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World Social Science Report 2016

Tax and legal havens: a priority for inequality research



SAHBI ('My friend'), Daniel Eime
(Rabat, Morocco, 2016)

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71. Tax and legal havens: a priority for inequality research

Alain Deneault

Tax havens exacerbate inequality by depriving governments and their citizens of resources that would support services for the benefit of all. As a first step, basic concepts and economic jurisdictional vocabulary must be updated to better reflect the realities of accommodating jurisdictions.

Tax havens exacerbate inequality in terms of equal opportunity and income, by depriving citizens of the government support they need to achieve access to education, advanced training, health care, culture and professionalization. Elementary logic tells us that when wealthy multinationals and individuals are able to remove billions of dollars' worth of assets from the jurisdiction of traditional states' tax authorities, there will be a shortfall in the public funds of these states. This shortfall leads to increased taxation of captive taxpayers (wage-earners, real estate owners, small businesses and the like) and reduces government services. Statistical data corroborate this intuition (Shaxson et al., 2012).

This reduction of state revenues is the most visible aspect of the existence of tax havens. More fundamentally, tax havens generate unequal status for the various members of a national community. They lead to the emergence of two categories of social actor: those who are subject to the laws, regulations, standards and penalties prevailing in their jurisdiction under the rule of law, and those who have the means to shift their assets to tax havens and remove themselves from the constraints that the state enforces throughout its territory, even though all members of the community should in principle be subject to these constraints on an equal basis.

Tax havens do more than offer very low or zero tax rates to multinationals and wealthy individuals who open bank accounts or create trusts, holding companies, subsidiaries or private banks. They also provide a normless space, where impunity in all things is guaranteed. Offshore states such as the Bahamas, the Cayman Islands, Liberia, Luxembourg, Jersey and Singapore are not just tax shelters.

They are accommodating jurisdictions which enable private companies, financial institutions and wealth-holders in many areas, including insurance, high-risk finance, manufacturing and industry, maritime transportation, extractive industries, offshore oil production, medical research, medicine, the financial management of drug trafficking and gambling, to operate without having the state intervene in any way. For almost any area or sector, there is an accommodating jurisdiction willing to give free rein to practices that are highly controversial if not downright criminal. Like a photographic negative, tax and legal havens replicate traditional states, with legal systems that blithely authorize what traditional states forbid.

Understanding these accommodating jurisdictions and how they generate, perpetuate and reinforce inequality of revenue and status calls for interdisciplinary research. We must take offshore activity seriously enough not to reduce it to a mere parallel economy, although some estimates of offshore assets exceed \$21,000 billion (Henry, 2012). But if we view accommodating jurisdictions as being central to a series of problems that go beyond tax issues and affect areas such as public policy, labour law, national security and the symbolic representation of states, then we cannot but acknowledge the extent of the work lying before us. Far from being explicable solely in terms of accounting and criminology, accommodating jurisdictions also require the attention of sociologists, philosophers, psychologists, students of literature, geographers and anthropologists.

The first task must be to reconsider the political and jurisdictional vocabulary customarily employed to describe these political and economic realities. The categories of political, economic and legal thought are distorted by the reality of accommodating jurisdictions. Political and legal concepts such as jurisdiction, political sovereignty, justice, law, crime, border, company from such-and-such a country and so on find their meaning so altered by accommodating jurisdictions that they no longer signify what they once did. The same is true of our economic vocabulary: what is an 'insurance company' when it directly covers the corporation that created it? What is a 'trust' when the settler, the trustee and the beneficiary are the same person? What is a 'charitable foundation' when it owns all the planes of a major airline? We need to update those basic concepts, and develop new ones better suited to describing the new realities induced by the offshore phenomenon. This is a vast project that social science must undertake.

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■ **Alain Deneault** (Canada) is researcher at the Réseau Justice fiscale (Québec/Canada) and programme director at the Collège international de philosophie in Paris. Several books he has written on tax havens and industrial criminality have been translated into English: *Offshore: Tax Havens and the Rules of Global Crimes* (New York, New Press); *Canada: A New Tax Haven* (Vancouver, BC, Talonbooks); *Imperial Canada Inc.: The Legal Haven of Choice for the World Mining Industries* (Vancouver, BC, Talonbooks) and *Paul Martin and Companies* (Vancouver, BC, Talonbooks).

This article features in the World Social Science Report 2016, UNESCO and the ISSC, Paris.

The *World Social Science Report 2016* was published by the United Nations Educational, Scientific and Cultural Organization (UNESCO), 7, place de Fontenoy, 75352 Paris 07 SP, France and the International Social Science Council (ISSC), 1 rue Miollis, 75732 Paris Cedex 15, France.

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Original title: *World Social Science Report 2016 –*

Challenging Inequalities: Pathways to a Just World – ISBN 978-92-3-100164-2



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The *World Social Science Report 2016* is a collaborative effort made possible by the support and contributions of many people. It was financed by generous contributions from the Swedish International Development Cooperation Agency (Sida), UNESCO, as part of its Framework Agreement with the ISSC, the Swiss Agency for Development and Cooperation (SDC), as well as the European Science Foundation (ESF), Netherlands Organisation for Scientific Research (NWO), the Research Council of Norway, Riksbankens Jubileumsfond, and the Swedish Research Council.

Graphic and cover design: Corinne Hayworth

Typeset and printed by: UNESCO

The World Social Science Report 2016 was prepared by the ISSC and the IDS and co-published with UNESCO

The Report is available online at: en.unesco.org/wssr2016

Hard copies are available from UNESCO Publishing:

http://publishing.unesco.org/details.aspx?&Code_Livre=5160&change=E

This report should be cited as follows: ISSC, IDS and UNESCO (2016), *World Social Science Report 2016, Challenging Inequalities: Pathways to a Just World*, UNESCO Publishing, Paris.



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The Report is supported by The Swedish International
Development Cooperation Agency (Sida)