

AN ETHICAL EVALUATION OF OFFSHORE FINANCE IN
THE CAYMAN ISLANDS

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ABSTRACT

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The conception of the Cayman Islands as a tax-haven and safe space for unethical money launderers and tax evaders from around the world has achieved mythic status in the media of developed nations such as the United States of America, the United Kingdom, and the member states of the European Union. Meanwhile, the government and financial firms of the Cayman Islands have stressed that the jurisdiction is in compliance with, or at the forefront of, every international tax code and regulatory standard. Born of this juxtaposition is my thesis question: is offshore finance in the Cayman Islands unethical?

Politicians, regulators, academics, and the public have all contributed in some way or another to the discourse surrounding this question; yet, these commenters rarely display even a rudimentary understanding of how financial services function in Cayman and of Cayman as a whole. I hope this thesis draws attention to the dearth of informed discussion regarding Cayman, injects the discussion with critical cultural, historical, and economic information about Cayman, and provides useful critiques of the ethical arguments for and against the jurisdiction.

This thesis also shines a light on the bigoted, neocolonial, and prejudiced language which pollutes many discussions regarding the ethics of Cayman. This language may be partially responsible for the uninformed academic, and public discussions about Cayman and the regulation efforts to restrain the jurisdiction.

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Introduction

This thesis will attempt to answer the question, "is offshore finance in the Cayman Islands ethical, and is the international, regulatory response to Cayman morally justified?" Chapter 1 provides a survey of the terms commonly used when discussing offshore finance. The chapter also provides examples of jurisdictions considered offshore and the scope of the investments potentially involved in them. Lastly, chapter 1 briefly explains the Cayman Islands' significance with respect to the rest of the offshore world. Chapter 2 focuses exclusively on the cultural history and current position of the Cayman Islands in an attempt to demythify the jurisdiction and allow for a more informed ethical evaluation of the financial systems in place there. Chapter 3 offers a timeline and discussion of the legislation which, over time, shaped Cayman into a competitive offshore financial center. Chapter 4 consists of a broad discussion of the ethics of taxation. Chapter 5 identifies some ethical arguments against the offshore system and, therefore, against the financial services of the Cayman Islands. Considerations of those arguments are also presented. After, in Chapter 6, I identify formidable moral arguments in favor of the offshore system and the financial services provided by the Cayman Islands and then consider those arguments. Finally, I conclude the thesis by arguing that the discourse surrounding Cayman as an OFC is often fundamentally ill-informed, Eurocentric, and so lackluster as to prevent proper ethical evaluation of the jurisdiction. Furthermore, I argue that despite the relative dearth of discourse surrounding Cayman and the lack of compelling arguments against the jurisdiction, Cayman has experienced a disproportionately strong lambasting from politicians to the public. I believe that this disproportion results from a combination of veiled attempts by competing onshore jurisdictions to dethrone Cayman through political grandstanding, bigoted beliefs about Cayman and the Caribbean more generally, and Cayman's use as a pawn in the globally

relevant political struggle pitting the ideals of free-enterprise jurisdictions against those of more planned and established economies.

Chapter 1: Defining Offshore Finance

"Tax-haven," (TH) "Low Tax Area" (LTA), "Secrecy Jurisdiction," (SJ) "Offshore Financial Center," (OFC), "Pass-Through Economy," (PTE), "Tax Shelter," (TS) and "Preferential Tax Regime" (PTR) are all definitions which seek, and often fail, to describe transitory economic environments that employ a variety of methods to capture capital and facilitate international business. The first five former terms are used when describing jurisdictions that employ specific financial tactics, while the final two attempt to describe the tactics employed. Even though these terms are often functionally ineffective and most are out of date, it is vital to understand them and their intended use. They are still predominantly used by policymakers and academics when describing economic environments like that of the Cayman Islands. Furthermore, understanding their often (and seemingly intentional) misuse and abuse is crucial when evaluating the soundness of ethical arguments against places like the Cayman Islands. First, we will start with the term "tax-haven," as it is by far the most recognizable and misused term in use, and it is the progenitor of many of the other terms mentioned above.

According to Ronen Palan in his pioneering work *Tax Havens: How Globalization Really Works*: "the term 'tax-haven' has been used since the 1950s. Yet, there is no consensus as to what the term means. The influential US Treasury's Gordon Report concluded: 'there is no single, clear, objective test which permits the identification of a country as a tax-haven.'"¹ Meanwhile, Vanessa Ogle claims in her article "Archipelago Capitalism: Tax Havens, Offshore Money, and the State, 1950s–1970s" that "political scientists and legal scholars categorize contemporary tax havens as places with sufficient autonomy to allow individuals and corporations to register and maintain assets there while paying low or no taxes and

¹ Palan, M. (2013). Tax Havens: How Globalization Really Works. In *Tax Havens*. Cornell University Press. <https://doi.org/10.7591/j.ctt28545x>

avoiding the more stringent regulations they would be bound by in other countries."² The juxtaposition of these two definitions, one which concedes that there is no practical way to categorize a "tax-haven," and one which claims that there is a political and legal consensus as to the categorization of "tax-havens," reflects the complete disarray of the legal, academic, and political field concerning "tax-havens."

1.1 Quantitative, Qualitative, Both?

In the face of such confusion, academics and political bodies which seek to contend with "tax-havens" adopt one of three strategies. They either accept that codified definitions will never be able to effectively encompass the vast array of rapidly changing economic environments often described as "tax-havens" and seek a more quantitative characterization; or, they attempt to create legal definitions which are too broad to be effectively applied and are often used subjectively and unfairly as such. Lastly, there are some attempts to combine a qualitative and a quantitative approach.

An example of the first approach (quantitative) is James Hines's paper "Fiscal Paradise: Foreign Tax Havens and American Business," which arguably created the field of tax-haven research and sought to define tax-havens as any jurisdiction that encourages "American companies to shift profits out of high-tax foreign countries."³ The paper then suggests a series of mathematical models that analyze the outcomes for American firms should they shift their assets to lower tax jurisdictions. Jurisdictions that provide a competitive advantage to American firms, according to these models, are considered "tax-havens." The strength of this type of definition is that it is largely objective. However, its weakness is that it associates the competitiveness of an overseas jurisdiction with its similarity to a "tax-haven." This view is fundamentally Amerocentric, and when used by

² Ogle, V. (2017). Archipelago Capitalism: Tax Havens, Offshore Money, and the State, 1950s–1970s. *The American Historical Review*, 122(5), 1432. <https://doi.org/10.1093/ahr/122.5.1431>

³ Hines, J. R., & Rice, E. M. (1994). Fiscal Paradise: Foreign Tax Havens and American Business. *The Quarterly Journal of Economics*, 109(1), 149. <https://doi.org/10.2307/2118431>

European regulators, fundamentally Eurocentric, especially when considering that the term "tax-haven" has intrinsically nefarious and immoral connotations.

By contrast, the Organization for Economic Co-operation and Development (OECD) took a more subjective approach to defining a tax-haven when attempting to regulate the use of offshore jurisdictions from 1998-2018. Their attempt amounts to an archetypal example of a qualitative approach to defining a tax-haven. According to the OECD, any country which met three (and later just two) of the criteria listed below was a "tax-haven."⁴:

1. No or nominal tax on the relevant income;
2. Lack of effective exchange of information;
3. Lack of transparency;
4. *No substantial activities*;

All four of these criteria are entirely subjective. Furthermore, (and conveniently) none of the OECD member states which arguably met these criteria were listed as "tax-havens" by the OECD. As such, the criteria were received poorly by academics and regulatory bodies alike; yet, it seemingly formed the basis for future attempts to categorize "tax-havens."⁵ Of the three main ways to define a "tax-haven," a qualitative-only approach, such as the OECD's, must be considered the least effective. It does not benefit from the strength of specificity enjoyed by Hines' approach; yet, it still retains Hines' western-centric weaknesses. Any purely subjective categorization of a "tax-haven" will be intrinsically biased in favor of the regulatory body/nation seeking to employ such a categorization.

The third approach to "tax-haven" categorization is currently the most popular. It seeks to combine a quantitative and qualitative approach to defining a "tax-haven" in a mixed process. However, since this approach is relatively new, the term "tax-haven" is often replaced with "offshore financial center" (OFC). This semantic difference represents the

⁴"COUNTERING OFFSHORE TAX EVASION" (PDF). OECD. September 2009. p. 3. Archived (PDF) from the original on 11 February 2018. Retrieved 17 June 2018

⁵ Dharmapala, D. (2008). What problems and opportunities are created by tax havens? *Oxford Review of Economic Policy*, 24(4), 661–679. <https://doi.org/10.1093/oxrep/grm031>

rapidly changing environment of jurisdictions that previously offered only tax-mitigating services but have now evolved in response to regulatory initiatives and offer a whole slew of other financial services. The Financial Stability Forum employs the hybrid approach in combination with the International Monetary Fund (FSF-IMF). Though this method of categorization has changed over time, the FSF-IMF defines OFCs as:

1. Jurisdictions that have relatively large numbers of financial institutions engaged primarily in business with non-residents;
2. Financial systems with external assets and liabilities out of proportion to domestic financial intermediation designed to finance domestic economies; and
3. More popularly, centers which provide some or all of the following services: low or zero taxation; moderate or light financial regulation; banking secrecy and anonymity.⁶

The first of these criteria is entirely quantitative, while the second and third are more qualitative. This method of categorization benefits from aspects of objectivity but is still weakened by its reliance on subjectivity. This definition relies on developed nations, such as EU member states, to make judgment calls as to what they believe is a reasonable level of domestic taxation and what is an appropriate ratio of external to domestic economic activity in sovereign states.

1.2 Moving Past "Tax-Haven"

The term "tax-haven" is intrinsically pejorative and essentially inept. Just as scholars and regulators have attempted to improve the methods by which the term is attributed, they have also tried to improve the term itself to little avail. Inspiration for improving the term has come from pushback from offshore financial centers, academics, and even regulatory bodies who know that the term "tax-haven" is ineffectual. The new terms resulting from this pressure to redefine "tax-havens" broadly fall into two categories. The first category consists of terms

⁶ "Offshore Financial Centers: IMF Background Paper." International Monetary Fund. 23 June 2000. Archived from the original on 23 August 2018. Retrieved 4 September 2018.

like "offshore financial center" and "pass-through economy," which are not fundamentally pejorative and attempt to capture the current state (and potentially the future state) of offshore finance in the globalized world. These are the terms used by regulatory bodies like the OECD, the IMF, and even offshore jurisdictions themselves. I will be using the term offshore financial center to describe the Cayman Islands and other jurisdictions of the sort. Ideally, the term "international financial center (IFC)" would be used instead as it is the least pejorative of the terms available and avoids onshore-offshore bipolar discourse. However, due to the limited use of "IFC," OFC will be used instead for engagement purposes.

Before I move to the next category of terms intending to replace "tax-haven," I would like to make a brief note of the recent distinction between OFCs created by the University of Amsterdam's CORPNET group in 2017.⁷ The group divides OFCs into two groups: "sinks" and "conduits." According to CORPNET, sink OFCs are jurisdictions "where a disproportionate amount of value disappears" from the economic system. OFC conduits are jurisdictions where a "disproportionate amount of value" moves towards a sink OFC. Furthermore, the group aptly claims that sink OFCs are most akin to the traditional and increasingly inept definition for OFCs and that conduit OFCs illuminate the evolution of the offshore system. Confusingly, the conduit OFCs are nations that lay people would consider to be "onshore," like the United Kingdom. The paper claims that there are 24 sink OFCs and only 5 conduit OFCs. The Cayman Islands is considered a sink OFC.⁸

The other category consists of terms that have been championed by regulators, governments, and academics who insist on a disparaging and flexible categorization that accommodates the growing number of jurisdictions that offer increasingly diverse financial

⁷ Garcia-Bernardo, J., Fichtner, J., Takes, F. W., & Heemskerk, E. M. (2017). Uncovering Offshore Financial Centers: Conduits and Sinks in the Global Corporate Ownership Network. *Scientific reports*, 7(1), 6246. <https://doi.org/10.1038/s41598-017-06322-9>

⁸ Heemskerk, E., Takes, F., Fichtner, J., Garcia-Bernardo, J., CORPNET, Amsterdam Institute for Social Science Research, & University of Amsterdam. (2017/2018). *Sinks and Conduits: Identifying Offshore Financial Centres by using Big Data* (Winter, pp. 61-63, Rep.).

services. The term "secrecy jurisdiction" is the paradigmatic example of such terms. Often, the term is attributed to offshore jurisdictions that employ the same confidentiality and information exchange standards as most other countries which are "established economies" or influential members of regulatory bodies. Terms like "secrecy jurisdiction" are seemingly intentionally vague and undoubtedly prone to abuse. I will not use them to refer to the Cayman Islands or any other financial center like Cayman.

1.3 Cayman as an OFC

Now that I have established the terms I will be using to describe jurisdictions like the Cayman Islands; I will also briefly explain why international stakeholders use offshore financial centers. That explanation will not be in-depth as an effort to define the myriad services that offshore financial centers provide would merit its own thesis.

Broadly speaking, offshore financial centers attract an international stakeholder by providing a more business-friendly economic environment than that of an international stakeholder's domestic jurisdiction. Features that make an offshore financial center attractive include simple tax laws and legal frameworks, stability and accord with international regulatory bodies, neutrality, and private-public sector collaboration. To be clear, offshore financial centers are not attractive because they allow onshore companies to "shift" their assets and avoid all of their taxes. Domestic jurisdictions inevitably tax the profits made as a result of offshore systems. The significance of many offshore financial centers being "tax-free" is not that they do not employ direct taxation methods but instead that they encourage international stakeholders to take advantage of their financial services as those international stakeholders will not be taxed, again, for doing so. Furthermore, OFCs are not business-friendly in a sordid sense. Reputable offshore financial centers do not actively facilitate money laundering or participate in any flagrantly illegal monetary practices. They are, after all, under the same, if not more significant, scrutiny as any nation participating in

our global economy. Though there are sometimes financial scandals in these jurisdictions, it is also true that there are financial scandals in every jurisdiction. It is hard to say whether there are more of these scandals in places like Cayman or that, because of the notoriety of Cayman, financial scandals in Cayman receive more attention from the global media.

In regards to Cayman, the nation has carved out a place for itself among other offshore financial centers as a jurisdiction that employs no direct taxation and enjoys tailored legal frameworks, British endorsement, stability, a strong track record of working with regulatory bodies, private-public sector collaboration, and a specialty for structuring hedge-funds, private equity funds, and structured finance vehicles. The majority of economic activity relating to the offshore system in Cayman comes from American investment managers and financial institutions. They benefit from Cayman's unique position, enabling the jurisdiction to structure investment vehicles, attract global investors' capital, and facilitate investments around the world. Notably, the American firms do not pay an additional tax to Cayman on the dividends earned on those investments facilitated by Cayman. They must only pay, to the United States, the regular amount of tax on those dividends expected by the United States. To be clear once again, those who profit from financial vehicles created in Cayman must pay the total tax owed to their domestic jurisdictions on their dividends. They do, however, avoid also paying separate taxes to Cayman.

The process above might be elucidated by way of the following metaphor: the Cayman Islands is a renowned bakery specializing in baking fabulous cakes (facilitating profitable investments). Over time, Cayman has collected some of the world's best bakers and developed a knack for creating unique and enjoyable cakes. Because of that, foodies (investors) from around the globe come to Cayman with their favorite cake ingredients and ask Cayman to bake them a bespoke, diverse cake. Cayman then bakes this cake for a competitive price and sends the cake back with the customer without first cutting a slice out

to taste themselves. Upon returning home from the bakery, though, customers must first cut a piece out of the cake (tax) and give it to their local (often hungry) taxman as is expected.

Lastly, Cayman does not have double tax treaties like those used by Amazon to pay almost no corporate tax, meaning no technical sneakiness hides within the cake metaphor. International investors enjoying a Cayman cake really must pay all of their domestic taxes.

1.4 Other OFCs

Now that I have covered the relevant terminology and a brief explanation of offshore financial centers, I will list jurisdictions considered "tax-havens" or offshore financial centers. Over 91 countries have been described as either a "tax-haven" or an OFC at least once; however, I will only list the countries considered by multiple regulatory bodies and task forces to be a "tax-haven" or OFC.⁹ Notably, the United States appears on almost every list. The list below is ordered by frequency of "tax-haven"/OFC attribution and was published by Palan in 2009.¹⁰:

1. Bahamas
2. Bermuda
3. Cayman Islands
4. Guernsey
5. Jersey
6. Malta
7. Panama
8. Barbados
9. British Virgin Islands
10. Cyprus
11. Isle of Man
12. Liechtenstein
13. Netherlands/Antilles
14. Vanuatu
15. Gibraltar

⁹ Palan, M. (2013). Tax Havens 44

¹⁰ *Id.*

16. Hong Kong
17. Singapore
18. St. Vincent and Grenadines
19. Switzerland
20. Turks and Caicos
21. Antigua and Barbuda
22. Belize
23. Cook Islands
24. Grenada
25. Ireland
26. Luxembourg
27. Monaco
28. Nauru
29. St. Kitts and Nevis
30. Andorra
31. Anguilla
32. Bahrain
33. Costa Rica
34. Marshall Islands
35. Mauritius
36. St. Lucia
37. Aruba
38. Dominica
39. Liberia
40. Samoa
41. Seychelles
42. Lebanon
43. Niue
44. Macau
45. Malaysia
46. Montserrat
47. Maldives
48. United Kingdom

This surprisingly long list shows both the ease by which the term "tax-haven," or OFC, can be attributed to nations and the modern evolution of the offshore system. This ease and evolution accounts for the recent appearance and sustained presence of the United States and the United Kingdom on many of the more objective lists of offshore financial centers (post 2009). Currently, just under half the nations in the world have been considered a "tax-haven," pass-through jurisdiction, or offshore financial center by at least one globally recognized regulatory body at some point. It is of less surprise, then, when economists estimate that as of 2015, there are 36 trillion dollars involved offshore.¹¹ Before I continue, I would like to note that many of the figures that estimate the amount of money involved offshore come from questionable sources or are variations on recycled figures produced by a mere handful of government reports on the subject. The reports themselves are often subject to governmental bias, which will be discussed more in the following chapters.

Of particular note, on almost every list, is the Cayman Islands. The Tax Justice Network considers the islands to be responsible for inflicting a "tax loss" of \$70,441,676,611 on other nations and suggests that the jurisdiction is the third-worst (as a measure of moral good) "tax-haven" and the most secretive jurisdiction in the world.¹² The Tax Justice Network is also keen to point out that the money "lost" to the Cayman Islands could pay over five million nurses' salaries for a year.¹³ This type of moral argumentation will be discussed in chapter 6. For now, though, it is crucial to understand that the Cayman Islands is a hot topic of discussion and a significant player in the world of offshore finance.

¹¹ Henry, J. (2019, August 14). Taxing Tax Havens. Retrieved December 10, 2020, from <https://www.foreignaffairs.com/articles/panama/2016-04-12/taxing-tax-havens>

¹² Tax Justice Network - Illicit Financial Flows. (n.d.). Retrieved December 10, 2020, from <https://iff.taxjustice.net/>

¹³ *Id.*

Chapter 2: Demythifying Cayman

To best understand Cayman's current place in the world (and its function in the world economy), it is essential to understand the islands' relevant history and their present condition. In 1962 the Cayman Islands came under direct British rule after Jamaica, who essentially had previous control of the group of lesser islands, declared independence from Great Britain and allowed Cayman to remain loyal to England.¹⁴ Jamaica's independence movement is significant to the story of Cayman for two reasons: it fit neatly within a trend towards instability and independence throughout the Caribbean at the time, and it made clear that a wider federation of Caribbean island nations would not soon be a reality. In the face of such regional turbidity, smaller islands like Cayman opted to give complete control of their jurisdiction to their colonial founders for the sake of security and stability. Though Great Britain already had tremendous influence over the Cayman Islands before 1962 (through Jamaica), direct rule meant that British political forces (and private business interests) had a far greater degree of control over the islands than they had had since the earliest days of Caribbean colonization. That greater control came at a time well into the decline of the British empire and during Britain's decades-long initiative to reconfigure its colonial holdings into more globally acceptable (and respectively viable) "overseas territories." Vanessa Ogle describes the situation of Cayman, and the other colonial and post-colonial islands in the Caribbean at this time, as being representative of an abstract and capitalistic archipelago of overlapping and "lumpy" jurisdictional powers.¹⁵ She argues that this "lumpiness" left room for an abundance of nefarious financial dealings. In a way, the economic frontier of the Caribbean at this time could be compared to earlier days of Caribbean colonization and piracy, as there was plenty of money to be made and very little ability to limit illegal

¹⁴ Government and society. (n.d.).

¹⁵ Ogle, V. (2017). Archipelago Capitalism 1432

dealings. Furthermore, just like during the peak of piracy in the Caribbean, Britain made a concerted effort to capitalize on a dynamic and unstable situation through public policy and targeted private intervention. Thus, upon remaining loyal to Britain after Jamaica declared independence, the Cayman Islands were intentionally, and almost instantly, restructured by Britain to allow for as much foreign capital inflow as possible. In her article, Ogle cites a Bank of England official who wrote that Cayman was "literally raided by an expatriate tax Council, who overnight persuaded them to enact trust legislation which goes beyond anything yet attempted elsewhere."¹⁶ That moment can be understood as the inception of the modern Cayman Islands: an insignificant trio of islands with a very significant legal code. I will go into precisely what this financial structure looked like and facilitated in the coming chapter. What had once been a backwater of Jamaica suddenly had the tools and the backing to become a leading hub of investment by the 1970s and would eventually grow to become one of the world's largest financial centers by the early 2000s.

Once Cayman was primed by the British for finance, the island quickly became well known within the global financial economy. As a result, Cayman had to "look the part" to cultivate international relationships with the world's public and private sectors. Towards this goal, the Cayman Islands was granted a constitution in 1972 by Great Britain that allowed for domestic autonomy. That constitution was amended in 1994 to provide a bill of rights and even further local autonomy.¹⁷ Then, in 1999, Britain solidified the legal position of its neocolonial holdings by formally designating many of them "British Overseas Territories." In doing so, Britain relinquished yet more control over its respective territories while preserving the Union Jack's presence on flags across the world and planting the seeds of self-sufficiency across its domains. Since then, Cayman has been seen as a self-governing jurisdiction that manages its own international affairs, is reliant on minimal aid from Britain, is still

¹⁶ *Id.* 1445

¹⁷ Government and society. (n.d.).

(technically and mostly superficially) beholden to the Crown, and is militarily protected by the UK.

2.1 The Numbers, Not the Nonsense

As of the most recent census conducted on the island (2019), the Cayman Islands' GDP is 5.5 billion dollars with a GDP per capita of 86,000 dollars.¹⁸ The Cayman government reports that about 32% of its GDP stems from "financial and insurance services."¹⁹ Though this percentage is already significant, it is vital to understand that the actual percentage is likely much more significant. That is because the Cayman Islands has no system of direct taxation (which will be appropriately discussed in the coming chapter) and, to procure the funds necessary to sustain a modern government, it implements systems of bureaucracy that attach to the financial sector and generate revenue through requirements such as certification fees which firms must pay to the government to facilitate business. This arrangement means that other portions of the GDP which the Caymanian government reports as separate to the financial services industry, such as "Public Administration and Defence" (5.6%), "Other Services" (3.2%), or "Administrative & Support Service Activities" (2.6%) are possibly just arbitrary distinctions which confusingly detract from the impact financial services has on the island.

A 2009 paper funded by a coalition of Caymanian firms suggested that the financial services sector generated 55% of the country's GDP and directly generated over 40% of all government revenue.²⁰ Since then, the financial services sector has only grown, and it is possible that today, the Cayman Islands is even more reliant on financial services than the

¹⁸ Gdp (current us\$) - cayman islands. (n.d.). Retrieved February 15, 2021, from <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=KY>

¹⁹ Indicators: Gross Domestic Product. (n.d.). Retrieved February 15, 2021, from https://www.eso.ky/indicators_page.html#5

²⁰ Oxford Economics. (2009, February). Economic Benefits of the Financial Services Industry in the Cayman Islands. Retrieved 2021, from <https://www.cifaa.org.ky/wp-content/uploads/2017/08/Cayman-Islands-Financial-Services-Industry-Economic-Impact-Study.pdf>

jurisdiction was in 2009. Additionally, it is essential to note a complex socio-political dynamic in the Cayman Islands, which sees the Caymanian government and the Caymanian finance sector often struggling against each other for political leverage. In this dynamic, the Caymanian government seeks to diminish the degree to which the country relies on its expatriate workforce (which primarily comprises the financial services sector) and foreign investment to justify the implementation of more government-revenue generating controls on the financial sector. Meanwhile, the financial sector seeks to prove its necessity to the people of Cayman and the Caymanian government to protect the sector's favorable business environment from further government intervention. The full extent of this dynamic will be briefly elaborated on later but is, in its entirety, beyond the thesis's scope. I mention the dynamic now, though, to lend credence to the claim that economic reports produced by the Caymanian government may either be conservative when estimating the share of the GDP attributable to financial services or detract from the revenue produced by the sector by creating arbitrary categories which superficially subtract from the percentage contribution of financial services to the islands. Finally, I also wish to acknowledge that economic reports funded by coalitions representing the islands' financial services sector are also likely biased towards that sector. Nevertheless, I argue that the financial services sector most likely comprises much more than 32% of the national GDP but possibly not as much as 55%.

Life in the Cayman Islands may have changed drastically in the last fifty years, but it is not significantly different than any developed, cosmopolitan country today. This fact is reflected in empirical surveys of the jurisdiction's people and economic situation. In 2015, the islands had an unemployment rate of 4.25%, which is only slightly lower than the international average for developed nations (5.5%) produced by the ILO in 2018.²¹ Ethnically,

²¹ Unemployment, total (% of total labor force) (national estimate) - cayman islands. (n.d.). Retrieved February 15, 2021, from <https://data.worldbank.org/indicator/SL.UEM.TOTL.NE.ZS?locations=KY>

the island is 40% Mixed, 20% White, 20% Black, and 20% composed of expatriates from various other ethnic groups.²² When making a basic comparison of income inequality between Cayman and that of other nations (by relating Gini coefficients), the Cayman Islands should be understood as less unequal than the United States but more unequal than the United Kingdom with a Gini coefficient of just under 0.4.²³ In other words, the jurisdiction can be considered as having a moderately uneven income distribution. Finally, of the 70,000 people who reside on the islands as of 2019, just shy of 53% are Caymanians, with the remainder made up of a vast array of different nationalities. Of these additional nationalities, people from Jamaica, India, the Philippines, Canada, the United States, and the United Kingdom are statistically dominant.²⁴

2.2 "Tax-Haven Cayman"

However, the facts, figures, and history of the jurisdiction are entirely out of step with the myth that I will call "Tax-Haven Cayman." The rhyme of this title, or lack thereof, depends upon how the speaker pronounces "Cayman." Caymanians exclusively pronounce Cayman as "kei·mæn," whereas international commentators almost always use "kei·muhn." Ideally, as commentators become more familiar with the genuine Cayman, the rhyme will cease, and so might their perpetuation of the myth.

The Tax-Haven Cayman myth has dominated popular discourse surrounding the jurisdiction and has even, as I will later argue, clouded regulatory decision-making

ILO (2018). World Employment Social Outlook. Retrieved 2021, from https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_615672.pdf

²² Central intelligence agency. (2021, February 08). Retrieved February 15, 2021, from <https://www.cia.gov/the-world-factbook/countries/cayman-islands/#people-and-society>

²³ *THE CAYMAN ISLANDS NATIONAL ASSESSMENT OF LIVING CONDITIONS (2006/2007)* (Rep.). Retrieved 2021, from KAIRI CONSULTANTS LIMITED website: <http://www.legislativeassembly.ky/portal/pls/portal/docs/1/9781687.PDF>

HEALTH IN THE AMERICAS: CAYMAN ISLANDS (Rep.). (2012). Retrieved 2021, from Pan American Health Organization website: <https://www.paho.org/hq/dmdocuments/2012/2012-hia-cayman.pdf>

²⁴ Key Facts and Statistics. (2019). Retrieved February 15, 2021, from [https://www.gov.ky/about-us#:~:text=As%20of%20Fall%202019%2C%20we,male\)%20with%20approximately%2037%2C363%20Caymanians.](https://www.gov.ky/about-us#:~:text=As%20of%20Fall%202019%2C%20we,male)%20with%20approximately%2037%2C363%20Caymanians.)

throughout Europe. Before I dissect the myth, I would like to note that Tax-Haven Cayman may be a myth today, but it was likely a reality sometime in the past. The evolution from Tax-Haven Cayman into the Cayman of today will be elucidated in the next chapter.

Tax-Haven Cayman is often, but not always, suggested as being composed, almost entirely, of wealthy bankers and lawyers (of a given nation determined by the nationality of the participant in the myth). Furthermore, Tax-Haven Cayman is populated exclusively by the world's ultra-wealthy. Every car is a supercar, everyone is a supermodel (except for the greasy lawyers), and every house is a super mansion. Furthermore, and this is the most accurate part of the myth, Tax-Haven Cayman has an almost fictitious climate where the temperature never drops below seventy-five, and the sun shines nearly all year on crystal clear waters, silky sands, and plenty of corporate office buildings. Comically, many of the films which make use of this more aesthetic aspect of the Tax-Haven Cayman myth don't even film their b-roll footage in Cayman. Those watching films or documentaries purportedly about Cayman are often treated to sequences of water-skiers in St. Lucia or beachgoers in the Bahamas. These slothful film-making techniques never fool a Caymanian resident but always seem to go down well with an international audience. It is frankly shocking how many films and documentaries about Cayman don't even depict Cayman. Finally, the Tax-Haven Cayman myth has been professed as reality for decades through pop-culture and political soundbites, which inevitably do a tragic disservice to Caymanians, the greater people of Cayman, and the jurisdiction's peculiar history.

Examples of Tax-Haven Cayman abound, but for this thesis, I will only discuss a few. First, I will mention the Cayman Islands' portrayal in *The Simpsons* season 7, episode fifteen: "Bart the Fink." In the episode, Krusty the Clown is exposed as a colossal tax cheat who abuses a "secret, illegal account" in the Cayman Islands. Throughout the few short moments when the Cayman Islands is depicted, almost every trope of the Tax-Haven Cayman myth

appears: corporate buildings on a sandy beach, a fat, bald, and sinister lawyer fanning himself, and a mention of the tropical climate. Although only a brief portion of an animated cartoon, this depiction of Tax-Haven Cayman undoubtedly reached a broad audience when it aired in 1996.

Also, in 1996, "The Firm" was released with Tom Cruise in the lead role. This film adaptation of the 1991 novel of the same name used Tax-Haven Cayman as the perfect setting for a myriad of skullduggery and shady dealings, complete with thoroughly Hollywood expectations of intrigue, sex, violence, and tax evasion. In reality, avoiding taxes is far less sexy. Though the film was shot in Cayman and made a reasonable effort of portraying what life on Grand Cayman is like, the film's plot fully leans into the scummy lawyer trope. The film is now quite old, but its staying power is evident. Articles published recently, such as Peter J Reilly's 2018 Forbes article "Cayman Islands Not Just A Mailbox And Not Like You Saw In 'The Firm.'" clearly draw heavily on the film's sustained popularity.²⁵

Finally, and much more recently, a piece of "investigative journalism" was produced by Jacques Peretti and the BBC entitled "Trillion Pound Paradise: Inside Cayman." This rigorously inaccurate documentary was released in 2016, and it is, by far, the most forced attempt at depicting a gaudy, mega-rich, and exceedingly unequal Cayman yet produced. Peretti, who is evidently speaking exclusively to a British audience, assumes throughout the whole documentary that Cayman is under direct British rule and that it should be wholly subservient to British interests. Furthermore, he entirely misunderstands the indirect taxation system implemented in Cayman and is thoroughly ignorant of how international investors interact with the offshore financial center. He employs shockingly colonial reasoning throughout the film and is, unfortunately, in step with much of the neocolonial rhetoricians

²⁵ Reilly, P. (2018, September 07). Cayman islands not just a mailbox and not like you saw in 'The Firm.' Retrieved February 16, 2021, from <https://www.forbes.com/sites/peterjreilly/2018/09/04/cayman-islands-not-just-a-mailbox-and-not-like-you-saw-in-the-firm/?sh=2b65bd19592b>

dominating the political scene of Europe today. Throughout his time on Grand Cayman, Peretti travels around in what Grand Cayman residents can quickly recognize as one of only a couple of supercars existing on the island. Of course, he does his best to convince the audience that almost everyone on the island drives a Ferrari. The citizens of Cayman who invited Peretti into their homes and toured him around the island were tricked into thinking the film would be about the realities of life in Cayman and that they were to represent examples of how Caymanians could succeed because of the opportunities provided on the islands. Peretti twists that disingenuous hoodwink into the narrative that he was given "unprecedented" access into the secretive island affairs when, in reality, he was graciously invited into the private lives of the most wealthy Caymanians and had as much access to the country's largely public record of transactions as any citizen would expect to have in any liberal democracy in the world. Clearly, though, he did not comprehend any of it or was motivated to abuse the Tax-Haven Cayman myth's popular draw.

I must write at such length about these attempts to cash in on Cayman's novelty because the concepts that these films, cartoons, and documentaries purport are often the only exposure that the world has to Cayman. The island is not dotted with supercars (in fact, the often submerged, potholed roads seriously discourage them), the island is not populated entirely by white lawyers, and the island is not an embarrassing British secret which, at any moment, can be "shut down" by the UK government (as said by Peretti). Those are empirical supported facts. Later in this thesis, I will show how the false expectations promoted by Tax-Haven Cayman show themselves in the rhetoric of politicians in Europe and America and how the myth of Tax-Haven Cayman has been thoroughly abused (knowingly or unknowingly) to justify the systematic dilution of Caymanian financial competitiveness. If Descartes was a beach-going Caymanian, he might have instead said in *Discourse on the*

Method that "the disquisitions of the European regulators are towering and magnificent sandcastles with no better foundation than more sand and mud."

Briefly, before moving on to the next chapter, I would like to make special note of the racial and socio-political complexities of Cayman with relation to my claims. In no way do I mean to suggest that the Cayman Islands' expatriate lawyers are being harmed in any significant way other than financially by the prejudiced views of Cayman. I do, however, suggest that Caymanians are thoroughly disrespected by the plentiful examples of unfair depictions of Cayman. Cayman should not be a convenient setting inaccurately transplanted through media and used as support for more aggressive tax policies around the world, fodder for those with a distaste for the world's 1%, or as a way to draw viewership by exploiting the jurisdiction's novelty factor. Cayman is a developed jurisdiction with its own people, history, and culture. It ought to be respected as such.

Chapter 3: Why Cayman?

Now that the country's history is somewhat explained, its economic situation elucidated, and many of the misconceptions about Cayman are acknowledged, in this chapter, I will detail exactly why Cayman was such a competitive jurisdiction in the 1960s and why it continues to be competitive for different reasons today. As noted in chapter 1, the world of global finance is constantly changing, and, as recognized in chapter 2, modern Cayman was designed to satisfy the interests of such a world. Thus, Cayman has been an enticing location to conduct business for different reasons at different times, depending on the changing needs of global finance.

In the 1960s, when Cayman first entered the global stage, Britain was declining, and the Bretton Woods system was in full effect. Currency controls resulting from the Bretton Woods agreement made investments in foreign countries exceptionally difficult; so, financial management hubs such as the City of London eagerly searched for ways around the agreement in order to be able to manage international capital. Palan, during an interview for the film "The Spider's Web: Britain Second Empire," explains how these factors combined to create an unregulated, offshore market in the 60s:

Obviously, they (banks specializing in investment abroad) were unhappy. We don't know exactly the context, but it's very clear that the commercial banks, or their representatives, made a representation to the Bank of England, which, in itself, was dominated by representatives from the commercial banking industry... it seems that they reached an agreement which was never written... it was accepted that if the banks intermediated between two non-residents in a foreign country (in a different currency); that this particular deal would not be considered by the Bank of England under its own jurisdiction... that particular deal meant that... essentially no one was

regulating (these banks). A new market emerged: we call it the Euromarket or the offshore market which was unregulated, completely unregulated.²⁶

This market, according to Palan, grew incredibly quickly as financiers from the City of London recognized the potential of a global, unregulated market. It is no surprise, then, that Cayman became a global hub of investment almost overnight once the jurisdiction's legal code was overhauled by the mid-1960s. The islands, which had since only witnessed destructive hurricanes of salt and sea, now saw an unprecedented storm of cash raining down. During this time, Cayman was successful not because of its complicated legal structures or sustained cooperation between its public and private sector but because of the concerted effort of a few visionary and highly educated individuals to take advantage of the City of London's need for a new place to do business. These thrifty individuals often acted as guiding hands from the City of London (as succinctly illuminated by Ogle); however, some were Caymanians operating out of Cayman. One of these individuals was Sir Vassal Johnson, an accountant who immigrated to Cayman from Cuba in 1934 and employed his education adeptly in various ways as a government official.²⁷ Sir Johnson is most widely credited as the leader of the Cayman-based initiative to create a globally enticing jurisdiction. In his autobiography, "As I See It: How Cayman Became a Leading Financial Center," Johnson writes:

²⁶ Oswald, M. (Director). (2021, February 17). *Ronen Palan - the spider's web film - bonus material* [Video file]. Retrieved February 23, 2021, from <https://vimeo.com/178210332>

²⁷ Governor's tribute to SIR Vassel. (n.d.). Retrieved February 23, 2021, from <http://gov.ky/portal/page/portal/cighome/pressroom/archive/200811/governortributetosirvassel>

In the early stages of Cayman's rise to international prominence as an offshore centre, it became necessary to study and to grasp quite fully the basic needs and requirements to achieve and maintain that position. Those fundamental ingredients were political stability, excellent telecommunications, reliable air services, relative freedom in the movement of international currencies, dependable financial services, flexible laws and no form of direct taxes such as income tax, corporation tax, estate tax and inheritance tax. All those requirements also demanded the exercise of technical skills, political acumen, and patience. In the process it was necessary to get the message across that the advantages of the Cayman tax haven facilities were not merely 'tax avoidance' as such. It also included peace of mind on the safety of investments based here and the assurance that one was dealing in an offshore situation that offered advantages beyond many other destinations with their burdensome monetary systems and exchange control regulations.²⁸

Though it is true Sir Johnson, in writing his autobiography in 2001, benefits from a great deal of hindsight, it is not altogether unlikely that he did recognize the opportunity presented to the Cayman Islands in the 60s and knew how to capitalize on that opportunity. Evidence shows that Cayman was aware of its potential to become an offshore hub as early as 1960 when the islands passed the Companies Law, which "ensured both individual and corporate freedom from direct taxation, an improvement on the possibilities for tax avoidance offered by the Bahamas and other Caribbean competitors."²⁹

3.1 A Tax-Neutral Tradition

Importantly, Cayman was, even before the financial shakeup of the 60s, what Sir Johnson considered a "natural tax-haven," which meant that Cayman had no direct form of taxation.³⁰ Cayman, which was first settled in the early 1670s, *never* had a direct form of taxation as the collection of duty on import was far more practical as a way of efficiently

²⁸ Johnson, V. (2001). *As I see it: How Cayman became a leading financial centre*. Book Guild.
<http://books.google.com/books?id=Zs1DAAAAYAAJ> 110

²⁹ Freyer, T., & Morriss, A. (2013). Creating Cayman as an offshore financial center: structure & strategy since 1960. *Arizona State Law Journal*, 45(4), 1297–.

³⁰ Johnson, V. (2001) *As I see it* 111

raising tax revenue for the historically seafaring nation.³¹ Today, Cayman collects taxes through many systems of indirect taxation such as the aforementioned duty, work permit fees, "stamp tax, company registration and annual fees, banks and trust companies licensing fees, tourist accommodation tax, and many smaller measures."³² This naturally "tax-free" environment (which really is an environment of indirect taxation) was favorable for businesses operating on the island; however, before the 60s, there were scant large-scale businesses in operation.

So, the genius of the 1960s Companies Law, then, was to bolster the favorable business environment coincidentally existing in Cayman by taking a page out of British common law and recognizing that a company can be a legally separate entity from the individual operating it and that the company, not the individual, could be held liable.³³ The fact that such a concept legally appeared in a jurisdiction that had no system of direct taxation is not merely coincidental; yet, claims that the Cayman Islands cunningly created a low-tax environment to capitalize on the global business interest at the time are not necessarily supported. Caymanians, and their foreign advisors, simply applied the system of tax with which they had maintained since the settling of the islands to the flexible and novel legal concepts of company law, which appeared in Britain in 1948.³⁴

The initiatives of the 60s to capitalize on Cayman's naturally favorable business environment did not stop with the Companies Law. As noted by Tony Freyer in his exceptional legal, historical survey of Cayman; by 1966, "two pivotal pieces of legislation: the Banks and Trust Companies Regulation Law (copied from the Bahamas) and the Trusts Law (drafted with an English barrister, Milton Grundy)" had been created by a skilled, resident expatriate (William Walker) and formally enacted in Caymanian.³⁵ According to

³¹ *Id.* 111

³² *Id.* 111

³³ Freyer, T., & Morriss, A. (2013). *Creating Cayman* 1315

³⁴ *Id.* 1315

³⁵ *Id.* 1326

Freyer, "each law extended the philosophy behind the 1960 Companies Law to new fields, implementing a policy of diversification and expansion that continues into the present and which contrasts with other 1960s-era OFCs."³⁶ The Banks and Trust Companies Regulation Law implemented the idea of a "ring-fenced model," which had been established by Curaçao during the 1950s.³⁷ That model divided the Caymanian banking/trust sphere into two spaces. The first space was dedicated to banks/trusts, which operated domestically in Cayman and was more regulated than its alternative space. The second space was devoted to banks/trusts doing business through Cayman but which were "solely offshore entities."³⁸ Freyer points out that banks/trusts operating in this latter space were required to have a domestic presence on the islands and were supervised. Thus, even banks/trusts that were not physically operating in Cayman were required to invest in Cayman infrastructure lest there would be no place to open a domestic office.

Other countries in the Caribbean (and around the world), either prompted by the Bretton Woods environment or inspired by the 1948 English Company Law, had already begun, or would soon begin, a similar process of preparation for foreign investment as did Cayman. To retain and develop their newfound success on the global stage, then, Cayman had to do more than weave a metaphorical, silver-thatch rope of low-taxation and favorable company laws. They also had to tie it to investors abroad and spend decades methodically reeling them in and capturing business.

3.2 The Snowballing Success of the 70s and 80s

In the 70s and 80s, Cayman sustained its success by embarking on what would eventually become, and what continues to be, a fifty-year long adventure of close collaboration between the Caymanian private sector, the Caymanian public sector, the rapidly increasing community of highly specialized and ingenious expatriate lawyers and bankers,

³⁶ *Id.* 1326

³⁷ *Id.* 1328

³⁸ *Id.*

and leaders in Great Britain. This collaboration was, and still is, motivated by the following concept: for Cayman to outperform its competitors, the islands must be legally capable of facilitating and securing global investments and be more secure, stable, competent, and clean than its competitors.

Keep in mind that in the early 60s, Caribbean federalization attempts failed, leaving the region in partial disarray. Furthermore, the racial and socio-economic inequalities born of the Caribbean's horrendous history of slave dependence fostered an unstable socio-political environment that worried outside investors. Some have claimed that the apprehension about investing in islands undergoing racial reckoning was born more of racism than business concerns. Regardless of why American investors avoided investing in other Caribbean islands, it is true that Cayman was not avoided as much.³⁹ By contrast, the Cayman Islands proclaimed to the world that it sought not sovereignty but stability instead when the nation decided to remain under direct British control after Jamaica's independence. Additionally, because Cayman had a different history of slavery (due, in part, to its less-favorable agricultural conditions), the islands enjoyed an extraordinary level of racial and socio-economic cohesion by the 60s. When visiting the islands to assist Cayman in its self-governing capacities, the Earl of Oxford and Asquith noted, "there is at present, no marked stratification of society by colour, age, wealth, class or education."⁴⁰ To be clear, Cayman was by no means a post-racial utopia. Arguably, Caymanian society's relative equality was driven primarily by the absence of opportunity equally presented to the entire nation up until 1960. However, it is essential to note that outside observers, such as the Lord of Asquith, *believed* that Cayman was racially, politically, and socio-economically stable, especially compared to the other Caribbean nations. This belief is reflected in the increase of financial activity in Cayman throughout the 70s.

³⁹ *Id.* 1330

⁴⁰ Craton, M. (2003). *Founded upon the seas : a history of the Cayman Islands and their people* / Michael Craton and the New History Committee. Ian Randle. 320

According to Freyer (who surveyed interviews with William Walker), what started as twenty firms created after the introduction of the 1960 Companies Law grew to a couple hundred in a few more years and later to 7,521 registered companies, 126 banks and trust companies, and one captive insurance company in 1976.⁴¹ There were only 13,000 people on the islands at this time.⁴² Caymanians such as Vassal Johnson and other keen expatriates such as William Walker and, later, John Maples (who was eventually granted a seat in the UK House of Lords), Timothy Ridley, and Anthony Travers (and more) readily capitalized on the jurisdiction's momentum.⁴³ By the end of the 70s, Cayman had secured further constitutional autonomy, introduced the Cayman Dollar (tied to the US Dollar), enacted the Caymanian Protection Law (which made sure that the wealth accrued from the offshore system also benefitted Caymanians), and enacted the Confidential Relationships (Preservation) Law and its accompanying amendments (which "regulated foreign tax and law enforcers' access to confidential financial information").⁴⁴ Importantly, the latter law actually expanded the ability for foreign tax and law enforcers' to have access to confidential information and also provided an additional mechanism to facilitate disclosure of confidential information where a person obtains the approval of the Cayman Court to do so. The implementation of these laws simultaneously solidified Cayman's status as a "tax-haven," according to the term's primordial use, and also elucidated Cayman's intention to cast a broad net and engage in many types of offshore business other than banking. If Palan's understanding of why the world initially began using offshore jurisdictions (so that investment banks could still profit during the Bretton Woods period) is correct; then, by the start of the 80s, Cayman had already evolved past its initial function in the globalized economy by providing a slew of services unrelated to investment banking. This rapid change in usefulness and offerings is at the heart

⁴¹ Freyer, T., & Morriss, A. (2013). *Creating Cayman* 1330

⁴² Cayman islands. (n.d.). Retrieved March 07, 2021, from <https://data.worldbank.org/country/KY>

⁴³ Freyer, T., & Morriss, A. (2013). *Creating Cayman* 1333

⁴⁴ *Id.* 1347

of why defining and regulating the offshore world is so tricky. Additionally, the privacy protected by the Confidential Relationships (Preservation) Law became a new and enticing feature of Cayman's jurisdiction. The question of whether or not "privacy" amounts to "secrecy" in this context and whether or not such "privacy" or "secrecy" allows for increased activity of illegal transactions is hotly debated, and I cannot adequately cover the subject in this thesis. For now, though, it is essential to note that the Confidential Relationships and (Preservation) Law was not a sneaky invention of the Cayman Islands legislature but, like all of the other legislation mentioned thus far, merely a regurgitation and adoption of legal principles previously established and upheld in England, instead.

By the 80s, Cayman had put into place most of the legal cornerstones which allowed for rapid growth as a dynamic offshore financial center and would then spend the following decades defending the jurisdiction from various regulatory authorities, expanding sovereignty through constitutional augmentations, and codifying mutual, international agreements aimed at increasing the level of diplomatic communication between Cayman and major trading blocs/nations. Though a detailed survey of the years from 1980 to today would assist in further understanding the ethical arguments which will soon feature in this thesis, the complexity of the back and forth struggle between Cayman and politicized regulatory bodies and nations cannot be appropriately covered here and is ultimately beyond the scope of this thesis. I will, instead, offer some of the most notable moments of contention/remedy between Cayman and others during this time and explain the significance of those moments. If one wishes to dive deeper into the subject, Freyer's extensively referenced law review article provides a fantastic opportunity.

3.3 The Tradewinds of Change Start Blowing

In 1965, the Internal Revenue Service launched an investigation into American financial activities in the Bahamas dubbed Operation Tradewinds.⁴⁵ The operation continued for a decade, eventually successfully infiltrating Castle Bank and Trust, a bank based in the Bahamas and operated in the Cayman Islands.⁴⁶ According to Alan Hudson, who was a Ph.D. student of Human Geography at Cambridge when he covered Cayman and the Castle Bank scandal, "Castle Bank was involved in a complex web of financial transactions, laundering money from the Mafia, hiding funds from the IRS, and counted clients such as the eccentric billionaire Howard Hughes, the casino operator Meyer Lansky, the Colombian drug baron Robert Vesco, the Bahamas' Prime Minister Lynden Pindling, the CIA and possibly Richard Nixon."⁴⁷ Hudson, himself, borrows heavily from Alan Block's writing (an emeritus professor of crime, law, and justice at Penn State) in *Masters of Paradise: Organised Crime and the Internal Revenue Service in the Bahamas*.⁴⁸ Block's text covers the Castle Bank situation in astonishing detail, and he considers the confidentiality laws of the Cayman Islands as relevant to Castle Bank's defense in the United States. Notably, when the manager of Castle Bank's branch in Cayman was asked to testify in America and respond to questions about the bank's business, he claimed that, should he testify, he would be breaking the privacy laws of the Cayman Islands.⁴⁹ He made this claim even after the US guaranteed him immunity from prosecution, should he testify. That manager's claim, however, was untrue. Though he did not know it at the time, the government of the Cayman Islands had taken a cooperative stance with the IRS and guaranteed not to prosecute the manager of Castle Bank should he testify.⁵⁰

⁴⁵ Hudson, A. (1998). Reshaping the regulatory landscape: border skirmishes around the Bahamas and Cayman offshore financial centres. *Review of International Political Economy : RIPE*, 5(3), 534–564.

<https://doi.org/10.1080/096922998347516>

⁴⁶ Freyer, T., & Morriss, A. (2013). Creating Cayman 1347

⁴⁷ Hudson, A. (1998). Reshaping 547

⁴⁸ Block, A. (2020). *Masters of Paradise: Organised Crime and the Internal Revenue Service in the Bahamas*. Routledge. 254

⁴⁹ Hudson, A. (1998). Reshaping 547

⁵⁰ Block, A. (2020). *Masters* 255

This cooperative effort echoes a report produced by Operation Tradewinds and summarized by Freyer: "Cayman accounted for only a small amount of illicit funds, with the Islands' bank supervision described as 'competent,' the government as 'honest' and 'now interested in eliminating such criminal operations as may be active in the islands, including laundering.'"⁵¹ Both Hudson and Block agree that Castle Bank was involved in a plethora of nefarious actions and that the privacy provided by the Caymanian legal system assisted in defense of Castle Bank's manager to some extent; however, it is unclear just how much nefariousness resulted from the Cayman branch and how much was a result of the Bahamian business environment. The Operation Tradewinds report, at the very least, suggests that Cayman should not be seen as complicit in Castle Bank's dealings and that Cayman was willing to comply with the criminal investigations launched by other nations into Cayman's affairs as early as the 70s.

Cayman's first entirely domestic scandal was in 1974 when Jean Doucet's bank (Interbank) was alleged to have been involved with the Mafia. Eventually, that claim was found to be unsubstantiated; yet, during the ensuing controversy, "problems with the bank's handling of gold were discovered in the investigation."⁵² Doucet was imprisoned off-island for his offence. Cayman's Critics, such as the Tax Justice Network, see Doucet's debacle as evidence that Cayman was complicit in nefariousness from the OFC's inception.⁵³ Others, such as Freyer, see the Interbank scandal as a learning moment for Cayman, which was met with expedient efforts by the jurisdiction to move away from such dealings.⁵⁴

In 1986, the United States criminalized money laundering. Almost simultaneously, a treaty was created between the US and Cayman, which effectively saw Cayman doing everything within its power to aid in US investigations into financial nefariousness, including

⁵¹ Freyer, T., & Morriss, A. (2013). Creating Cayman 1350

⁵² *Id.* 1347

⁵³ Cayman: A hotspot of zero-taxes, legalised secrecy and "light touch" regulation. (2014). Retrieved March 17, 2021, from <http://taxjustice.blogspot.com/2014/01/cayman-hotspot-of-zero-taxes-legalised.html>

⁵⁴ Freyer, T., & Morriss, A. (2013). Creating Cayman 1342

drug trafficking and tax fraud.⁵⁵ The speed at which these measures were put in place and the scope of the safeguards implemented led the Financial Action Task Force (an organization initiated by the G7 to combat global money-laundering) to conclude that Cayman was the first and only Caribbean jurisdiction in full compliance with the organization's recommendations during their early evaluations of Caribbean islands.⁵⁶ Furthermore, as the Financial Action Task Force increased its expectations for countries throughout the years, Cayman was most expedient in changing the islands' practices to meet those expectations.⁵⁷ Critics of Cayman argue that, regardless of the expediency of their response, the posture of Cayman is defensively reactive to regulations prohibiting nefarious transactions. They argue that such a posture shows Cayman only assists in investigations when caught red-handed or forced to do so by other means. Others, such as Freyer and officials in Cayman, claim that Cayman cannot afford a reactive posture because international stakeholders taking advantage of Cayman's services would quickly lose confidence in their investments, and the jurisdiction's viability, should Cayman be in continual violation of international regulations.⁵⁸ These competing viewpoints will be further evaluated in the coming chapters.

3.4 Cayman vs. the EU

Finally, and most recently, the Cayman Islands has been in a life or death struggle with the European Union since 2017, once the EU created the "EU list of non-cooperative tax jurisdictions." The ethical implications of what most refer to as "the EU blacklist" will be elaborated upon at length in the coming chapters. For now, though, it is essential to know the list's criteria and Cayman's status on that list over the last few years. The EU places a jurisdiction on its blacklist if any of these three features exist in that jurisdiction: lack of transparency, "harmful tax regimes," or a failure to commit to the "OECD's Base Erosion and

⁵⁵ *Id.* 1363

⁵⁶ *Id.* 1365

⁵⁷ *Id.*

⁵⁸ *Id.* 1365

Profit Shifting (BEPS) minimum standards."⁵⁹ The intricacies of the BEPS minimum standards are wholly too complex to be mentioned here. Still, the BEPS standards can be said to exist, generally, to prevent multinational corporations from taking advantage of mismatching systems of taxation between countries. Additionally, the consequences of blacklisting will be discussed later but understand, for now, that blacklisting could seriously jeopardize an OFC's competitive viability by complicating business with EU member states, scaring away non-European stakeholders, and forcing additional regulatory or reporting inefficiencies upon free enterprising jurisdictions. Furthermore, and comically, EU member states (many of whom would likely feature) are entirely exempt from this list. On December 5th, 2017, the Cayman Islands was placed on the EU greylist (which can be seen as a warning of future blacklisting lest changes are made) alongside 47 other jurisdictions such as Hong Kong, Greenland, Jordan, and Switzerland. On the 18th of February, 2020, Cayman was moved from the greylist and placed on the blacklist, which was, at the time, comprised of 12 jurisdictions, including the US Virgin Islands. The Cayman Islands government claims that this blacklisting came entirely due to the jurisdiction missing a deadline to submit the revisions already made to the island's private funds legislation by a few days.⁶⁰ A few months later, reflecting the speed at which Cayman complies with international requirements, Cayman was removed from the blacklist (and greylist) on October 6th of that year. Cayman's removal was met with widespread controversy (within the EU) as Cayman, as I argued earlier, has been thoroughly mythified and exists as a villainous caricature of all OFCs in the eyes of critics of the offshore system. For example, the chief executive of the Tax Justice Network responded in a tweet: "This is an extraordinary decision, and hard to know whether

⁵⁹ [Questions and answers on the EU list of non-cooperative tax jurisdictions](#). Brussels, 12 March 2019. European Commission Press Release Database.

⁶⁰ Fox, B. (2020, October 07). Cayman islands removal from EU blacklist PROMPTS backlash. Retrieved March 18, 2021, from <https://www.euractiv.com/section/economy-jobs/news/cayman-islands-removal-from-eu-blacklist-prompts-backlash/>

it's testament to the lobbying efforts of the world's worst financial secrecy jurisdiction, Cayman, or the sheer methodological ineptitude of the EU blacklist."⁶¹ Additionally, a news brief posted by the European Parliament following Cayman's delisting, which largely quotes Paul Tang (Chair of the Subcommittee on Tax Matters), reads: "'The truth is, the list is not getting better, it's getting worse. Guernsey, the Bahamas, and now the Cayman Islands are only some of the well-known tax havens that member states have taken off the list... That is why the parliament strongly condemns the recent delisting of the Cayman Islands and calls for more transparency and stricter listing criteria...'" The fact that the Cayman Islands has just been removed from the blacklist, while running a 0% tax rate policy, is proof enough of this, MEPs say."⁶² In another meeting, Tang was quoted as saying, "a list of tax havens that fails to include the world's biggest tax haven (Cayman) doesn't really deserve to carry the name."⁶³ Though the European Parliament is a separate entity from the EU body which decides what jurisdictions are placed on the blacklist, it is clear that there is significant pressure from major political forces within the EU to once again blacklist Cayman by virtue of Cayman simply being Cayman.

⁶¹ *Id.*

⁶² EU tax haven blacklist is not catching the worst OFFENDERS: News: European Parliament. (2021, January 21). Retrieved March 18, 2021, from <https://www.europarl.europa.eu/news/en/press-room/20210114IPR95631/eu-tax-haven-blacklist-is-not-catching-the-worst-offenders>

⁶³ Cayman faces new EU blacklisting - Cayman Islands headline news. (2021, January 04). Retrieved March 18, 2021, from <https://caymannewsservice.com/2021/01/cayman-faces-new-eu-blacklisting/>

Chapter 4: Ethics, Taxes, and International Business

In his 1952 article "Ethics and Taxes," Alfred G. Beuhler (previously America's foremost academic tax-expert and professor of public finance at the Wharton School of Finance and Commerce) succinctly acknowledged the roles of, and connection between, ethics, economics, and all aspects of taxation:

Ethics provides us with judgments of human behavior in terms of standards of what ought to be... Taxation is the art of compelling persons to support government with monetary payments... In economics the relations of man with his material environment and his fellow men are studied. When economics is applied to solve social problems, it becomes an art directed toward what ought to be and inevitably entails ethical judgment... To bridge the gap which economic analysis is unable to close, the economist is prone to fall back on ethics in making value judgments. The businessman, the tax practitioner, the tax official, and the citizen also often rely upon basic ethical conceptions of what they regard as good or bad, desirable or undesirable in the apportionment of taxes.⁶⁴

Broadly speaking, citizens are born into their respective nations and are, upon reaching a certain age and income, expected to contribute to those nations through tax (among other things). Citizens are not free to avoid this obligation altogether and, ethically, this is understandable. In the modern state, taxation is essentially a way to spread the burden of existence across an entire society. Those who cannot contribute to the community are cultivated and protected by institutions funded by those who are already eligible to be taxed. Later, when those previously nontaxable individuals reach a point when they can contribute to society and be taxed, they support those who came before them who become too old to contribute to the community financially. However, the question is just how much responsibility does a citizen have to his society and his fellow citizens? How much tax is one

⁶⁴ Alfred G. Beuhler. (1952). ETHICS AND TAXES. *Proceedings of the ... Annual Conference Under the Auspices of the National Tax Association*, 45, 279–280

morally obligated to pay? Does the ethics of taxation change if tax revenue is used in ways that do not directly benefit society or the individual taxpayer? What if tax revenue is used to fund a war of territorial expansion?

The question "how much tax should an individual pay?" is incredibly morally complicated. Robert W. McGee broadly sees three views in the ethical debate surrounding a citizen's moral obligation to pay all of his required tax. In his article, "Three Views on the Ethics of Tax Evasion," he labels these three views as the view that that tax evasion is never ethical, the view that tax evasion is always ethical, and the view that tax evasion is sometimes ethical.⁶⁵ The problem here, though, aside from the unhelpfulness of the obvious categories, is that no deference is made to the distinction between "tax evasion" and "tax avoidance." I reference McGee not because of his arguments' strength but because his absence of nuance regarding avoidance and evasion is emblematic of many ethical analyses of taxation, especially concerning OFCs such as Cayman. To "evade" taxes is to not pay one's lawfully required amount of tax (and is therefore illegal). To "avoid" taxes is to organize one's affairs so as not to pay more tax as would otherwise be required.

Each of McGee's acknowledged categories essentially hinges upon the degree of sanctity with which one views the rule of law; yet, in the real world, very few companies outright violate the law and must be, for competitive reasons, wholly submissive to the rule of law. Much more often, companies employ a series of legally available techniques to mitigate the amount of tax that they must legally pay. Naturally, this further complicates the issue of ethics and tax. Since most companies using OFCs are in full compliance with the law, helpful philosophical principles that center around following the rule of law are of no use in determining which companies act unethically and which ones act ethically. The following

⁶⁵ McGee, R. (2006). Three Views on the Ethics of Tax Evasion. *Journal of Business Ethics*, 67(1), 15-35. Retrieved March 25, 2021, from <http://www.jstor.org/stable/25123849>

paragraph discusses the ethics of legal tax avoidance and does not seek to explore the ethics of illegal tax evasion.

In order to ethically evaluate the tax strategies of large corporations that employ legal tax mitigation techniques, evaluations must hinge not upon an actor's deference to the rule of law but instead upon an evaluator's expectation (or lack thereof) for a company to contribute to society in some additional way other than by fulfilling their basic moral duties to their shareholders. For example, if a company is offered two tax mitigation strategies, option A and option B, where both options are in full compliance with the law, but option A means the company will have to pay less tax, then the company has scant reason to choose option B other than to satisfy some extraneous moral duty less germane than their duty to their shareholders. Furthermore, a company generally has a moral obligation to its shareholders (assuming that the company is solvent) to secure the most favorable returns (while acting per the law). It is also likely that by choosing tax strategy B, the company would violate its moral obligation to its shareholders by sacrificing efficiency or dedicating resources to fulfill additional moral duties. As the famous judge Learned Hand once wrote in his dissenting opinion of *Commissioner of Internal Revenue v. Newman*, 159 F.2d 848 (2d Cir. 1947), "Over and over again courts have said that there is nothing sinister in so arranging one's affairs as to keep taxes as low as possible. Everybody does so, rich or poor, and all do right, for nobody owes any public duty to pay more than the law demands: taxes are enforced exactions, not voluntary contributions. To demand more in the name of morals is mere cant."⁶⁶ Hand's opinion is pragmatic. Though, indeed, the popularity of a practice is not sufficient to ascertain the permissibility of that practice, it is also true that Hand's proclamation aptly recognizes that efforts to mitigate one's tax profile are commonplace, attractive, and seemingly natural. Upon relocating this comment to the context of business

⁶⁶ *Commissioner v. Newman*, 159 F.2d 848, 850-51 (2d Cir. 1947) (dissenting opinion).

competition, it is hard to see how a company may still fulfill its moral obligations to its shareholders by ignoring the competitive landscape and attempting to make "voluntary contributions," in hopes of remedying some societal ill which is, at best, tangentially related to the company's shareholders. Indeed, shareholders might be spread across different jurisdictions and tax systems, as might the company's operations. It seems, then, that companies who act in accordance with the law but employ effective tax mitigation strategies should not be seen as acting impermissibly solely by their effective tax mitigation unless they are expected to act charitably (or fulfill some moral duty other than their primary duty to their shareholders). Additionally, the very attempt to act in accordance with some moral duty other than that to their shareholders, or in accordance with their constitutional documents, will likely jeopardize their primary responsibilities to their shareholders in some way.

There are those who expect companies to act charitably; or, more precisely, expect companies to act according to the law and act in accordance with moral principles not fully accounted for by the law. The varying expectations for companies to go "above and beyond" essentially boils down to non-financially driven political agendas. For instance, and from the American perspective, a liberal observer might expect a company to take stances against what they perceive to be social injustices and to, then, employ efforts to rectify those injustices, even though such measures are not always required by law nor in accordance with basic principles of business. These extra-legal, moral expectations often prompt companies to act charitably by funding scholarships, supporting charities, or expending other company resources for the good of society. Whether or not companies' efforts to comply with these expectations reflect a shared moral agenda or, instead, a business-savvy and cynical attempt to make the company as attractive as possible is up for debate. Regardless, though, it is clear that companies are expected to do more than just business by many, and this view is seemingly becoming more popular.

This question, then, arises: "exactly how much more than their legally obligated portion of tax must a company pay in order to meet with these extra-legal, morally driven moral expectations?" There is a seemingly endless list of societal issues which need philanthropic rectification, and, therefore, a seemingly infinite amount of financial support is required to remedy those issues. If it is the case that companies are obligated to pay more than their legal requirement of taxes to fix these essentially infinitely expensive problems within society, then should they not contribute all of their profits to the government? If not, then who decides what is the morally appropriate amount of tax to pay? Will not the decision as to how much tax should be paid necessarily require a preferential selection of which societal ills need a remedy, and will not that decision rely on moral norms potentially unshared by a company or their shareholders if companies are not expected to contribute all of their profits to tax revenue but also contribute more than the legal tax requirement? If taxes are not the best way to signify to a company how best to fulfill their moral obligation, then what is? A fair objection to my categorization might be that paying one's legally required amount of taxes is not, currently, indicative of one's good ethics and that, pending reform to the system of tax in place, paying one's legally required amount in tax will eventually be sufficient to determine the permissibility of company/personal conduct. Such logic is at the heart of much international, regulatory policy and I believe that logic is ethically reasonable; however, for reasons I will soon point out, efforts to bring about such reforms to the global system of taxation and OFCs may be, in practice, unethical in many situations.

Corporate Social Responsibility (CSR) represents the above idea that companies have moral obligations to society other than just compliance with the law and the profitable practice of business. Leutz Preuss, in his article "Responsibility in Paradise? The Adoption of CSR Tools by Companies Domiciled in Tax Havens," makes the connection between moral

expectations for companies (CSR) and the use of OFCs.⁶⁷ Preuss' article is conceptually exciting as it represents an ethical evaluation of OFCs in general and an examination of societal expectations for companies engaged with OFCs. However, like McGee's contribution, it falls somewhat short in terms of substance. The extent of this shortcoming will be discussed throughout the subsequent chapters; yet, I mention Preuss's article here, now, to support the claim that participation in global finance through OFCs is seen by some as being intimately connected to CSR and ethics in general.

4.1 The Globalized World Requires a Global Scope

I return, now, to the contributions of both McGee and Beuhler, which are written in purely national scope, a scope that I argue, is too limited to be of much use when evaluating tax ethics in the globalized world. In the modern context, countless companies operate in diverse locations, respectively. No longer can an ethical evaluation of taxation only consider a company or an individual's obligation to their domestic jurisdiction, nor can such an evaluation afford to adopt an Amerocentric or Eurocentric lens. For instance, I previously mentioned how a traditional American liberal customer would likely expect an American company to practice strong CSR and-to pick a new example-denounce homophobia and actively work to support the gay community. However, does anything change if that company is not exclusively American but also has sizable offices in countries that generally oppose gay marriage for cultural or religious reasons? It is quite possible that, should that company comply with the wishes of the American customer and take a stance against what is considered wrong by most in the United States, they may be conflicting with the values of the employees from different countries which work at that company in other jurisdictions. One might argue that if said company is a mainly American company (whether that be because of its American headquarters, a predominance of American employees, or reliance on the

⁶⁷ Lutz Preuss. (2012). Responsibility in Paradise? The Adoption of CSR Tools by Companies Domiciled in Tax Havens. *Journal of Business Ethics*, 110(1), 1–14. <https://doi.org/10.1007/s10551-012-1456-6>

American market), then international employees working at said company must comply with the company's agenda regardless of their own normative beliefs. Though this objection has merit, I believe it fails to fully respect the extent of globalization seen in business today. In many cases, it's essentially impossible to know if a company that happens to be operating in America is predominantly American, considering said company could be actively operating in a plethora of other jurisdictions, headquartered in yet another and providing services to stakeholders across the world.

I use the above example to bring out the following seemingly basic concept: the peoples of different countries often have different interests and values, and this diversity creates ethical complications. Leaving aside the normative example of differing LGBTQ+ attitudes in other countries, consider the different perspectives that different countries have towards the expectations of their governments and politics in general. Compare, for the moment, the difference between the expectations for governance that "conservatives" hold in the United Kingdom and the United States. Broadly speaking, and mentioning only the policy stances which have an American-UK parallel: a conservative (Tory) from the United Kingdom expects universal healthcare, support for renewables, opposition to the death penalty, limited market regulation, strong gun control, comfortable with abortion, and more; meanwhile, a traditional American conservative (Republican) opposes universal health care, opposes a strong shift away from fossil fuels, supports the death penalty, agrees with the Tory on limited market regulation, denounces gun control, decries abortion, etc. Both the American Republican and the UK's Tory represent ideological conservatism in their respective countries; however, the difference in their shared values belies the stark ideological, normative differences between nations, even between Western nations viewed as being relatively similar.

Now, what do these normative differences have to do with the ethics of taxation?

Well, suppose tax exists in the modern context to support government functions and is justified by the fulfillment of expectations between the government and taxpayer. In that case, different normative expectations in different countries must justify different extents of taxation in those countries. Imagine, for example, if an insular French taxpayer was spirited away to America and expected to continue business as usual. It is likely that the French person would be taken aback by the limited services provided by the government and might, possibly, seek to pay the level of tax asked of him/her in France to fund those governmental services not offered in America. Conversely, an insular American spirited away to France would be taken aback by their tax bill and what they might consider being the superfluosity of French government programs. In both of these situations, individuals exist in a state of discontent with their citizen-government relationship and seek to realign that relationship to suit their expectations. In the liberal democracies of France and America, those transplanted individuals are entitled to seek such realignment as both nations recognize, and are built upon, a consenting, citizen-government relationship. However, in the globalized world, companies and individuals necessarily conduct business with nations with very different expectations for that citizen-government relationship. Neither the French person nor the American would be as morally justified in seeking augmentation of the tax code if transplanted to China, for instance. Then, when are regulatory bodies or individual nations justified in mandating changes to taxation systems that exist outside of their domestic jurisdiction? How can we, globally, come to a consensus on ethical taxation?

When understanding the ethics of taxation in a global context, it is critical to recognize that because sovereign nations and peoples have diverse expectations for taxation systems, broadly prescribing and enforcing "best practice" tax systems is likely morally impermissible. Unlike in the case of the transplanted French and American taxpayer, who

might work through the system of government to which they newly belong to bring about the policy of realignment that they seek, some government coalitions and regulatory bodies seek to force change upon systems of government from outside those systems in whatever way that they see fit. The EU's tax blacklist can be seen as the paradigm of such attempts. The EU justifies their bureaucratic system of coercion by claiming that their tax blacklist encourages "fair" systems of taxation in all countries; however, as previously noted, the concept of "fairness" necessitates a Eurocentric, subjective view of tax ethics which might conflict with the idea of fair taxes in other jurisdictions. Additionally, these questionable attempts at forced global regulation are further complicated by the politicization of regulatory bodies. Remember, EU member states are exempt from many of the EU's tax evaluations. Similar self-protection provisions are in place in America concerning Delaware.

I do not mean to suggest that any attempt to regulate systems of taxation internationally is impermissible. Companies that operate simultaneously within America and France should be subject to American and French laws with respect to their operations in the relevant jurisdictions. They are essentially engaged in a similar social contract as that of the citizen and their government. Furthermore, should a country be actively facilitating the laundering of monies from other countries, then there is likely a justifiable reason for the countries whose currency is being laundered to intervene in that money laundering country's affairs. However, I suggest that it is impermissible for a country or regulatory body to mandate another jurisdiction's tax policy, especially if a country controls its internal taxpayer affairs. I argue that it is permissible for jurisdictions to arrange their internal systems of taxation as they see fit and to mandate that any business or individual operating within that jurisdiction comply with such a system of taxation; however, I also argue that it is impermissible for one jurisdiction to force another jurisdiction to arrange its system of taxation in a certain way. Cayman, as it exists today, is compliant with international law.

Onshore individuals who profit from Cayman must pay their total share of their onshore taxes. Countries like the United States and coalitions such as the European Union have considerable political and economic agency to create and enforce their preferred taxation system extraterritorially. It is, therefore, ethically impermissible for regulators in the European Union to coerce the Cayman Islands into changing its system of indirect taxation, which is of both historical and economic significance, especially when European member states such as Luxembourg and the Netherlands offer similar services to the Cayman Islands albeit in a less competitive way. Of particular note, the Netherlands and Luxembourg and other EU member states have double tax treaties (unlike Cayman) which are used to facilitate tax arbitrage.

Chapter 5: The Case Against Offshore

The Cayman Islands' novelty has drawn comment from a plethora of politicians, economists, philosophers, and other academics. Some of those comments broadly coalesce into economic, political, and ethical arguments as to why the Cayman Islands, and other offshore financial centers, should close up shop immediately. In this chapter, I will identify an archetypal form of those arguments and then philosophically and empirically evaluate them, checking whether they rely on fake news, false facts, or are simply misguided.

The vast majority of critics of the offshore system employ utilitarian thinking and claim that the existence of the Cayman Islands provides net harm to the global community by siphoning tax money away from developed nations, helping to facilitate general skullduggery by enabling money-laundering and exacerbating inequalities by providing valuable services used almost exclusively by multinational corporations and the world's wealthiest individuals. Such critics claim that Cayman is responsible for all (or most) of the underhandedness mentioned above and that the jurisdiction provides little benefit to the world otherwise. Separately, other critics lodge complaints viewed better through a deontological lens. They claim that it is wrong, categorically, to employ tax mitigation techniques, but since such arguments seemingly represent the small minority of complaints, they will not be included in this limited thesis.

5.1 The Preuss-TJN Argument

Empirically, utilitarian critics of Cayman claim that the jurisdiction facilitates just over 16% of "global tax losses."⁶⁸ Furthermore, sources such as the Tax Justice Network (whose reports are used extensively by policymakers in the European Union) claim that Cayman inflicts a tax loss of over 70 billion dollars each year on the rest of the world.⁶⁹ The

⁶⁸ Tax Justice Network - Illicit Financial Flows. (n.d.).

⁶⁹ Cayman islands. (2021, March 05). Retrieved March 23, 2021, from <https://www.taxjustice.net/country-profiles/cayman-islands/>

Tax Justice Network's (TJN) website also provides an interesting tool that claims that the tax revenue lost to Cayman each year could pay over 5 million nurses' salaries.⁷⁰ Much more generally, the TJN sees increasing tax revenue as increasing positive utility. Unfortunately, the TJN cannot be seen as providing a complete utilitarian argument against OFCs because they do not fully concede that OFCs provide some positive utility; yet, OFCs must provide at least some beneficial service to some entity; otherwise, they would hardly be as popular as they are today. Since the TJN does not explicitly mention the possible positive utility produced by Cayman, I will combine their overarching claims against OFCs with that of Preuss' more complete and similarly condemning utilitarian analysis (mentioned in the previous chapter). Though I do this mainly as a convenience, it is important to note that Preuss's article is essentially an amalgamation of many different articles making various utilitarian claims against OFCs. Some of those articles are, themselves, authored by employees of the Tax Justice Network. Therefore, I feel that I am justified in creating and employing the Preuss-TJN archetype for this thesis and claiming that the Preuss-TJN argument encompasses many narrower utilitarian arguments against OFCs.

Preuss claims that OFCs provide some utility because they increase the dividends secured by shareholders whose respective companies are engaged with OFCs, increase activity in high-tax countries because companies which are benefitting from OFCs are likely to expand and conduct more business elsewhere, and create a great deal of utility for the OFC, internally, by growing the jurisdiction's economy and lucratively employing the jurisdiction's residents, etc. That, however, is where the positive utility provided by OFCs comes to an end, according to Preuss.

Preuss argues that OFCs create disproportionately large disutility by depriving elected governments of funding for public services, leading to "profound market distortions to the

⁷⁰ *Id.*

degree that investment decisions are taken on the basis of tax and regulatory concessions rather than a comparative advantage in the factors of production," possibly making companies "more prone to insolvency and other risks" without shareholders being aware of increased risk, causing "institutional shareholders (to be prohibited from), under their statutes, (investing) in foreign entities; these sources of finance are lost to companies incorporated in OFCs," and forcing OFCs, themselves, to become "heavily dependant on financial activities." Preuss provides minimal empirical evidence to support his claim that OFCs deprive elected governments of tax revenue, which is why the quantitative claims of the TJN will be most complimentary. In the following paragraphs, I will analyze the Preuss-TJN argument against the existence of Cayman and OFCs more broadly.

The first significant premise of the Preuss-TJN argument against OFCs is that jurisdictions like Cayman deprive elected governments of public funding. Immediately, though, I am confronted by a fundamental and unacknowledged assumption contained within the premise. The Preuss-TJN argument assumes that financial activities exist irrespective of the business environment in which they operate. By that, I mean the Preuss-TJN argument assumes that a company creating profitable financial activity while engaging with an OFC would be creating similar, taxable financial activity in their respective country should their partnering OFC cease to exist. Even without employing a rigorous empirical analysis of this assumption, one can quickly see how economic activity would likely decrease in some way should a business environment become less friendly/more expensive and, therefore, a consistent level of economic activity should not necessarily be assumed regardless of the degree of business-friendliness in the relevant economic environment. Furthermore, companies that take advantage of services provided by an OFC like Cayman, for instance, are still expected to pay their full amount of domestically owed tax on their activities in all the jurisdictions that they operate. Their shareholders are also liable to tax in their home

jurisdictions on any gains and dividends that they receive from the company. The "tax-free," or "tax-neutral," quality of Cayman, which seemingly confuses laypeople and regulators alike, is that gains made by onshore companies which employ Cayman's services are not taxed, additionally, by Cayman: Cayman is not "tax-free" in the sense that companies which use Cayman's services are somehow shielded from onshore taxation.

The first assumption of the Preuss-TJN argument is not unjustifiable, albeit it does require qualification. A more appropriate first claim might instead be: "the services provided by the Cayman Islands directly compete with similar services provided onshore whilst also providing greater profit that is, itself, taxed onshore; the balance of these two competing forces, however, means that the increase of tax revenue secured from the increased profit created by Cayman's financial services is lesser than the potential tax revenue secured if that financial activity was created by the less competitive, and more taxable, structures offered onshore." Unfortunately, a proper empirical analysis regarding whether or not a sizable portion of the financial activity happening in Cayman would shift elsewhere, should Cayman be forced to close shop, is beyond the scope of this thesis and possibly deserving of its own independent publication.

The second claim of the Preuss-TJN argument is that the operation of OFCs like Cayman leads to "profound market distortions to the degree that investment decisions are taken on the basis of tax and regulatory concessions rather than a comparative advantage in the factors of production."⁷¹ The utilitarian implication of this claim is that, since investment decisions are made based more upon tax and regulatory concessions than on the comparative advantages in factors of production, wide-scale use of OFCs leads to an overall weakening of economies and diminishing of tangible economic output. If the reader finds this premise hard to understand, recognize that they are in good company. Preuss, himself, seems to have only

⁷¹ *Id.* 3

partially understood the premise which he borrowed from two TJN authors who originally wrote: "As a result of the transnational companies' ability to exploit the uneven global fiscal topography, investment decisions are being taken on the basis of whatever tax and regulatory concessions can be extracted from competing governments, which effectively negates the Ricardian doctrine of comparative advantage that lies at the very heart of the liberal global trade model."⁷² Though both the original TJN premise and Preuss' questionable regurgitation of that premise may seem well-informed by virtue of their complexity, both premises betray a fundamental misunderstanding of precisely what kind of financial services the Cayman Islands provides. Put in the most basic terms, the Preuss-TJN joint premise suggests that investors engaging with Cayman's financial services are diverting money away from projects which are of merit and, instead, putting that money towards projects that are of less merit; solely because of the "concessions" provided by Cayman. Not only does this premise fall short for the same reason as the primary premise (in that it misunderstands Cayman's "tax-free," or "tax-neutral," quality), but it also, more importantly, falls short because Cayman does not compete in any way with investments into productive industries in other countries. Cayman simply represents a neutral and efficient place for international stakeholders to come together, assemble pools of global capital, and direct investment elsewhere-away from Cayman and through clever investment vehicles. So, it is fundamentally illogical to suggest that the operation of Cayman saps investments into deserving projects by diverting those investments to less worthy Caymanian projects because there are no sizable Caymanian projects to which those investments could be diverted: there are only projects in other countries which are funded, wholly or in part, by the investments secured and deployed

⁷² Christensen, J., & Murphy, R. (2004). The Social Irresponsibility of Corporate Tax Avoidance: Taking CSR to the bottom line. *Development (Society for International Development)*, 47(3), 37–44. <https://doi.org/10.1057/palgrave.development.1100066>

through investment vehicles created in Cayman. For these reasons, no empirical evidence is needed to discount this premise as it is fundamentally irrelevant.

The third claim of the Preuss-TJN argument is that OFCs possibly make companies "more prone to insolvency and other risks" due to "more lenient regulatory requirements... in terms of information disclosure or capital adequacy for banks... greater leeway in terms of balance sheet management,"⁷³ without shareholders being aware of that increased risk. Unlike the former two, this claim raises questions about various aspects of Cayman's economic environment in a primarily informed and relevant way. As such, this claim's truth will depend upon an empirical analysis comparing the degree to which Cayman is regulated against the degrees to which other countries are regulated. Though I cannot pretend to provide a complete analysis of such regulation as that analysis would require a thesis of its own, I can cite Cayman's degree of compliance with a major regulatory body and then compare that compliance with that of other more established jurisdictions. For instance, the Financial Action Task Force (FATF) reported that Cayman was rated as "largely compliant" or "compliant" for 39 of 40 of the FATF recommendations in 2020, with the only "partially compliant" rating remedied by a piece of Caymanian legislation which went into effect after the period when Cayman was under review by the FATF.⁷⁴ Comparatively, the United States was rated as being "compliant" or "largely compliant" with 31, "partially compliant" with 5, and "non-compliant" with 4 of those FATF recommendations in 2020.⁷⁵ Though the FATF is only one of many international bodies evaluating regulation levels in different jurisdictions, it is a notoriously demanding and egalitarian intergovernmental organization. It is not a lobbying group funded in part by the EU, like the TJN. This Preuss-TJN premise cannot be

⁷³ Lutz Preuss. (2012). Responsibility 3

⁷⁴ Financial Action Task Force. (2020). Topic: Mutual evaluations. Retrieved March 30, 2021, from https://www.fatf-gafi.org/publications/mutualevaluations/?hf=10&b=0&s=desc%28fatt_releasedate%29

⁷⁵ Financial Action Task Force. (2020). United States' progress in strengthening measures to tackle money laundering and terrorist financing. Retrieved March 30, 2021, from <https://www.fatf-gafi.org/publications/mutualevaluations/documents/fur-united-states-2020.html>

immediately discounted by virtue of its irrelevance to the actual operations of Cayman; however, it should be viewed skeptically due to Cayman's recent success with international regulatory bodies like the FATF.

Before moving to the following premise, I think it necessary to dispel the notion that Cayman is an enticing provider of financial services due to the jurisdiction's lenient regulatory environments and not because of the jurisdiction's general competitiveness and legal ingenuity. Though it may have been the case in the past that Cayman was attractive because the jurisdiction was relatively less regulated, Cayman has, as supported by the FATF's recent report, more regulatory requirements than many countries in the world today. I believe that the above premise of the Preuss-TJN argument may have more merit in the past than it does today.

The fourth premise of the Preuss-TJN argument is that since "institutional shareholders (are prohibited from), under their statutes, (investing) in foreign entities... sources of finance are lost to companies incorporated in OFCs."⁷⁶ This premise supposes that because OFCs are deemed to be relatively unregulated, the OFCs themselves lose out on a great deal of investment because institutional investors are unable to invest in those OFCs. This premise is absurd for two reasons. Firstly, it assumes that OFCs would be remotely attractive to institutional investors if they did not have the features that make them offshore jurisdictions, and that assumption is unjustifiable. As noted in previous chapters, the Cayman Islands are essentially three desolate, rocky islands in the middle of the Caribbean with a tiny population and no natural resources. Aside from the tourism industry, which is itself only lucrative because of the safety, infrastructure, and gentrification provided by the financial services sector, there would be no reason for institutional investors to engage with Cayman in any way. Secondly, and arguably more importantly, institutional investors engage heavily

⁷⁶ Lutz Preuss. (2012). Responsibility 3

with the Cayman Islands and represent a massive amount of the jurisdiction's financial activity.⁷⁷ Therefore, this premise ought to be entirely discounted concerning its relevance to Cayman.

The fifth and final premise of Preuss-TJN argument, which Preuss ironically notes as being "last but not least," is by far the most backward: "many OFCs have themselves experienced profound economic disadvantages. In addition to comparative disadvantages in terms of limited natural resources, small labor markets or high transportation costs, many OFCs have become heavily dependent on financial activities."⁷⁸ The reader would be forgiven for assuming that Preuss must be considering OFCs other than Cayman, which have not been nearly as successful, but the reader would, ultimately, be wrong. Preuss specifically mentions the Crown Dependency of Jersey as one of these tragically economically disadvantaged offshore financial centers.⁷⁹ Jersey, however, is known to both be one of the most compliant and profitable OFCs in the world. Preuss' premise, which was inspired by a joint-authored paper written, in part, by the same TJN employee responsible for the convoluted and yet useless premise regarding the Ricardian doctrine of comparative advantage mentioned in the preceding paragraphs, seems to suggest that OFCs which supplant their dearth of opportunity with the abundance of opportunity provided by offering financial services do themselves a disservice.⁸⁰ I thought that, indeed, Preuss had miscategorized the original argument, so I explored the source material only to find this bigoted quote regarding OFCs: "Small island and microstate cultures appear well suited to the successful development of tax havens and OFCs because ... there is a general absence of higher education institutions or an intellectual community to critique policy..."⁸¹ Since this

⁷⁷ *2019 Investments Statistical Digest* (pp. 3-37, Rep.). (2019). George Town, Grand Cayman: Cayman Islands Monetary Authority.

⁷⁸ Lutz Preuss. (2012). Responsibility 3

⁷⁹ *Id.*

⁸⁰ Hampton, M., & Christensen, J. (2002). Offshore Pariahs? Small Island Economies, Tax Havens, and the Re-configuration of Global Finance. *World Development*, 30(9), 1657–1673.

[https://doi.org/10.1016/S0305-750X\(02\)00054-2](https://doi.org/10.1016/S0305-750X(02)00054-2)

⁸¹ *Id.*

quote is not directly relevant to the evaluation of Preuss' premise, I will cover it further later in the thesis, along with other similar excerpts. I choose to include it now, however, to indicate to the reader the general prejudice towards places like Cayman found throughout much of the academic, regulatory, and public discourse. In moving back to the evaluation of Preuss' claim: the original TJN co-authored source material more eloquently, though not more accurately, echoes Preuss' claim that OFCs do themselves a disservice by profiting through systems of offshore finance because that success causes less successful sectors of the economy to fall out of favor.⁸² Though it is debatable whether or not fighting against market forces to subsidize failing sectors of Jersey's economy while financial services are booming is sensible to any extent, such claims are outlandishly irrelevant to OFCs such as Cayman since Cayman, before financial services, had *nothing*. Before 1960, and after the very brief time when Cayman had a "successful" commercial fishing industry, Caymanians were stripping red bark off mangrove trees and selling that bark to Jamaica for meager sustenance. The financial services sector in Cayman cannot be seen as a parasitic portion of the economy that leeches off of other viable Caymanian sectors. The financial services sector supplanted other sectors, which hardly existed in the first place. Only then did tourism and other subsidiary sectors begin to grow, albeit always tied to the financial services sector's success. Such a story is not unique to Cayman and is shared by many other OFCs. After all, the reason desolate island nations become OFCs is not that they are too stupid to recognize that a financial services sector spontaneously appears around them, as the above authors suggest, but because they found an ingenious way to create a service economy through sheer legal construction. Because they did not have broad-based economies, they could develop more tailored laws to promote financial services products rather than legislate for all types of commercial activity, creating a specialism and legal advantage. For all of these reasons, the

⁸² *Id.*

Preuss-TJN premise that OFCs experience disutility from their incredible economic success should be thoroughly discounted.

The Preuss-TJN argument mentions a few possible sources of positive utility created by OFCs. I will discuss those premises in the following chapter, where I evaluate arguments in favor of places like Cayman.

Before concluding this chapter, however, I will concede that the Preuss-TJN argument is feeble with regards to some of its premises and that it may have been possible to combine different arguments into a stronger archetypal argument against OFCs; one which is devoid of fundamental misunderstandings of the practical workings of places like Cayman. Yet, I firmly believe that a well reasoned and technically informed argument against Cayman (and in favor of the jurisdiction) is the exception, not the norm, in the very limited past and present discourse regarding the ethics of OFCs. My goal for this chapter, and the next one, is to survey that discourse, provide an archetypal argument that represents that discourse and discuss that archetype, not scour the field in search of an exceptionally well-informed argument and test it. I chose that goal and created this thesis to demonstrate to the reader that the academic, political, and colloquial debates surrounding Cayman as an OFC are fundamentally ill-informed and that participants must come to those debates with the highest level of skepticism.

Chapter 6: The Case in Favor of Cayman

Unfortunately, there are very few well-considered ethical arguments in favor of OFCs like the Cayman Islands. I do not believe that this scarcity is a product of some ethical untenability inherent in the offshore system, but due to the widespread misunderstanding of how OFCs like Cayman operate and the minimal academic discourse on the subject, instead. Throughout this chapter, I will reintroduce Preuss' brief utilitarian arguments in favor of OFCs and then complement them with arguments of my own or augmented arguments sourced from the realm of politics or business.

6.1 Preuss' Positive Premises

Preuss argues that OFCs provide positive utility by increasing the cost savings of companies engaged with Cayman and the profits of shareholders, increasing financial activity in high-tax countries by catalyzing financial activities within an OFC, economically supporting the OFC conducting business, and "serv(ing) as a safeguard against a predisposition of national governments to abuse their monopoly position when designing tax regimes."⁸³ I also argue that OFCs like Cayman provide positive utility by being able to attract and assemble global capital in specialised investment vehicles which fund infrastructure projects, securitization and asset finance projects (like the leasing of aircraft and aircraft engines), and provide the backbone of tangible, global economic growth more generally.

Preuss' first positive premise, which argues that the cost savings and increased profits experienced by companies engaging with OFCs like Cayman represent positive utility, is a fair claim. It is essential to understand, though, just how much costs are saved, and profits are increased, or *how much* positive utility is produced? I believe that, simply by virtue of the incredible volume of financial activity created by places as otherwise irrelevant as Cayman,

⁸³ *Id.*

there are increased profits to be made by onshore companies engaging with Cayman. Some may find this assumption to be lackluster, and I concede it is not ideal. However, the full extent of the profits made by companies engaged with Cayman is notoriously hard to quantify. Ronen Palan, who featured in the earlier chapters of this thesis, claims throughout *Tax Havens: How Globalization Really Works* that elucidating the financial activity of OFCs like Cayman is exceedingly challenging. In the opening of his work, he frankly states: "How much in the way of tax payments is evaded or avoided through tax havens? The most candid and accurate answer we can give at this point is that we simply do not know."⁸⁴ Furthermore, he also stresses "the enormous difficulties involved in gathering reliable data," and that "tax havens undoubtedly facilitate tax evasion, tax avoidance, money laundering, and corruption, but no one is able to estimate the sums involved with any degree of accuracy."⁸⁵ Leaving aside, for now, the blatantly contradictory statements of what is, essentially, the most authoritative and well-sourced text on OFCs and globalization, it is abundantly clear that this undergraduate thesis will not be able to overcome the data collection difficulties faced by more senior members of the field.

Before moving onto Preuss' next positive premise, I think it important to establish *who* experiences the likely large amount of positive utility of the increased company savings and profits enabled by Caymanian financial services. Since the adoption of tax mitigation strategies is becoming increasingly unpopular with the public, the odds of discovering exactly how many companies are saving how much money also becomes increasingly difficult. Companies are less likely to publicly discuss their mitigation strategies for both those popularity reasons and for other reasons regarding competition with their peers. Furthermore, Cayman provides confidentiality and privacy for those engaged with the OFC. The only way to assign any numbers to individual companies is to either engage in the kind of imprecise

⁸⁴ Palan, M. (2013). *Tax Havens* 61

⁸⁵ *Id.* 47, 75

empirical wizardry often employed by the TJN or wait until a company or individual violates a law (at which point their financials are shared by Cayman with the relevant authorities onshore and thereby sometimes made public through court proceedings). It seems, then, that we are left to speculate as to who benefits from the savings and increased profits. I believe that because institutional investors spur a good portion of the financial activity in Cayman and that Cayman is so often misunderstood by almost everyone except the most veteran financiers, it often thought that the companies and individuals experiencing the positive utility are likely to be the members of the upper-echelon (a.k.a the global elite) and therefore few in number. Though not widely discussed, some of the key investors in Cayman funds are the endowments and pension plans of everyday folks such as teachers, police, and firemen. Another consideration is that even if only a relatively few number of companies engage with Cayman, it is likely the case that those industry leaders have a massive number of shareholders who are outside of the global, elite minority and who also experience positive utility through increased dividends. Yet, for the reasons mentioned above, it is simply too hard to know how much those shareholders are actually benefiting from the use of Cayman or even who those shareholders are in the broadest sense. Measuring more tangible and attributable indicators of utility, such as the funding of bridge-building projects, will be of more use in a utilitarian calculation.

The second positive premise Preuss provides is that the financial activity created by OFCs creates additional financial activity in high-tax, onshore jurisdictions. Excitingly, and because we are now also examining the sometimes more public business environments of the onshore world, a rudimentary investigation of the numbers involved is possible. Preuss borrows his premise from a 2006 paper written by two Harvard economists, Mihir Desai and Fritz Foley, and one economist from the University of Michigan, James R Hines. You may remember Hines from the first chapter, where his early attempt to define a tax haven was

used in my discussion of the difficulties of adequately defining tax-havens. In that 2006 paper, called "The Demand for Tax Haven Operations," Desai et al. primarily focus on quantifying exactly which kinds of firms engage with "tax havens" and to what degree they benefit from that engagement.⁸⁶ Most relevant to our discussion here, however, is that Desai et al. claim "firms (which have affiliates in tax havens) investing in economies that subsequently grow very rapidly expand their own foreign investments at faster rates than other firms and are more likely to establish new tax haven operations confirming the role of scale in dictating the demand for tax haven operations."⁸⁷ This claim is reflected in the materials provided by Cayman Finance, which is an association of the financial services industry of the Cayman Islands. In their advertisement brochure "The Cayman Islands: An Extender of Value to the USA," Cayman Finance claims:

Because the Cayman Islands is the home to a significant proportion of the world's alternative investment funds, including infrastructure funds and venture capital funds, the Cayman Islands is well positioned, much as we did after the global credit crisis, to provide inward investing, financing, and liquidity into economies during times of need or uncertainty, including strengthening after recessions and embracing the evolutions in global trade relations. This inward investing, financing, and liquidity helps save or grow business, create jobs, and expand the tax base within those countries.⁸⁸

Cayman Finance empirically supports this claim by citing a study conducted by Capital Economics in 2018.⁸⁹ Capital Economics, however, is a consulting firm and should not be viewed as a reliable source, especially when considering the almost total absence of citations included in their report. Of course, Cayman Finance's claims are to be viewed with the utmost skepticism as they exist to entice investors and placate policymakers abroad. So, and like

⁸⁶ Desai, M., Foley, C., & Hines, J. (2006). The demand for tax haven operations. *Journal of Public Economics*, 90(3), 513–531. <https://doi.org/10.1016/j.jpubeco.2005.04.004>

⁸⁷ *Id.* 530

⁸⁸ Cayman Finance. (2020). *The Cayman Islands: An Extender of Value to the USA* [Brochure]. George Town, Grand Cayman: Author.

⁸⁹ Capital Economics. (2018). *The importance of international finance centres in the global economy* [Report]. London: Author.

with many of the premises before, it is hard to say the degree to which the financial activities in Cayman spur financial activity onshore. Economists have established a connection, and industry leaders from Cayman naturally support that conclusion. Still, there is not yet enough empirical evidence to gauge the amount of positive utility potentially provided by that connection.

Preuss' next premise, which I think is of great importance, is the unparalleled internal economic growth experienced internally by OFCs (many of which are developing and recently developed countries) creates positive utility. As established in previous chapters, Cayman's economy before the introduction of the Companies Law of 1960 was almost non-existent. What was previously a collection of sparsely inhabited islands almost entirely cut off from the rest of the world rapidly became one of the safest, most stable, wealthiest, and happiest countries in the Caribbean.⁹⁰ Considering that the islands do not experience disproportionately large income inequalities (as demonstrated by an unremarkable Gini coefficient) notwithstanding the financial sector and considering the islands' destitution before the explosion of the financial services sector, offshore finance in Cayman has provided great utility for Caymanians and resident expats. Furthermore, Cayman's role as an OFC increases utility in other ways not yet mentioned. Since Cayman is, essentially, self-sufficient due to its financial services sector, the country is not a financial burden on the United Kingdom or the rest of the world more broadly. For example, in 2004, a Category 5 hurricane called Ivan ravaged the Cayman Islands. However, because of the stability and fortune provided by the financial services sector, Cayman was able to facilitate effective evacuation, rescue, and economic recovery efforts. Though it is true that those efforts were aided, in small part, by the United Kingdom and other nations, it is also true that Cayman responded

⁹⁰ US department of state. (n.d.). Retrieved April 05, 2021, from <https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/CaymanIslands.html>

exceedingly well to the tremendous natural disaster. Such a response would not have been possible in less fortunate and admittedly larger island nations such as Haiti. Claire Gagné, a contributor to business journals, wrote in her 2004 article "Down, Not Out":

The storm killed two people, destroyed homes, flooded roadways and left Grand Cayman, the largest of the three coral islands, without power or water. None of the British crown colony's 262 square kilometres-including largely tourist Cayman Brae [sic] and Little Cayman, which lie approximately 89 miles northeast of Grand Cayman -escaped Ivan's wrath. But if North American clients of Five Continents Financial Ltd. weren't aware that Cayman was under siege, they wouldn't have found out by what was happening in their portfolio. 'Hurricane Ivan rolled through here and really did give us a good kick in the teeth on Sunday, but we were up and running our portfolios and managing our clients' money Monday morning,' says Bill Messer, co-managing director of Five Continents in the capital, George Town. Indeed, three weeks after the hurricane, Cayman-almost 6,000 financial companies are registered there including nearly 400 banks-was well on its way to recovery. About 90% of the water service is restored, and all electrical power has returned to the commercial district in George Town. It is projected that by mid December, 90 days from when Ivan hit, the entire electrical grid will be restored for Grand Cayman's 41,000 residents. It's a testament to having an economy built on the private sector.⁹¹

Considering that Ivan caused damages equal to almost 200% of Cayman's GDP, it is incredible that the jurisdiction could bounce back so quickly.⁹² Comparatively, Haiti's devastating 2010 earthquake caused damages equal to only about 70% of Haiti's GDP, and the country has still not yet recovered.⁹³ It might be the case that if Haiti was a healthy OFC,

⁹¹ Gagne, C. (2004). Down, not out: the Cayman Islands weather hurricane Ivan. *Canadian Business* (1977), 77(20), 41.

⁹² Government, C. (2004, December). Economic Commission for Latin America and the Caribbean (Rep. No. LC/CAR/L.25/REV.1 86 p. : il., gráfs., tabs.). Retrieved April 4, 2021, from United Nations website: <https://www.cepal.org/en/publications/25728-impact-hurricane-ivan-cayman-islands>

⁹³ Haiti. (n.d.). Retrieved April 05, 2021, from <https://data.worldbank.org/country/HT>

Amadeo, K. (n.d.). Haiti's 2010 earthquake caused lasting damage. Retrieved April 05, 2021, from <https://www.thebalance.com/haiti-earthquake-facts-damage-effects-on-economy-3305660#:~:text=In%202010%2C%20the%20Inter%2DAmerican,gross%20domestic%20product%20by%205.1%25>.

and if other developing countries had OFC schemes of their own, developed nations may not need to spend so many resources supporting otherwise economically unsupported jurisdictions. In that way, the positive utility internally created by developing OFCs seems clearly linked to positive utility in developed nations in some ways. Lastly, and of quick note, Cayman has had arguably the best pandemic response to COVID-19 in the world (as of the writing of this thesis in April 2021). A large part of that successful response resulted from the islands being able to close their doors to tourism entirely for over a year. Those who lost their jobs were sustained through financial support from the government, a process only possible due to the massive government revenue created by the booming offshore financial center.

Preuss' final claim of positive utility is that OFCs "serve as a safeguard against a predisposition of national governments to abuse their monopoly position when designing tax regimes." What is not made explicit, though, is precisely what kind of tax regimes are to be considered abusive and how, by avoiding such a regime, positive utility arises. Furthermore, it seems unlikely that the existence of OFCs would pressure significant trading blocs and nations into altering their tax policy more than would the constituents of those trade blocs and nations. If it were the case that OFCs decided onshore tax policy, then Cayman would not be scrambling every year to accommodate the unfair demands of the European Union. Though it is true that aggressive tax policies often cause greater numbers of wealthy individuals and large corporations to pursue tax mitigation strategies, it cannot be said that the "threat" of the Cayman Islands' free-enterprise jurisdiction forces much more powerful and influential state actors from implementing their tax policies as they see fit. So I believe Preuss' premise is thoroughly ineffective.

6.2 Potentially Unconsidered Considerations

Now, in moving on from Preuss, I will provide some of my own arguments in favor of the offshore system, which I do not believe are present or represented adequately in the academic discourse.

Cayman provides positive utility for the world by structuring and facilitating the massive investments needed for infrastructure projects, the leasing of aircraft and aircraft engines, successful pension plans, and many other modern trappings, which are often taken for granted. Finance is, essentially, a way for people to come together, pool capital, and enact change in the world which would not have been possible should they have acted alone. Aircraft engines, for example, can cost near fifty million dollars per engine, and that figure does not include the price of the airframe.⁹⁴ Thus, even the most established airlines in the world engage in leasing arrangements which are often enabled by offshore financial structures. Massive infrastructure projects necessitate the combination of many global investors due to their cost and the lengthy-time until they see a return on investment. These investors often come from all around the world, and the neutrality and stability of Cayman are seen as especially attractive in this context. Institutional investors want to know both that their interests are being served regardless of their national background and how the systems of tax work in the jurisdictions where they are pooling their capital. Pension plans, as well, succeed to a greater degree due to the increased opportunity provided for by the financial services sector of Cayman. Yet, as is the case with many of the arguments in this thesis, the empirical extent to which these pensions increase in value, the construction of infrastructure is catalyzed, or the world of passenger air travel is sustained lacks precise quantification. Still, I offer these considerations because OFCs, by virtue of their financial specialisms, are

⁹⁴ Royce wins largest ever order from Emirates. (n.d.). Retrieved April 06, 2021, from <https://www.rolls-royce.com/media/press-releases/2015/pr-170415rolls-royce-wins-largest-ever-order-from-emirates.aspx>

interrelated, or maybe even partially responsible, for many of the most critical and most expensive features of our modern world.

Conclusion

Taxation has always been, and likely always will be, a massive point of contention between those in political power and those subjected to that power. The degree to which citizens and companies of different countries are morally obligated to pay more than their legal tax obligation is equally contentious and at the heart of much of the internal, national faction seen around the world today. Throughout history and in almost every country, political discourse has failed to come to a stable consensus (often changing with every election) regarding how domestic systems of taxation ought to work. The academic discourse regarding the ethics of taxation provides equally lackluster answers to these taxing questions. Furthermore, it is altogether unclear which countries are to be considered successful, nevermind which countries are to be considered successful because of their virtuous system of taxation. It is of no surprise, then, that as the world continues to globalize and the everyday practice of business increasingly necessitates an international perspective, the previously unanswered questions regarding the intranational ethics of taxation only grow in their complexity.

To complicate these questions further, peculiar jurisdictions such as the Cayman Islands, with its historically consistent renunciation of direct taxation, have made a name for themselves, so to speak, by exploiting the uncertainty surrounding these unanswered questions and have become successful in so doing. Initially, Cayman exploited the "archipelago-like" global financial landscape created at the end of the 20th Century by the restructuring of global hegemony.⁹⁵ This early exploitation was arguably morally pernicious as very little thought was given to (and oversight was dedicated to) ensuring that the offshore financial activities facilitated by Cayman were not nefarious. However, that lackluster oversight was more a symptom of the times (and could, perhaps, be equally said about all

⁹⁵ Ogle, V. (2017). Archipelago 1432

other countries at the time), when files were not accessible online, and the IRS had to conduct in-person operations, than that of some malicious national sentiment. Evidence suggests that the government of Cayman was particularly helpful in aiding American financial-crime investigators during even its earliest days as an OFC and that as the times changed, so did Cayman. The jurisdiction has always been, and continues to be, an industry leader regarding its compliance with international regulators and efforts to assist in international investigations of those financially active within Cayman's jurisdiction. That is why Cayman has been so successful for so long: the jurisdiction is adept at following rules, not breaking them.

Two things that certainly have not changed with the times, however, are how academics, politicians, and the public conceptualize the offshore world and the reputation of Cayman as a place where people "hide their money." Though it might have been fair to say that offshore financial centers, in their most early days, likely provided services to the unscrupulous, the degree to which the international flow of money is now regulated and investigated has increased tremendously in the digital age so as to almost entirely preclude flagrant evasion of taxation in OFCs as successful as Cayman. Furthermore, Cayman has no vested interest in facilitating money-laundering or hiding onshore currency as the jurisdiction has slowly developed into an incredibly lucrative provider of trailblazing financial structuring services. Cayman knows and has always known that its focal position in the world's economy is a fragile one. It seems absurd that the economy, which is currently built upon entirely legal, lucrative, and productive financial structuring schemes, would sacrifice that success for far less profitable underhandedness. Yet, academics, politicians, and media personalities alike are keen to suggest that the Cayman Islands is a "tax haven" that is somehow, like El Chapo, continuing to exist despite the jurisdiction's perpetual violation of international law. However, and tragically, these often pejorative viewpoints are not only empirically unsupported but are also often in total misunderstanding of the role Cayman plays in the world economy and the

practical operations of the Caymanian system. Few commentators, such as Tony Freyer and Andrew P. Morriss, have taken a proper, legally focused approach to precisely investigating what makes Cayman competitive. They should be lauded for their cogent, well-informed, and relatively neutral approach to Caymanian affairs. Other commentators, however, such as the TJN, Leutz Preuss, and even Ronen Palan, unfortunately, fall into a separate camp.

If it were the case that the TJN was merely considered a lobbying group whose slant precluded their observations from academic discourse, then their observations would have been left alone by this thesis. However, and regrettably, the dearth of discourse regarding places like Cayman has led to lobbying groups such as the TJN being taken as intellectual gospel by researchers and regulators alike. Essentially, I suspect the TJN has seeped into the vacuum provided by the lack of academic engagement on what is otherwise a very publicly popular subject. Though many of their reports are indeed supported by pages upon pages of methodologies, it is also true that those methodologies are rife with assumptions and implicit biases which the TJN either cannot or will not acknowledge (perhaps due to their European obligations). For reasons mentioned throughout this paper, there is simply no way to draw “qualitative conclusions,” about the degree to which Cayman facilitates financial skulduggery without speculating widely and so the methodologies offered by the TJN are essentially just tomes dedicated to dancing around the glaring reality that no non-governmental organization is privy to even a small portion of relevant data.

Leutz Preuss' brief paper, which features so heavily in this thesis, focuses primarily on CSR theory and its relation to OFCs; however, it, conveniently, provided a one-of-a-kind amalgamation of various ethical arguments against and in favor of OFCs like Cayman. Considering his paper did not depend on that amalgamation, it is more than understandable that the references he included and premises that he constructed were sometimes entirely confused regarding the modern offshore world. The very fact that his paper, despite not even

focusing on an ethical evaluation of OFCs, was so critical to this thesis is a testament to the almost complete lack of compelling academic engagement that ethical questions about offshore finance attract. This academic uninterest is particularly problematic as policymakers and regulators of the European Union seemingly lean heavily on academic discourse to provide the justifications or motivations for their initiatives. Thus, academia's lacking practical understanding of Cayman's operation, and the misinformation generated from that scarcity, leads to real-world consequences for both the people of Cayman and the global economy more generally. Additionally, I believe that because Cayman has minimal cultural and political capital, the jurisdiction, in particular, is at the whim of uninformed popular opinion, which is, seemingly, still dominated by television shows, books, and movies produced in the 80s about the 60s. At their least harmful, these pop media products pollute the world's perception of the distinct culture, exciting history, and impressive achievements of Cayman. At their most harmful, these pollutants both engender other toxic media productions such as Jacques Peretti's, which invokes neocolonial assumptions about Cayman's subservient place in the British post-colonial structure, and influence real world policy decisions.

Though there is indeed some academic engagement surrounding Cayman's role in the financial world, it is also true that this engagement is produced almost entirely by a handful of academics. Some of these academics, like John Christensen (who is currently Director and Chair of the Board of the TJN), have a vested interest in using the Cayman Islands as an intellectual and political convenience to push a Eurocentric view of taxation ethics on jurisdictions that are highly content with their own, organic and successful ethics of taxation. Furthermore, Christensen has contributed to disappointing rhetoric in the past, such as when he claimed that the people of Cayman are too intellectually inept to understand the world of offshore finance, and it is for that reason that OFCs are often small, developing islands: "small island and microstate cultures appear well suited to the successful development of tax

havens and OFCs because ... there is a general absence of higher education institutions or an intellectual community to critique policy."⁹⁶

On the other hand, Ronen Palan has provided much more meaningful contributions to the academic discourse surrounding offshore financial centers. His 2007 work, *Tax Havens: How Globalization Really Works*, is far and away the most considerable and productive work on the subject that I came across during this thesis project. Though it is true that the text was co-authored by a senior advisor of the TJN (surprise, surprise) and that Palan quite often concedes that there is often no way "to estimate the sums involved with any degree of accuracy," only to immediately make sweeping and damning claims about the involvement of OFCs like Cayman in the laundering of money and the facilitation of tax evasion just after; it is also true that Palan at least extends the courtesy of concession, a welcome staple of credible publication which starkly contrasts with the publications of the TJN. Furthermore, even though I believe Palan incorrectly concludes that OFCs like Cayman are "tax havens" and that they are fundamentally nefarious, I still welcome his contribution to the field as it is one of the only contributions which is befitting of academic discussion. That said, Palan also falls victim to the sometimes bigoted views of commentators such as Christensen, at one point even suggesting that the inhabitants of Cayman are essentially all debauched:

Little noted but very real is the risk that because tax havens are deeply implicated in financial crime, such behavior "spills over" into other areas... Cayman is at last openly discussing social ills such as alcohol, drug abuse, child abuse, and sexual molestation. These ills result from poverty in the midst of plenty, and from the corruption of a regime that ignores corrupt practices. Some have even suggested that a child sex abuse scandal reported in Jersey in 2008, concerning events that happened many years earlier, was not reported at the time the incidents occurred because of the secretive nature of a tax haven society. This claim cannot be proved, but it is clear that tax haven status may have detrimental effects on any location that adopts it.⁹⁷

⁹⁶ Hampton, M., & Christensen, J. (2002). Offshore

⁹⁷ Palan *Tax Havens* 187

Once again, here, we see a Palan classic: "‘this claim cannot be proved,’ yet that will not prevent me from drawing some rather bold and sometimes harmful conclusions about Cayman."

For the same reasons that Palan has trouble finding reliable data, I found great difficulty finding empirical support for my claims that Cayman provides net utility to the world. I did not, though, find any credible evidence to contradict that claim either. As it stands, the question of whether Cayman, as a modern OFC, contributes to the global economy is relegated to economists' most abstract arenas. Businesses are, by virtue of the competitive landscape, apprehensive about revealing their inner workings and use of OFCs. Similarly, Cayman can be seen as a national business in direct competition with other OFCs. Therefore, the jurisdiction is naturally apprehensive about becoming entirely transparent (even though Cayman already has one of the most progressive company-registry initiatives globally).

Yet, and by virtue of the inadequate evidence, I argue that the unrelenting and intense scrutiny Cayman has received throughout the years by the public, the political realm, and the regulatory realm is entirely disproportionate to the amount of credible evidence suggesting Cayman detracts from the world economy, or is complicit in a tremendous deal of nefariousness. Furthermore, I believe that this disproportion spawns from the historically consistent tendency for powerful nations to treat the islands of the Caribbean as focal points to express power and play games of global manipulation.

The offshore-onshore dialectic is, at its core, a fundamentally biased view of the global financial economy seeking to establish economies that "should" be successful (onshore) and other smaller economies that are "more successful than they should be" (offshore). This skewed dialectic is now often abused to protect onshore economies from more competitive and specialized offshore economies. We see this type of language used

throughout the academic discussion, often defining jurisdictions as offshore if they have financial activity disproportionate to traditional expectations. Who is to say, though, the degree of financial activity a jurisdiction should be able to attract? Isn't financial activity, at the end of the day, a tremendous good in that it essentially defines and promotes economic growth?

Once the offshore-onshore lens is established, then coercive policies often forcing Eurocentric views of taxation ethics on otherwise successful jurisdictions are "justified" in that those policies seek to return the globalized world to the way it should be, which is, as perceived from the perspective of hegemonic powers and powerful trading blocs, a global arrangement with developing nations on the bottom and developed nations on top. Do not forget that the regulatory policies and blacklists which have coaxed Cayman into Bullet Dancing on the global stage for the last half-century are pushed by nations and trading blocs, which are, themselves, often entirely exempt from the regulations and expectations of those lists.

Though it is true that Cayman has, up until this point, responded masterfully to the covetous initiatives of the world's most powerful trading blocs and has been profitable while doing so, it is likely the case that Cayman will eventually be regulated out of existence. In order to dodge a blacklisting, jurisdictions often have to rush to implement domestic laws which both alienate their clientele and force the jurisdiction to become less competitive. Regulators may not need to increase their efforts to defeat the competitive advantage Cayman enjoys; they may simply need to sustain them. The quest towards this death-by-regulation has been justified most often by entirely absent empirical evidence, pseudo-intellectuals, and veiled bigotry. Suppose the time does come when the Cayman Islands can no longer compete as an OFC and Caymanians must return to stripping bark off mangroves to sell to Jamaica,

but this time with a coerced system of direct taxation forced upon them by Europe. Should the world's regulators look upon their work and smile? Will they have acted permissibly?

References

Alfred G. Buehler. (1952). ETHICS AND TAXES. *Proceedings of the ... Annual Conference Under the Auspices of the National Tax Association*, 45, 276–290.

Amadeo, K. (n.d.). Haiti's 2010 earthquake caused lasting damage. Retrieved April 05, 2021, from <https://www.thebalance.com/haiti-earthquake-facts-damage-effects-on-economy-3305660#:~:text=In%202010%2C%20the%20Inter%2DAmerican.gross%20domestic%20product%20by%205.1%25>.

Block, A. (2020). *Masters of Paradise: Organised Crime and the Internal Revenue Service in the Bahamas*. Routledge.

Capital Economics. (2018). *The importance of international finance centres in the global economy* [Report]. London: Author.

Cayman: A hotspot of zero-taxes, legalised secrecy and "light touch" regulation. (2014). Retrieved March 17, 2021, from <http://taxjustice.blogspot.com/2014/01/cayman-hotspot-of-zero-taxes-legalised.html>

Cayman faces new EU blacklisting - Cayman Islands headline news. (2021, January 04). Retrieved March 18, 2021, from <https://caymannewsservice.com/2021/01/cayman-faces-new-eu-blacklisting/>

Cayman Finance. (2020). *The Cayman Islands: An Extender of Value to the USA* [Brochure]. George Town, Grand Cayman: Author.

Cayman islands. (n.d.). Retrieved March 07, 2021, from <https://data.worldbank.org/country/KY>

Cayman islands. (2021, March 05). Retrieved March 23, 2021, from <https://www.taxjustice.net/country-profiles/cayman-islands/>

Central intelligence agency. (2021, February 08). Retrieved February 15, 2021, from <https://www.cia.gov/the-world-factbook/countries/cayman-islands/#people-and-society>

Christensen, J., & Murphy, R. (2004). The Social Irresponsibility of Corporate Tax Avoidance: Taking CSR to the bottom line. *Development* (Society for International Development), 47(3), 37–44. <https://doi.org/10.1057/palgrave.development.1100066>

Commissioner v. Newman, 159 F.2d 848, 850-51 (2d Cir. 1947) (dissenting opinion).

"COUNTERING OFFSHORE TAX EVASION" (PDF). OECD. September 2009. p. 3. Archived (PDF) from the original on 11 February 2018. Retrieved 17 June 2018

Craton, M. (2003). *Founded upon the seas : a history of the Cayman Islands and their people / Michael Craton and the New History Committee*. Ian Randle.

Desai, M., Foley, C., & Hines, J. (2006). The demand for tax haven operations. *Journal of Public Economics*, 90(3), 513–531. <https://doi.org/10.1016/j.jpubeco.2005.04.004>

Dharmapala, D. (2008). What problems and opportunities are created by tax havens? *Oxford Review of Economic Policy*, 24(4), 661–679. <https://doi.org/10.1093/oxrep/grn031>

EU tax haven blacklist is not catching the worst OFFENDERS: News: European Parliament. (2021, January 21). Retrieved March 18, 2021, from <https://www.europarl.europa.eu/news/en/press-room/20210114IPR95631/eu-tax-haven-blacklist-is-not-catching-the-worst-offenders>

Financial Action Task Force. (2020). Topic: Mutual evaluations. Retrieved March 30, 2021, from https://www.fatf-gafi.org/publications/mutualevaluations/?hf=10&b=0&s=desc%28fatf_releasedate%29

Financial Action Task Force. (2020). United States' progress in strengthening measures to tackle money laundering and terrorist financing. Retrieved March 30, 2021, from <https://www.fatf-gafi.org/publications/mutualevaluations/documents/fur-united-states-2020.html>

Fox, B. (2020, October 07). *Cayman islands removal from EU blacklist PROMPTS backlash*. Retrieved March 18, 2021, from

<https://www.euractiv.com/section/economy-jobs/news/cayman-islands-removal-from-eu-blacklist-prompts-backlash/>

Freyer, T., & Morriss, A. (2013). *Creating Cayman as an offshore financial center: structure & strategy since 1960*. *Arizona State Law Journal*, 45(4), 1297–.

Gagne, C. (2004). Down, not out: the Cayman Islands weather hurricane Ivan. *Canadian Business* (1977), 77(20), 41.

Garcia-Bernardo, J., Fichtner, J., Takes, F. W., & Heemskerk, E. M. (2017). Uncovering Offshore Financial Centers: Conduits and Sinks in the Global Corporate Ownership Network. *Scientific reports*, 7(1), 6246. <https://doi.org/10.1038/s41598-017-06322-9>

Gdp (current us\$) - cayman islands. (n.d.). Retrieved February 15, 2021, from <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=KY>

Government and society. (n.d.). Retrieved February 12, 2021, from <https://www.britannica.com/place/Cayman-Islands/Government-and-society#ref54767>

Government, C. (2004, December). *Economic Commission for Latin America and the Caribbean* (Rep. No. LC/CAR/L.25/REV.1 86 p. : il., gráfs., tabs.). Retrieved April 4, 2021, from United Nations website: <https://www.cepal.org/en/publications/25728-impact-hurricane-ivan-cayman-islands>

Governor's tribute to SIR Vassel. (n.d.). Retrieved February 23, 2021, from <http://gov.ky/portal/page/portal/cighome/pressroom/archive/200811/governortributetosirvassel>

Haiti. (n.d.). Retrieved April 05, 2021, from <https://data.worldbank.org/country/HT>

Hampton, M., & Christensen, J. (2002). Offshore Pariahs? Small Island Economies, Tax Havens, and the Re-configuration of Global Finance. *World Development*, 30(9), 1657–1673. [https://doi.org/10.1016/S0305-750X\(02\)00054-2](https://doi.org/10.1016/S0305-750X(02)00054-2)

HEALTH IN THE AMERICAS: CAYMAN ISLANDS (Rep.). (2012). Retrieved 2021, from Pan American Health Organization website: <https://www.paho.org/hq/dmdocuments/2012/2012-hia-cayman.pdf>

Heemskerk, E., Takes, F., Fichtner, J., Garcia-Bernardo, J., CORPNET, Amsterdam Institute for Social Science Research, & University of Amsterdam. (2017/2018). *Sinks and Conduits: Identifying Offshore Financial Centres by using Big Data* (Winter, pp. 61-63, Rep.).

Henry, J. (2019, August 14). Taxing Tax Havens. Retrieved December 10, 2020, from <https://www.foreignaffairs.com/articles/panama/2016-04-12/taxing-tax-havens>

Hines, J. R., & Rice, E. M. (1994). Fiscal Paradise: Foreign Tax Havens and American Business. *The Quarterly Journal of Economics*, 109(1), 149–182. <https://doi.org/10.2307/2118431>

Hudson, A. (1998). Reshaping the regulatory landscape: border skirmishes around the Bahamas and Cayman offshore financial centres. *Review of International Political Economy : RIPE*, 5(3), 534–564. <https://doi.org/10.1080/096922998347516>

ILO (2018). World Employment Social Outlook. Retrieved 2021, from https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_615672.pdf

Indicators: Gross Domestic Product. (n.d.). Retrieved February 15, 2021, from https://www.eso.ky/indicators_page.html#5

Johnson, V. (2001). *As I see it: How Cayman became a leading financial centre*. Book Guild. <http://books.google.com/books?id=Zs1DAAAAYAAJ>

Key Facts and Statistics. (2019). Retrieved February 15, 2021, from [https://www.gov.ky/about-us#:~:text=As%20of%20Fall%202019%2C%20we,male\)%20with%20approximately%2037%2C363%20Caymanians.](https://www.gov.ky/about-us#:~:text=As%20of%20Fall%202019%2C%20we,male)%20with%20approximately%2037%2C363%20Caymanians.)

Lutz Preuss. (2012). Responsibility in Paradise? The Adoption of CSR Tools by Companies Domiciled in Tax Havens. *Journal of Business Ethics*, 110(1), 1–14. <https://doi.org/10.1007/s10551-012-1456-6>

McGee, R. (2006). Three Views on the Ethics of Tax Evasion. *Journal of Business Ethics*, 67(1), 15-35. Retrieved March 25, 2021, from <http://www.jstor.org/stable/25123849>

"Offshore Financial Centers: IMF Background Paper." International Monetary Fund. 23 June 2000. Archived from the original on 23 August 2018. Retrieved 4 September 2018.

Ogle, V. (2017). Archipelago Capitalism: Tax Havens, Offshore Money, and the State, 1950s–1970s. *The American Historical Review*, 122(5), 1431–1458. <https://doi.org/10.1093/ahr/122.5.1431>

Oswald, M. (Director). (2021, February 17). *Ronen Palan - the spider's web film - bonus material* [Video file]. Retrieved February 23, 2021, from <https://vimeo.com/178210332>

Oxford Economics. (2009, February). Economic Benefits of the Financial Services Industry in the Cayman Islands. Retrieved 2021, from <https://www.cifaa.org.ky/wp-content/uploads/2017/08/Cayman-Islands-Financial-Services-Industry-Economic-Impact-Study.pdf>

Palan, M. (2013). Tax Havens: How Globalization Really Works. In *Tax Havens*. Cornell University Press. <https://doi.org/10.7591/j.ctt28545x>

Questions and answers on the EU list of non-cooperative tax jurisdictions. Brussels, 12 March 2019. European Commission Press Release Database.

Reilly, P. (2018, September 07). Cayman islands not just a mailbox and not like you saw in 'The Firm.' Retrieved February 16, 2021, from <https://www.forbes.com/sites/peterjreilly/2018/09/04/cayman-islands-not-just-a-mailbox-and-not-like-you-saw-in-the-firm/?sh=2b65bd19592b>

Royce wins largest ever order from Emirates. (n.d.). Retrieved April 06, 2021, from <https://www.rolls-royce.com/media/press-releases/2015/pr-170415rolls-royce-wins-largest-ever-order-from-emirates.aspx>

Tax Justice Network - Illicit Financial Flows. (n.d.). Retrieved December 10, 2020, from <https://iff.taxjustice.net/>

THE CAYMAN ISLANDS NATIONAL ASSESSMENT OF LIVING CONDITIONS (2006/2007) (Rep.). Retrieved 2021, from KAIRI CONSULTANTS LIMITED website: <http://www.legislativeassembly.ky/portal/pls/portal/docs/1/9781687.PDF>

Unemployment, total (% of total labor force) (national estimate) - cayman islands. (n.d.). Retrieved February 15, 2021, from <https://data.worldbank.org/indicator/SL.UEM.TOTL.NE.ZS?locations=KY>

US department of state. (n.d.). Retrieved April 05, 2021, from <https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/CaymanIslands.html>

2019 Investments Statistical Digest (pp. 3-37, Rep.). (2019). George Town, Grand Cayman: Cayman Islands Monetary Authority.

Biography

James A. Green was born in Royal Tunbridge Wells on the 9th of November, 1998, later moving to the Cayman Islands with his family around the age of four. He attended Saint Stephen's Episcopal School in Austin, Texas as a boarding student for high school. After, he

went on to study in the Plan II Honors Program at the University of Texas at Austin; spending part of his junior year researching Caymanian history and advanced philosophical logic at the University of Oxford. While at Oxford, he played on many university sports teams and set the university record for most bases stolen in a season. He graduated Phi Beta Kappa in May 2021 and plans to tri-qualify as an American lawyer, solicitor of England and Wales, and attorney of the Cayman Islands. He believes the loving support of his friends and family is what has gotten him this far and knows it will inspire him further.

