

## **2. WHAT DO A TAX EVADER AND A MONEY LAUNDERER HAVE IN COMMON? THE ROLE OF SECRECY IN THE FINANCIAL SECTOR**

*Interview with John Christensen, Director of Tax Justice Network*

John Christensen from the island of Jersey, a tax haven – which is how he describes his home island – worked for 11 years as senior economic advisor in Jersey. One of the reasons why he knows so much about tax havens is that he has been studying this subject for his entire 35-year career.

*Q: How is transnational organized crime related to the current global financial system?* Corruption and criminality are deeply embedded in the global financial system. The global financial system acts as a supply side for corruption and criminality; it encourages and facilitates these phenomena because of its secretive nature. Financial structures that permit secret activities behind walls of non-disclosure of information encourage criminality.

Secrecy is the supply side of corruption and transnational organized crime. It would be far less easy for individuals or organizations to carry out criminal activities if they were required to disclose what they are doing in offshore companies, offshore trusts, offshore foundations, and in secrecy jurisdictions. I use the term “secrecy jurisdiction” rather than “tax haven” because what those countries are selling to their clients is secrecy. Why secrecy? Because within a secrecy jurisdiction, it’s very easy not to disclose who they are, what they do, and with whom they work. Behind the offshore system, transnational criminal organizations can carry out a wide range of criminal and corrupted activities with little fear of investigation or prosecution.

Jurisdictions like Switzerland, Jersey, Bermuda, and Cayman Islands guarantee effective secrecy.

These days capital can move across borders without impediment; this includes capital from any kind of illegal activities, like drug trafficking, insider trading, corruption. It’s very easy to move money arising from criminal activities and hide it behind secrecy and offshore structures. Globalization has created what I describe as a “criminogenic environment,” which encourages criminal activities.

*Q: Do criminal organizations and private investors who want to avoid taxes use the same tools?*

The tools used for money laundering are exactly the same tools used for tax evasion and similar economic crimes and practices. These tools involve creating elaborate structures, which guarantee in almost all circumstances to inhibit or prevent effective investigation and prosecution.

In the global illicit economy, laundering money is typically organized through secrecy jurisdictions. This suits criminals very well, for two reasons: First criminals like the guarantee of impunity from prosecution, and they want to be confident that their profits are secure. Therefore, criminals use offshore companies, offshore foundations, and trusts – all tools used also in the commercial world. Criminals are helped by prominent law firms, major banks, and accountants, all of which are very happy to manage their money through these structures, though they don't want to directly handle narcotics or arms trafficking.

In conclusion, we can say that, yes, criminals are using the same tools and secrecy jurisdictions used by major multinational companies to avoid taxes.

*Q: So, tax evasion is part and parcel of money laundering?*

The good news is that tax evasion is becoming a predicate for money laundering in many countries, like in the United Kingdom, which recognizes tax evasion as the motive for a great deal of cross-border financial flows. Tax evasion sustains secrecy jurisdiction systems, since tax havens make a lot of business by attracting tax evading capital. Many lawyers, bankers, and accountants agree to support tax evasion: By making tax evasion a predicate crime for money laundering, they would feel less comfortable in creating offshore structures that are used for criminal purposes.

This solution would be appropriate, but in order to really tackle the supply side, we have to mount campaigns to tackle the lack of transparency in the global financial markets and not only banking secrecy. Secrecy is protected under national laws – as with banking secrecy in Luxembourg, Austria, and Switzerland – or through secretive trusts created under Common Law. By deepening transparency and creating a much less secret environment, we can tackle this problem.

*Q: Is it more urgent to tackle the phenomenon at a national or at an international level?*

It is not a question of either/or – action is needed at both levels. There is a lot that can be done at a national level. Australia, for instance, has set up combined operations that involve not just tax authorities, but also the police, judiciary, secret services, and intelligence services, because they recognize that the culture of tax evasion seriously degrades tax compliance and is a threat to democracy.

But tax evasion is an international phenomenon, so there is a need for global standards of information-sharing across borders. There are already a few examples: The EU is applying a directive that allows automatic exchange of tax information across the Union. It's not a perfect system, but it's already a beginning, and

this is a work in progress. Africa, Latin America, and Asia should consider adopting automatic information exchange as their preferred standard for tackling tax evasion. We consider the standards promoted by the Organisation for Economic Co-operation and Development far too weak and ineffective. We need to move beyond the OECD, which is effectively a rich man's club, and we need to involve the UN in pushing these standards.

*Q: But how can one deal with corrupted governments and the lack of political will to make reforms?*

This is an amazing challenge. It is the challenge they gave me when they appointed me as director of the Tax Justice Network in 2003 to create a global campaign of almost unprecedented scale to generate public awareness and momentum to counter the huge political lobbying power of the tax haven complex. There are too many countries, including the United Kingdom, Switzerland, Austria, and the United States, that have an interest in keeping the status quo because they are themselves secrecy jurisdictions and receive huge inward flows of capital as a result of providing this secrecy.

*Q: What is the role of civil society in this?*

There are many tools we can use – boycotting is one of them and can be very effective. In my early life, I campaigned against the apartheid movement in South Africa, boycotted companies supporting the apartheid system, and protested against apartheid. Boycotts were effective, but “naming and shaming” also works very well. There's a whole variety of tactics that can be used: I've been very much involved in the Occupy movement. There is no question that this movement has opened up debates that senior politicians and powerful companies certainly didn't want to have opened up. It's been very successful in doing that. Taking to the streets in mass mobilization is very important. The Tax Justice Network is already involved in public awareness-raising programs – with the publication of books, through online media – in order to raise public interest and build political momentum.

*Q: Is there much social awareness of this issue in Africa?*

Because of the extremely high importance of exporting minerals and agriculture products, Africa is particularly prone to illicit financial flows and tax evasion.

The Tax Justice Network is present throughout sub-Saharan Africa. There is a well-established secretariat in Kenya. Public awareness is rising and there's still a long way to go, but it's a good starting point. Shaping tax policies that promote sustainable and equitable growth is probably the most important political task facing African leaders in the coming years.

*Q: In “Treasure Islands”<sup>1</sup>, it is mentioned that Ghana was on the way to becoming a tax haven. Can you give us more information about that?*

Ghana is a good news story in so far as the plans to create an offshore financial center in Accra have been put on hold. The bad news, however, is that Kenya and Rwanda are exploring the possibility of moving in that direction. The impetus frequently comes from banks, law firms, accounting firms, and multinational companies, which use offshore centers to avoid taxes. For the bankers, lawyers, and accountants, there are huge fees to be earned from supporting tax dodging, so this is a very tempting and contagious activity. Botswana already has an established offshore financial center and Mauritius has emerged as a key secrecy jurisdiction in the southern hemisphere.

*Q: How is the population of a tax haven affected?*

We should avoid generalizing on this question. I can talk about my experience in Jersey, which is where I grew up and practiced professionally for many years. When I decided to investigate tax havens, this was an obvious starting point. I spent 12 years – from 1986 to 1998 – working in Jersey to investigate how a tax haven works from the inside.

For a small island like Jersey, hosting a large and sophisticated offshore banking sector involves huge risks because it is dealing with very dynamic and powerful companies that can rapidly capture political processes and use that captive state to push for low taxes and lax regulations. At the same time, the dynamic growth of the banks, law firms, etc., “crowds out” the other industries by pushing up property prices and labor market costs, which makes the local government even more dependent on the tax haven activity. In many respects, this process of political capture is similar to the “resource curse” that afflicts mineral exporting countries, which is why we talk about tax havens suffering from the “finance curse.”

Jersey is an interesting case study, but the City of London shows similar features of the “finance curse.” This is particularly dangerous not only for Britain, but for the rest of the world, because the City is stimulating a race to the bottom in terms of both regulation and taxes, which is undermining other countries. Sadly the G-20 countries haven’t recognized the severity of this problem, and the measures they’ve taken against tax havens since 2009 just don’t go far enough to tackle the problem.

As far as the local population is concerned, most people in Jersey don’t see the big picture of how the island’s role as a tax haven impacts on other countries. Sadly, in many cases they don’t want to see the complete picture, and there’s a lot of media propaganda about how tax havens stimulate economic growth and create jobs when in fact they do the exact opposite.

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**1** | Nicholas Shaxson, *Treasure islands – Tax havens and the men who stole the world*, 2011.

*Q: What is the situation in South Africa?*

South Africa has weaknesses in its disclosure regime, for example relating to trusts and offshore companies, which support tax evaders. But at the same time, the scale of mineral production and exporting makes South Africa prone to illicit financial outflows. As a G-20 country, South Africa has an important part to play in shaping new policies to tackle tax havens, for example pushing for automatic information exchange as the international standard for tackling tax evasion, and a country-by-country financial reporting standard for transnational companies.

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*Verena Zoppei<sup>2</sup>*

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**2** | Verena Zoppei is a PhD student at the Law faculties of the University of Milan and Humboldt-Universität zu Berlin.

