds that they facilitate domestic tax evasion more than genuine FDI (Author's interviews, Mauritius 2005; Bell 2005).

## GLOBALIZATION AND TRANSNATIONAL REGULATION

If any part of the global economy should have escaped the control of states (individually or collectively), it is offshore finance (Avi-Yonah 2000). Yet the structural globalization account of unstoppable capital and straight-jacketed states fails to explain the significant, but partial, governance successes recorded in this area. Thanks to overlapping multilateral initiatives, offshore products enabling a simultaneous relationship of ownership and non-ownership have come under sustained pressure. In relation to the partial governance success, those scholars that have convincingly made the retreat of the state a conventional target have themselves tended to over-emphasize the impact of powerful states in setting global standards (Krasner 1991; Drezner 2007). Transnational networks of regulators and international organizations have instead exercised a powerful and autonomous influence, albeit indirectly. But there has been no such willingness to tackle either the divergence between book and tax profits, or the facilities allowing off balance sheet borrowing. This pusillanimous attitude is the result of powerful vested interests in core states, but perhaps even more so the resonance of a policy narrative emphasizing the danger of hobbling national firms competing in a global market place with tough regulations and high taxes. Because of their marginal presence in the formal institutions and informal networks



of global economic governance, developing states have not been able to take any co-ordinated action against round-tripped 'foreign' investment.

In terms of those looking to govern the offshore world, perhaps more than any other domain this exemplifies two trends in global governance: the rise of transnational regulatory networks, highlighted by Anne-Marie Slaughter (2004), and the importance of international organizations' in defining, classifying and labeling, as explicated by Barnett and Finnemore (2004). Over the last decade in areas such as anti-money laundering and prudential regulation, international organizations have not so much defended existing standards as successfully ratcheted them up. These bodies have had some success in acting to narrow the range of ambiguity provided offshore with regards to ownership/non-ownership by picking and fixing certain technical and normative meanings. How can this be explained?

Confirming Slaughter's version, regulators certainly have been the new diplomats when it comes to the governance of offshore. It is notable that a great many of the institutions Slaughter sees as exemplifying the 'new world order' have been the main players in regulating offshore. Examples are the Financial Action Task Force (on money laundering), the International Organization of Security Commissions and the International Association of Insurance Supervisors (on the exchange of financial information), the Basel Committee (banning offshore shell banks), the OECD (an initiative to stop 'harmful' tax competition), the Commonwealth (defending its member tax havens), the Financial Stability Forum (through its Offshore Working Group). Most of these bodies have regional and offshore equivalents also (the Asia-Pacific Group on Money

Laundering, the Offshore Group of Banking Supervisors, and so on). These networks achieve influence by exchanging information, building trust among their members, and effecting socialization. For those studying the efforts of transnational regulatory networks to practice global governance in relation to de-territorialized economic flows, there is simply no better place to look than offshore.

The extent to which these and other international institutions have been successful re-establishing a clear dichotomy between owning an asset and not owes a great deal to the sort of power identified by Barnett and Finnemore in their analyses of international organizations (1999, 2004). Through their classifications, these institutions have to some extent remade and simplified the offshore world. Rather than relying on economic sanctions or binding legal judgments (still less military force), international organizations use less direct but often no less effective means of influence. Their bureaucratic, rational-legal authority and association with normatively-valued ends enables international organizations to regulate, but also constitute, the social world. The ability of international regulatory institutions to extend or withhold positive and negative labels or classifications, to either whitelist or blacklist jurisdictions depending on their compliance with standards, has been a powerful tool. Deciding precisely which jurisdictions are categorized as being offshore stands out as a prominent example of this sort of exercise. Few offshore centers have been willing to suffer the reputational damage associated with defying international organizations. Those that have, have often suffered debilitating disinvestment as a result (Sharman 2005, 2006, 2009).

In terms of concrete (but incomplete) success, a variety of standards have been propagated by the FATF, OECD and others mandating that it must be possible to establish at least one specific individual who owns or controls each corporate vehicle (company, trust, partnership, etc.). Making particular individuals responsible in this way helps to solve the type of problem music companies faced in taking legal action against Kazaa: finding the ultimate beneficial owner. The principle is referred to as 'Know Your Customer' (KYC). This new standard of establishing ownership has so far only partially been fulfilled, with core countries reluctant to themselves adopt the standards they urge on others. But it is now much harder for corporate vehicles to access international banking networks without explicitly identifying at least one person who is clearly in charge. Countries like the United States and United Kingdom have had a deeply ambivalent attitude to these new rules; sympathetic in principle, but reluctant to directly confront powerful industry interests (Webb 2004). As a result, most of the running in this area has been made by the surreptitious activity of networks of regulators--often frustrated with the foot-dragging of their own governments--that constitute the main standard-setting bodies.

Corporate interests have been even more effective in defending the 'parallel universes' of book and tax profit, as well as debt-free borrowing. In terms of defending the stability of the global financial system, it is probably this last that is the most important, while fiscally the corporate tax accounting dodges cost much more in revenue terms than secret bank accounts. Policy-makers in OECD countries have often seemed to be in thrall to the notion that a radical simplification of these kinds of offshore-facilitated calculated ambiguity gambits would severely compromise the competitiveness of national firms in international markets. Despite its implausibility to IPE

scholars, the structural globalization policy narrative centering on the dangerously futile nature of efforts to ratchet up standards affecting internationally-mobile economic activity seems to exercise a powerful hold over many in government (Radaelli 1999; Hay and Rosamond 2002). Predictably, corporations have been quick to play up these fears in equating their sectoral interests with those of the nation.

## ADVANCING AND INTEGRATING THE STUDY OF OFFSHORE

This final section seeks to demonstrate how an account of offshore political economy, centered on the notion of calculated ambiguity, meshes with existing theoretical treatments of the subject, as well as indicate productive avenues for future research in this field. It does so first by looking at how offshore has been previously theorized in International Relations, law and anthropology, before then turning to empirical challenges and opportunities.

As noted earlier, Palan's characterization of offshore as providing the ability to have one's cake and eat it too is very apposite. But in contrast to the relatively restricted focus of the argument presented above, Palan paints on a much larger canvas (1998, 1999, 2002, 2003). For him, offshore represents a pragmatic and substantially accidental manner of ameliorating the increasing tension between two conflicting historical master processes. The first of these is the strengthening of states' sovereign prerogatives from the nineteenth century, the second, which tends to run counter to the first, is the development of an increasingly global market and system of capitalism. Rather than a deliberate strategy by core states to negotiate this tension, the first

germs of offshore were initially unintended quirks of local law, gradually and haphazardly entrenched and diffused as their value became clearer. More and more states began to bifurcate their sovereign space by creating judicial exclaves within which their authority and regulatory powers were deliberately relaxed. In doing so, the aim has been to minimize the cross-cutting pressures of competing in a globalized economy while also preserving the state's legal sovereignty within the remainder of its domain. The more mobile and globalized the sector, the more likely it is to be in the process of relocating into the virtual extra-territorial spaces created as states segment themselves in establishing offshore realms of attenuated, commodified sovereignty. According to Palan, offshore is thus fundamental to both the maintenance of the state and accompanying nationalist ideology, as well as the opposing forces of transnational capitalism.

Sol Picciotto begins from a similar premise that offshore has helped to dislocate and reconstruct the state system (1999: 43). Writing from the discipline of law, Picciotto foregrounds a related set of 'legal fictions,' in particular legal personality but also nationality, residence, income, jurisdiction, and even the state itself. It is the abstract, indeterminate and hence malleable nature of these concepts that over the last hundred years has allowed rich individuals and later corporations to escape tax obligations at home. Aided by their legal advisors, they have done so by establishing legal entities in convenient jurisdictions happy to provide the most room for this inherent flexibility. These entities then function as conduits for international income or assets and the round-tripping of domestic monies (Picciotto 1992, 2007). The combination of abstract monetized relations with abstract legal forms, or fictions, allows agents to negotiate the degree to

which they are located within a jurisdiction or jurisdictions. Because transactions with the same economic substance can be structured in several different legal forms, legal means can be found to avoid tax liabilities and regulatory restrictions. Querying the specific jurisdictional location of offshore activities such as futures trading, reinsurance and hedge funds is a mistaken pre-occupation. Instead Picciotto suggests that regulators and tax authorities must take a global approach rather than state-by-state approach. More generally, Picciotto shares Palan's conviction that offshore developed as a result of deep historical forces, but also in a groping and undirected manner owing a great deal to local legal improvisations, contested redefinitions and unforeseen effects. Once again, it is the interaction and friction between the system of states and international market that has been crucial for the expansion of offshore.

Turning from law to anthropology, Bill Maurer has pioneered the "social study of finance" applied to offshore (along with geographers like Hudson (1998, 2000), Cobb (1999, 2001) and Roberts (1995)), building from fieldwork in the British Virgin Islands (1997). Like Palan, Maurer emphasizes that the study of offshore should be at least as much about processes as about places, such as specific offshore centers (2008: 157). A further congruence is the observation that while there is a tension between offshore markets and state sovereignty, the former may in practice work to shore up the latter. Like Picciotto and Palan, Maurer sees offshore as being highly 'fictional,' but goes further in saying that seeking to separate economic realities from fictions is misplaced effort. As far as its contemporary significance, Maurer goes so far as to say that "Far from a marginal or exotic backwater of the global economy, offshore in many way *is* the global economy" (2008a: 160). The recent multilateral regulatory efforts to rein in offshore are

described as “a new discourse of virtue for offshore finance” (Maurer 2005: 476). Despite the differences between the various initiatives, ‘due diligence’ is said to be central to all of them. Very similar to the principle of Know Your Customer, due diligence refers to the responsibility of private financial intermediaries to take reasonable precautions to find out that their customers are who they say they are. As a strategy of risk management, this is said to have relatively little to do with economics per se and nothing to do with quantitative models. Instead, it is a deliberate effort to re-ground and re-contextualize offshore activity in a social setting. Rather than a setting of anonymous individuals interacting on a basis of equality within the market, hierarchies of rank within a community defined by reputation are held to be key (2008a, see also 2008b).

How does the work of these authors relate to the theme of calculated ambiguity developed above? Irrespective of their different disciplinary backgrounds, these accounts have important similarities. The first of these is that offshore is characterized as an essential aspect of the macro-historical development of the system of states and the global economy, and even more so the relationship between the two. Rather than being just a useful ploy and corporate dodge, the calculated ambiguity that defines offshore products reflects the conflicted and contradictory nature of the offshore realm itself. Impelled by deep historical forces, actualized by chance, and only then exploited for profit and deliberately diffused, offshore products defined by their flexibility and malleability allow for the simultaneous existence of mutually opposing statuses. Yet even according to these authors there are major conceptual gaps. Maurer holds that further progress in the social study of finance depends on a better appreciation of hierarchies of regard and esteem (2008: 176). In other important instances, conceptual obstacles are tied to empirical

problems. Speaking of the ever-elusive definition and list of OFCs, Palan et al. argue that rather than being a dry exercise in taxidermy, the lack of a settled definition has been an important factor compromising the policy effectiveness of multilateral initiatives aimed at offshore (2007: 4). Picciotto see this problem of definition as first and foremost a problem of incomplete data (2007: 16), leading to the question of methods and empirical material in the study of offshore.

Because offshore finance and tax havens have been associated with secrecy, definite limitations have been set on the study of offshore political economy. The sort of generally-accepted economic data employed in studying growth, inflation, currency trading and so on are often absent when it comes to offshore centers. This problem has eased somewhat in recent years with the publication of more data, but qualitative approaches also provide a compelling alternative or complementary strategy. Previously, rather than hiding information, tax havens simply may not have had key economic data on the number of offshore banks, companies or trusts, let alone the combined assets held by each. Similarly offshore bank accounts were not only secret from prying outsiders but also from local governments and regulators. The campaign to increase financial transparency, especially that associated with countering money laundering, has substantially changed this situation. The offshore centers themselves have a much better idea of their own financial sectors. Furthermore, at least the leading centers are now prepared to publicly release more information. The Caymans, Jersey, Guernsey, the Isle of Man, the Netherlands Antilles and others now report quarterly to the Bank of International Settlements. Forty-two offshore centers have been assessed by the IMF in terms of their compliance with anti-money laundering, insurance, securities and banking standards with the results published on the IMF website. Even



with recent progress, however, substantial gaps remain. Important elements like hedge funds and off-balance sheet vehicles are not bound by the strict reporting requirements that apply to banks and publicly listed companies. And obviously important semi-legal or illegal practices like tax avoidance, capital flight, tax evasion, money laundering and hiding corrupt monies will always be difficult or impossible to quantify, notwithstanding the huge guesstimate figures thrown around to grab media attention (UNODC/World Bank 2007 footnote 9).

While keen to expand the statistical coverage of offshore centers, the international organizations themselves have been surprisingly reliant on conventional qualitative techniques. In their work on onshore centers, groups like the IMF, World Bank, FATF and OECD have tended to rely on qualitative questionnaires, case studies and fieldwork and interviews. Like IPE scholars, international organizations are interested not only in what should happen according to the laws, but what does happen in practice. To get at this, staff from these institutions rely above all on travelling to the countries in question and conducting semi-structured interviews with regulators and private sector representatives. Turning to the issue of illegal activities, these same bodies rely on indicative case studies, referred to as typologies. Thus in examining grand corruption, the World Bank commissioned a report comprised of 25 case studies of such. In seeking to understand trade-based money laundering, the FATF adopted a similar approach. Beyond these mainstream techniques, some of the work done by the few anthropologists in this field (Maurer 2005, Rawlings 2005 as well as the geographers Hudson 1999, 2000 and Cobb 1999, 2001) has also provided very original and stimulating insights. Issues of identity, community, image and standing are surprisingly dominant in the offshore industry in a way that is not captured by the

notion of hard-nosed rational dollar-maximizing individuals.

Perhaps the most under-researched area of the offshore political economy relates to the consumers of offshore services, a gaping hole in our knowledge. Analyses tend to concentrate on the nature and changes in the supply of offshore services, but there is very little written on the demand side. Attending to this lacuna is urgent because the very fragmentary evidence available indicates that there have been major shifts in the demand for offshore services in the last 15 years. It seems likely that newly-rich individuals and firms from China, India, formerly Communist Europe and those countries enjoying a windfall from high energy prices now comprise the most rapidly growing sector of the market for international financial services. Aside from indicating the relative rise of developing world economies, this trend would also tend to undermine the control core Western states can exert over global economic governance. For if OFCs can sell their wares to non-OECD customers, OECD attempts to enforce standards through regulating access to rich world markets are outflanked. An exception to the lack of knowledge concerning demand-side factors is a study suggesting US firms at least are more likely to use tax havens as the amount of intra-firm trade and research and development increases (to benefit from transfer pricing and deferral of US corporate tax of foreign income) (Desai et al. 2005; see also Graham and Tucker 2005). Again, because of the secrecy aspect there are methodological issues in pursuing such issues, but given the huge volume of research on illicit behaviour like corruption, the obstacles to much more investigation of the demand-side of offshore should not be insuperable.

Beyond empirical factors, scholars are also challenged even by the ethical ambiguities that define the offshore world. Scholars and policy-makers share a basic normative uncertainty: are offshore financial centers and offshore finance as a whole legitimate features of the global economic system? Or, is the offshore world a problem, to be studied with an eye to an eventual solution? Despite the technical character of a great deal of research on offshore finance, in line with growing scrutiny from critical social movements, scholars are increasingly drawn to take a stand for or against offshore. Fortunately, however, there is no reason why these unresolved normative concerns cannot proceed concurrently with further scholarly investigation of offshore finance.

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