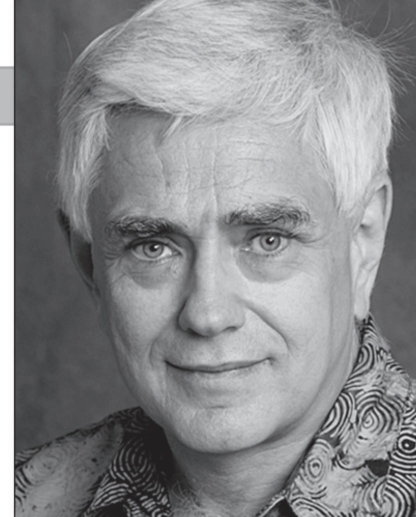
Tax Evasion That Harms the Global Commons: No Problem If It's Legal?



Bruce Rich, an ELI Visiting Scholar, is an attorney and author who has served as senior counsel to major environmental organizations. E: brucemrich@gmail.com.

Illicit financial flows from developing countries total over $1.1 trillion a year, about 5 percent of these nations' gross national income. In contrast, official development assistance from rich countries to help the poor totaled $146.6 billion in 2017. Numerous studies document how "dirty money" flows support human trafficking, global drug mafias, terrorist networks, and arms smuggling, as well as fueling international wildlife trafficking, poaching, and deforestation.

But another important component of international tax evasion and capital flight is technically legal, namely the use by national and multinational investors and companies of tax havens. A 2016 International Monetary Fund study estimated the long-term loss to developing nations from tax havens at $200 billion a year.

The environmental consequences of this "legal" money laundering are becoming apparent. Studies have linked companies involved in palm oil expansion and deforestation in Indonesia, diamond mining in West Africa, and Singapore pulp and paper companies operating in Indonesian forests to the British Virgin Islands and other tax haven jurisdictions.

A seminal paper published last August in *Nature Ecology and Evolution* by researchers at Stockholm and Amsterdam universities and the Royal Swedish Academy of Sciences suggests that tax havens may be playing a significant role in undermining the global environmental commons, particularly the tropical forest biome and ocean fisheries. Using unprecedented access to records of the Brazilian central bank, the researchers found that from 2000 to 2011, 68 percent of the foreign capital investment of the nine most important soya and beef companies operating in the Brazilian Amazon forest was transferred through tax havens, mainly the Cayman Islands, British Virgin Islands, and Netherlands Antilles.

Transfer of these funds resulted in very low or zero corporate taxes, and provided a veil of financial secrecy. The study found that although only 4 percent of all fishing vessels in the world are registered in tax havens, 70 percent of vessels caught in illegal, unreported and unregulated fishing violations are registered in tax haven, so-called "flag of convenience" jurisdictions, especially Belize and Panama.

The paper notes that the currrent legal status of tax havens, and associated lack of transparency, make it "difficult, if not impossible, for scholars and policymakers" in many cases to identify the direct environmental and social effects of tax haven capital flows.

> Quasi-legal havens serve no useful purpose, according to leading economists

But there are important, troubling correlations that need to be investigated more fully. Loss of tax revenue to poorer countries (and added profits for investors) facilitated by tax havens could be viewed, the article states, as massive indirect subsidies — analogous, for example, to fossil fuel subsidies — for environmentally harmful economic activities with global consequences. The authors urge international organizations to undertake independent assessments of the natural capital costs (loss of biodiversity, climate impacts, etc.) of "these until now unquantified subsidies." National and international legal action based on such research should be a priority in carrying out the UN Sustainable Development Goals.

Leading international financial and development institutions are not taking meaningful action on the "legal tax haven" question. A 2016 Oxfam study found that in the previous year 51 of 68 companies supported by the World Bank's International Financial Corporation in Sub-Saharan Africa, accounting for 84 percent of IFC investment in the region, were using tax havens. Over the previous five years IFC finance for companies in the region using tax havens doubled.

An October 2018 *Foreign Policy* article reiterated these criticisms of the IFC, noting that Mauritius (the favored tax haven for IFC Sub-Saharan clients) had 21,000 recorded businesses (the vast majority entailing a physical presence of a paper registration) with assets of over $630 billion, 25 times the country's GDP. Mauritius provides, as do other tax havens, the benefits of "round-tripping," whereby company capital is shifted offshore to avoid local taxes and returns disguised as foreign direct investment for which poorer governments often offer tax breaks and other financial incentives.

IFC officials have maintained that the corporate clients it supports use tax havens as a legal and widely accepted practice. In 2016 over 300 of the world's leading economists, from 30 nations, including Nobel economics laureate Angus Deaton and former IMF chief economist Olivier Blanchard, wrote a public appeal to world leaders stating that "the existence of tax havens does not add to overall global wealth or well-being; they serve no useful economic purpose. Whilst these jurisdictions undoubtedly benefit some rich individuals and multinational corporations, this benefit is at the expense of others, and they therefore serve to increase inequality."