

Cambridge Elements

International Law and Society

Islands of Exception

Jose Atiles

ISSN 3050-2896 (online)
ISSN 3050-2888 (print)

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https://www.cambridge.org/core/terms https://doi.org/10.1017/9781009656504

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Cambridge Elements

Elements in International Law and Society

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ISLANDS OF EXCEPTION

Law, Empire, and Offshore Finance in the Caribbean

Jose Atiles
University of Illinois

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Shaftesbury Road, Cambridge CB2 8EA, United Kingdom

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477 Williamstown Road, Port Melbourne, VIC 3207, Australia

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New Delhi – 110025, India

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www.cambridge.org
Information on this title: www.cambridge.org/9781009656511
DOI: 10.1017/9781009656504

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When citing this work, please include a reference to the DOI 10.1017/9781009656504

First published 2026

A catalogue record for this publication is available from the British Library

*A Cataloging-in-Publication data record for this Element is available from the
Library of Congress*

ISBN 978-1-009-65651-1 Hardback
ISBN 978-1-009-65654-2 Paperback
ISSN 3050-2896 (online)
ISSN 3050-2888 (print)

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DOI: 10.1017/9781009656504
First published online: November 2026

Jose Atiles
University of Illinois

Author for correspondence: Jose Atiles, jatiles@illinois.edu

Abstract: This Element explores the colonial foundations and imperial design of offshore finance, arguing that tax havens are not anomalies but central to global capitalism. Centering the Caribbean and Puerto Rico, it shows how colonial legality and geopolitical subordination produced zones marked by a logic of inclusive exclusion, where secrecy, corporate power, and tax injustice are normalized. Drawing on TWAIL and law and political economy, the Element introduces the concepts of colonial state of exception and the corporate citizen as key legal formations of the colonial offshore economy. It examines how secrecy, financial services, and fintech enable corporations to externalize harm and evade accountability, and how tax reforms, like the OECD's Pillar Two and the UN Tax Convention, often reproduce colonial and racialized hierarchies. This Element concludes with a call to abolish the colonial offshore economy and to uplift grassroots movements across the Caribbean that demand transparency, sovereignty, and justice.

Keywords: offshore finance, TWAIL, corporate power, law and political economy, colonialism

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ISBNs: 9781009656511 (HB), 9781009656542 (PB), 9781009656504 (OC)
ISSNs: 3050-2896 (online), 3050-2888 (print)

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1 *Offshore*: Introducing the Colonial Offshore Economy

The critical study of offshore finance[1] is, at its core, an examination of colonial power. Contemporary offshore finance in the Caribbean, Puerto Rico (PR),[2] and the global South is rooted in racialized imperial hierarchies and colonial legal regimes that positioned these jurisdictions to serve global North states, multinational corporations, and global elites. In this colonial legal structure, the United States (US) and the United Kingdom (UK) stand as prominent architects and beneficiaries of the colonial offshore economy. Through the constitutional subordination of Caribbean territories, whether as colonies, unincorporated or overseas territories, the offshore world is actively produced through colonial legal arrangements that facilitate regimes of extraction and accumulation (Bhambra 2021, 2022; Harrington 2024; Rivera-Quiñoes 2025; Shaxson 2011; Yusuf and Chowdhury 2019). These colonial dynamics embed longstanding Western imperial relations of dispossession within the very jurisdictions marketed as financial and tourist paradises.

This Element foregrounds how Caribbean offshore jurisdictions are continuously produced through colonial logics of economic utility and legal exclusion. Despite their foundational role in the global economy as tax havens or fiscal paradises, Caribbean jurisdictions are embedded in capitalist imaginaries, racialized hierarchies (Dean 2025), and transnational legal regimes that render these territories simultaneously peripheral and indispensable. From the so-called discovery, through slavery, plantation economies, the wars on drugs, decolonization, and globalization, global North interventions have produced Caribbean territories as strategically necessary yet politically disposable. Within this colonial logic, Caribbean territories are imagined as permanently incomplete: denied sovereignty, stripped of agency, and excluded from international recognition. As imagined paradises, they exist to serve multinational corporations and global elites.

Paradise, therefore, is a deeply legal and political project. While visitors and investors may experience it as a space of freedom or even lawlessness, these spaces are, in fact, intensely constituted and policed through overlapping legal regimes, including contract, property, tort, labor,

[1] Throughout this Element, the terms offshore finance, tax haven, and secrecy jurisdiction are used interchangeably, except where explicitly noted.

[2] Although PR is not officially listed as an OFC by the OECD and the IMF, local grassroots organizations and research conducted by scholars and investigative journalists have documented the state's deep investment in developing an OFC (Atiles 2022b, 2025, 2026; Rivera-Quiñoes 2025; Valentín 2021, 2023; Valentín, Cintrón, and Olmo 2021).

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criminal, environmental, and constitutional law (Atiles 2025, 2026). As this Element demonstrates, the paradise is not a space of anomie, but rather a space of hyper-legality, in which law is mobilized to legalize criminogenic practices, facilitate offshore finance, tourism, and enable global patterns of financial service and luxury consumption. As a result, the production and maintenance of paradise depend on violent processes of exclusion, displacement, and spatial reordering, whereby local populations are racialized and aestheticized as part of the landscape, while those deemed incompatible with the image of paradise are displaced through legal mechanisms, economic pressure, or direct coercion (Atiles 2025). Against this reductionist and extractivist imaginary, this Element centers the lived experiences of those inhabiting these spaces, people whose labor, land, and legal systems have been subordinated to financial capital, but who actively resist, reinterpret, and reimagine their futures from within so-called paradisiacal spaces.

At the center of the legal structure of paradise lies the colonial state of exception, the mechanism through which inclusive exclusion[3] is enacted in colonial settings (Atiles 2024). The colonial state of exception enables a façade of local autonomy while ensuring strategic separation between offshore financial centers (OFCs) and the imperial or metropolitan centers of power. This separation operates as a sovereignty veil, behind which global North states, corporations, wealthy individuals, and financial services industries stand,[4] shielding them from legal liability and public accountability. Far from a contemporary innovation, these processes of separation and externalization of liability and harm are deeply rooted in the colonial histories of Caribbean territories. As a result of this logic of inclusive exclusion, Caribbean OFCs are instrumentalized to sustain extractive economies, criminogenic practices, environmental degradation, and wealth accumulation.

Critical international law and Third World Approaches to International Law (TWAIL) have largely overlooked offshore finance as a colonial formation (Kangave 2008).[5] Similarly, the Law and Political Economy

[3] Ophir, Givoni, and Hanafi (2009) have examined the logic of inclusive exclusion in the context of the Israeli settler-colonial occupation of Palestine. Similarly, I have analyzed how this logic manifests in the US colonial rule over PR (Atiles 2024).

[4] Bullough (2019, 2022) discusses of how global North financial services enable corruption, money laundering, and other illicit activities.

[5] Scholars have examined the role of offshore finance from an array of perspectives (Christensen 2012; Cobham 2024; Cobham et al. 2015; Garcia-Bernardo et al. 2017; Hampton and Abbott 1999; Maurer 1998, 2005; Murphy 2017), including its impact in international tax law (Avi-Yonah 2007; Picciotto 1992, 2007, 2013), regulatory regimes

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(LPE) scholarship, while attentive to problems of inequality and imperialism, has only recently engaged with offshore finance. This Element bridges these gaps by locating the offshore world within the colonial histories and legal structures of international law and political economy. TWAIL[6] and LPE critiques of sovereignty, imperialism, exceptionality, and state–corporate power (Anghie 2005, 2023; Kennedy 2018; Knox 2022, 2023; Orford 2021; Pahuja 2011) provide a robust epistemic framework for understanding how offshore finance sustains global hierarchies and contemporary forms of imperialism and domination.

This introduction, therefore, outlines the conceptual framing and structure of this Element. It begins with a brief overview of key concepts and definitions related to offshore finance. It then turns to the colonial state of exception as a legal structure enabling the constitutional accommodation of colonial territories within imperial legal frameworks through mechanisms of inclusive exclusion. This process of inclusive exclusion reflects a strategic accommodation within colonial law, which enables empires to determine the terms of inclusion and the applicability of laws in these territories. The discussion then moves to the concept of the *corporate citizen* (Whyte 2018), which aims to elucidate the dynamics of hyper-inclusivity experienced by corporations and wealthy individuals in the offshore finance system. In contrast to accounts that focus exclusively on exclusion or criminogenic practices, the corporate citizen exemplifies an extreme form of legal and political inclusion within the colonial state of exception. The introduction concludes by offering an overview of the Element's structure.

Altogether, the introduction seeks to foreground a colonial account of the legal structures and policy regimes through which the US, the UK, and other global North powers have forged the Caribbean, PR, and broader global South jurisdictions into offshore paradises. By tracing how empires redesign legal authority and financial regulation to align and recalibrate offshore finance, this introduction elucidates the very logics of exceptionality underpinning contemporary offshore finance. It also explores how colonial territories and subjects can envision the abolition of *paradise* as a precondition for decolonial futures.

(Jansky et al. 2021), and global economic inequality (Tørsløv et al. 2023; Zucman 2015, 2019). International political economy (Baker and Murphy 2019; Behuria 2023; Ylönen and Christensen 2024), economic geography (Hampton and Christensen 1999, 2002, 2007; Roberts 1994, 1995), and criminology scholars have similarly offered critical analyses of offshore finance.

[6] Anghie (2005, 2008, 2023), Anghie et al (2025), Chimni (2006), Eslava (2015), Eslava and Pahuja (2011, 2020), Gathii (2020), Koskenniemi (2018), Knox (2022), and Tzouvala (2015, 2020).

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1.1 Offshore Finance in a Colonial Perspective

Offshore finance has been the subject of extensive scholarly debate, particularly regarding its definition, dimensions, and global impact. While a comprehensive review of this body of work is beyond the scope of this Element, as noted earlier, it is important to foreground a central tension: Colonialism remains a hyper-present yet highly symbolic and often underexplored dimension of offshore finance. Whereas existing studies tend to treat colonialism as a historically constitutive precondition for the emergence of offshore finance, this Element instead centers colonialism as immanent structuring force of the offshore world. Accordingly, the following discussion of offshore finance, sovereignty, corporate power, and the state's involvement in international tax law is framed through the lens of colonial continuity.

Offshore finance refers to financial strategies that relocate assets and liabilities outside an individual's or a corporation's home jurisdiction to exploit favorable regulatory environments (Palan 2003; Palan et al. 2010). Multinational enterprises (MNEs) and wealthy individuals engage in different processes of tax planning and regulatory arbitrage, shifting income and value-creating assets into jurisdictions with lower tax rates and lighter oversight. The jurisdictions that facilitate these transactions, catering primarily to nonresident users, are commonly known as tax havens, OFCs, secrecy jurisdictions, flag-of-convenience registries, free trade zones, or regulatory havens (Atiles and Whyte 2025; Rixen 2011; Sharman 2010; Stausholm and Garcia-Bernando 2024). Many OFCs combine several of these functions within a single jurisdiction (Ogle 2017).

OFCs facilitate corporate tax planning, trade financing, alternative investments, domiciliation of corporations and shell companies, hedge funds and private equity and insurance companies, and more complex financial instruments (Palan et al. 2010) by offering mechanisms for risk mitigation, 24-hour capital movement, and foreign exchange optimization (Maurer 2008). By allowing MNEs and high-net-worth individuals to manage income streams across jurisdictions, OFCs minimize exposure to "double taxation"[7] and support asset protection strategies (Palan et al. 2010). These legal spaces are designed to attract mobile capital through permissive tax regimes, flexible incorporation regimes, trusts and secrecy laws, nonresidency tax incentives, and minimal enforcement

[7] Hearson (2021) provides an excellent discussion of Double Taxations treaties and their impact in the global South.

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mechanisms that shield assets from scrutiny (Palan et al. 2010; Hampton 1996; Harrington 2016, 2024). Some OFCs specialize in services such as trust registration, international banking, captive insurance, cryptoassets, and the creation of special-purpose entities (SPEs) and vehicles (SPVs) (Aalbers 2018). Others operate as regulatory havens, allowing corporations to bypass labor, environmental, and consumer protections (Atiles and Whyte 2025). Similarly, Urry (2014) and Bracking (2012) emphasize the centrality of offshore in private equity markets and its disruptive impact on transparency and governance.

For many scholars, secrecy remains the organizing principle of offshore finance (Chang, Harrington, and Rockmore 2025). Sharman (2010) explains that OFCs employ the strategic use of calculated ambiguity, a legal structure that enables individuals and corporations to enjoy the benefits of ownership without its liabilities, borrow without assuming debt, report high profits while declaring none for tax purposes, and repackage domestic capital as foreign investment through "round-tripping" strategies. While Harrington (2024:40) argues that "offshore finance survives and thrives based on a logic of predation rather than capitalism." The system, Harrington (2024) argues, is optimized for gaming the laws of other countries and for hoarding capital, rather than for putting capital to productive use. Diversification, malleability, and opacity are central to the operability of OFCs.

Common Law's malleability, emphasis on judicial discretion, and its widespread recognition across former and current British and US colonies have made it central to the legal constitution of OFCs (Harrington 2016, 2024; Pistor 2019). That is, the colonial transfer of Common Law and the resulting global dominance of English and US legal systems in private and commercial law are central to the structuring of the offshore world, creating transnational legal relations that support the global circulation of capital.

Beyond legal design, OFCs are integral to the mechanics of wholesale finance, serving as booking centers for currency trades, equity deals, derivatives, and cryptoassets (Aalbers 2018; Garcia-Bernardo et al. 2017). These assets exist primarily as digital records or contracts, stored electronically and easily transferred across borders, providing a level of mobility and flexibility unmatched by other industries (Palan et al. 2010). This global circulation of intangible assets requires a correspondingly global legal infrastructure. For instance, a financial transaction may be arranged in London or New York, centers where specialized legal expertise and tax advisers are concentrated (Christensen 2021; Christensen,

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Seabrooke, and Wigan 2020; Harrington 2016, 2024; Stausholm and Garcia-Bernardo 2024), but to circumvent British or US tax laws and financial and corporate regulations, the transaction can be legally registered or booked in an OFC's jurisdiction such as the Cayman Islands, British Virgin Islands (BVI), or Bermuda (Moon 2019; Palan 2003; Roberts 1994, 1995; Sybblis 2023, 2024). These jurisdictions are final destinations for value booking and asset ownership (Garcia-Bernardo et al. 2017; Stausholm and Garcia-Bernardo 2024).[8] As shown in Chapter 3, in these jurisdictions, most banking and corporate entities exist only as shell operations. That is, branches that are legally registered but have no business activity or assets in the jurisdiction where they are domiciled (Palan et al. 2010).

The global legal infrastructure of OFCs has historically developed around three central poles (Palan et al. 2010).[9] The first is centered around the City of London and includes British Crown Dependencies (e.g., Jersey, Guernsey, and the Isle of Man); British Overseas Territories (BOTs) (e.g., Bermuda, BVI, Cayman Islands, Montserrat, and Turks and Caicos);[10] and former British colonies such as Hong Kong, Singapore, the Bahamas, Bahrain and Dubai; and islands and archipelagoes in the Pacific.[11] The second is the European pole, including Andorra, Ireland, Liechtenstein, Luxembourg, Monaco, the Netherlands, and Switzerland. The third is the US pole, encompassing states such as Delaware, Nevada,

[8] Other jurisdictions function primarily as intermediaries for routing financial flows, known as conduit jurisdictions (Garcia-Bernardo et al. 2017; Stausholm and Garcia-Bernando 2024). These include the Netherlands, Singapore, the UK, and the US, which serve as regional headquarters for high-value-adding subsidiaries, and host shell companies, value-creating assets and play a central role in the corporate legal structures.

[9] https://historyandpolicy.org/policy-papers/papers/history-of-tax-havens/

[10] Importantly, BOTs are not constitutionally part of the UK but fall under the direct authority of the Crown (Yusuf and Chowdhury 2019). Although each BOT has its own constitution, judicial system, and enacts most of its laws, the final court of appeal is His Majesty's Privy Council. The King appoints the governor of each BOT, and the Crown retains ultimate sovereignty over all fourteen territories (Fichtner 2014; Yusuf and Chowdhury 2019). Rivera-Quiñones (2025) notes that the Colonial Laws Validity Act of 1865 played a crucial role in positioning British colonies "offshore" from the laws, regulations, and rights applicable in the UK. The Act allowed colonial legislation to "answer local interests detached from British law and constitution, but under British imperial power" (Rivera-Quiñones 2025:9). Through this form of inclusive exclusion, the Act helped establish the constitutional conditions that later enabled BOT to become OFCs.

[11] The rise of Pacific OFCs began in 1966 with Norfolk Island (Sharman 2006). Jurisdictions such as Vanuatu, Nauru, the Cook Islands, Tonga, Samoa, and the Marshall Islands quickly followed, adopting familiar offshore legislation (Sharman 2006). The Pacific havens are among the poorest in the world, highlighting the structural asymmetries of the offshore economy (Palan et al. 2010).

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and South Dakota, as well as unincorporated territories such as PR, the US Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.[12] Harrington (2024) notes that if the US is counted as a former British colony, over 80% of offshore finance is hosted in former or current Anglo-American jurisdictions. Thus, the offshore system operates within the legal–financial infrastructure forged during the imperial era (Harrington 2024), and its historical development shows how the global North both enables and selectively polices these OFCs, producing the regulatory asymmetries at the core of the offshore world.

Within this global legal infrastructure, the Caribbean stands out for its dense concentration of OFCs and its manufactured image as a paradise. Scholars suggest that, faced with structural constraints, including limited natural resources and industrial capacity, many Caribbean territories adopted offshore finance as a development strategy (Hakelberg et al. 2026; Ogle 2017, 2020; Palan 2003; Palan et al. 2010; Rivera-Quiñones 2025; Shaxson 2011; Sybblis 2024; Vlcek 2019). Accordingly, positioned as peripheral yet strategically adjacent to North America, Caribbean territories function as vacation destinations and platforms for financial and corporate operations. The region's reliance on tourism, financial services, and offshore finance reflects a broader pattern of economic dependency shaped by prolonged imperial relations (Roberts 1994; Sheller 2003, 2020).[13]

As discussed earlier, colonialism is the structure sustaining the Caribbean's transformation into a hub for offshore finance. In line with scholarship that places the Caribbean at the center of modernity and global capitalism (Césaire 2001; Dussel 2013; Williams 2021), this Element contends that the region is central to the structures of financial capitalism, shaped by centuries of extraction, legal plunder, and racialized dispossession. Hence, to understand how these legal spaces operate, we must move beyond notions of regulatory failure and toward an analysis of exceptionality (Bracking 2012; Cotula 2017).

[12] US territories are considered unincorporated territories under the Territorial Clause (Article IV, Section 3, Clause 2) of the US Constitution. The category of "unincorporated territories" emerged from a series of legal definitions and constitutional arrangements established through a set of US Supreme Court decisions collectively known as the Insular Cases (Atiles 2024; Jimenez 2024).

[13] Early scholarship often treated tourism and offshore finance as distinct sectors (Hampton and Christensen 2007; Maurer 1995; Roberts 1995), whereas more recent work emphasizes their interconnections and shared legal and financial foundations (Atiles 2026; DePaul, Murphy, and Vernon 2025; Cao, Jones, and Temouri 2024; Vlcek 2019).

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1.2 Colonial State of Exception as the Legal Structure of the Offshore World

The offshore world occupies a paradoxical position within international law and global political economy. Many of the jurisdictions that serve as OFCs are listed by the United Nations as Non-Self-Governing Territories,[14] places that, by definition, have not achieved full political self-determination. These territories are often denied formal representation in international institutions and remain under the control of colonial powers through varying degrees of legal subordination and sovereign authority. Despite the continued lack of international legal recognition and decolonization, these jurisdictions remain hyper-integrated into the global financial circuits. This structural contradiction, being politically excluded while financially indispensable, is foundational to the operation of the colonial offshore economy.

Therefore, OFCs operate within a legal-spatial exceptionality, simultaneously existing both within and outside the regulatory frameworks of sovereign states. OFCs are imagined as elsewhere, zones of exception that facilitate financial practices disallowed or heavily restricted onshore. Yet, as Tait (2023) argues, the offshore must be conceptualized not as an isolated geography but as a *relational space*, defined by its functional integration with metropolitan centers of legal, economic, and political power. Offshore is a legal formation that enables jurisdictional arbitrage (Potts 2019), serving as both barrier and bridge: a means to facilitate capital mobility while preserving regulatory segmentation (Tait 2023). Offshore geographies are imperial geographies, historically and functionally shaped by colonial sovereignty and its logics of inclusive exclusion.

Sovereignty is central to the operability of offshore finance (Palan 2003; Sharman 2006; Vleck 2008). However, offshore finance scholarship often fails to adequately address the complexities of sovereignty in colonial contexts, where sovereignty resides primarily in the colonial powers. The complex interplay of sovereignty, self-government, and legal practices within these jurisdictions has deep roots in colonial governance structures. Ogle (2017) argues that sovereignty under colonial rule was frequently attenuated, multiplied, and layered, resulting in delegated and fragmented authority. Local administrations in colonial territories wielded significant

[14] Caribbean OFCs such as Anguilla, Bermuda, the BVI, the Cayman Islands, Montserrat, the Turks and Caicos Islands, and the USVI are included in the UN List of Non-Self-Governing Territories. Additionally, Gibraltar, Guam, and American Samoa are also on the list and function as OFCs.

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autonomy in crafting corporate, banking, and tax laws, an unevenness that historically enabled tax avoidance practices and contributed substantially to global capital accumulation (Ogle 2017).

In conversation with scholarship on sovereignty, colonial legality, and my previous research, I apply the concept of the colonial state of exception to analyze the legal design of offshore finance in the Caribbean. Drawing on Agamben's (2005) understanding of the state of exception, I argue that the defining paradox of sovereignty – to stand outside the law while simultaneously determining its applicability – offers a useful, though incomplete, lens for understanding the legal logics of colonialism and its constitutive dynamics in the Caribbean. For Agamben (2005), the state of exception represents a space of anomie where law and politics blur, and sovereign power is exercised through the suspension of legal norms. Agamben (2005) argues that the state of exception has become normalized in Western liberal democracies, moving from its use to address periods of emergency or crisis to its institutionalization in the post-9/11 security state.

Contrary to liberal democracies in the global North, the state of exception has always been the norm in the colonies (Mbembe 2003; Reynolds 2017). That is, in colonial contexts, the state of exception is the structure of governance (Atiles 2024; Reynolds 2017). As Mbembe (2003) asserts, the colony is the original space of anomie, where sovereignty operates as the power to decide who lives and who dies, a mode of governance he terms necropolitics. The colonial state of exception, in this sense, is not an episodic tool of crisis management but a constitutive dimension of colonial rule. It operates as the structure through which a colonial government defines the colonial legal and sociopolitical reality, decides which laws apply to the colonial territory, and imposes differential legal procedures for colonial subjects. The colonial state of exception enables a hyper-mobile and malleable constitutional arrangement, which includes and excludes territories and subjectivities as the sovereign sees fit.

This form of legality captures colonial life in a suspended condition: always legal, but never fully protected by law. That is, the colonial state of exception produces colonial subjects who are not entirely excluded from the sphere of law but are instead enveloped in a suffocating hold by legality (Atiles 2024). This condition is best understood through the logic of inclusive exclusion, a definitional logic of the colonial state of exception. Inclusive exclusion names the legal-political process through which colonial subjects and territories are brought into the sphere of law through their subordination and differentiation. In PR and other Caribbean territories,

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inclusion within legal, economic, and territorial regimes is made possible through exclusions that define the limits of citizenship, sovereignty, taxation, and legality itself. This process of inclusive exclusion is made possible through racialized legal frameworks (Rivera-Quiñoes 2025). As a result of such colonial and racial categories, colonial jurisdictions and subjects are neither fully inside nor fully outside the legal order; they inhabit a space of exception in which the colonial sovereign decides which laws, regulations, and constitutional provisions apply to them.

This logic of inclusive exclusion mirrors the very structure of the offshore: just as the onshore requires the offshore to shield and divert capital, so too does liberal legality require racialized spaces of exception to sustain its order (Reynolds 2017). The unincorporated status of PR and other US colonial territories exemplifies this dynamic, in which a legal structure of extraterritoriality and constitutional differentiation allows US investors, corporations, and wealthy individuals to benefit from sovereign protections while circumventing federal oversight. As Dick (2015) has shown, US imperial tax policy in PR implemented a series of legal reforms and exemptions designed to attract corporate capital while deepening colonial dependency. This Element builds on that analysis by arguing that the colonial state of exception configures PR and other Caribbean territories as offshore jurisdictions for tax avoidance, evading environmental regulations, labor protections, financial accountability, and democratic oversight, while rendering populations precarious, territories disposable, and ecologies vulnerable.

Faced with the logic of inclusive exclusion, local governments and elites have sought to align their economies with specific sectors of the global economy (Rivera-Quiñones 2025). From agriculture, heavy pollutant industries, and military bases to tourism and financial services, these local actors have pursued economic development through strategic accommodation within the colonial state of exception. Unlike scholarship that describes the use of small islands' sovereignty by transnational corporations as a form of commercialization of sovereignty (Palan 2003), this Element argues that the legal and political economic structures imposed by the colonial state of exception have propelled these jurisdictions to establish legal regimes that serve global capital, with the expectation that they might capture a fraction of the capital passing through their territories. This is a manifestation of what I have elsewhere called *colonial legality* (Atiles 2024), the use of the limited autonomy of the colonial government to engage in strategic accommodation to maintain existing hegemonic and class structures within the colonial state of exception.

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1.3 The Corporate Citizen as the Privileged Subject of the Offshore World

In tandem with the configuration of the offshore world through the logic of inclusive exclusion, exceptionality has enabled the corporation to emerge as a super-individual, an entity positioned above and beyond the constraints of ordinary law. Whyte (2018) conceptualizes this development as a shift from repressive inclusion to enriched inclusion. Drawing on, but also departing from, Agamben's ontology of legal power, Whyte (2018) argues that the production of bare life is not law's only function. Rather than merely repressing or excluding, sovereign power operates at the threshold of inclusive exclusion to generate an exceptional form of legal subjectivity, an "enriched" citizenship endowed with rights, immunities, and privileges that remain inaccessible to the majority (Whyte 2018). Just as sovereignty renders some lives legally disposable, it simultaneously produces others as legally enhanced (Whyte 2018). Hence, the colonial state of exception shaped the corporation's legal subjectivity as the paradigmatic form of global capitalism and the privileged actor of the offshore world.

The corporate form is not merely a legal abstraction but a vehicle for reproducing class domination (Whyte 2020). Therefore, the corporate citizen concentrates power and legal privilege in the hands of real citizens, the owners and shareholders, who stand behind the corporate veil (Tombs and Whyte 2015). Although the modern use of the term corporate citizen is recent, its foundations lie in the doctrine of corporate personhood, the idea that an incorporated body can possess a distinct identity and legal personality, separate from its members (Whyte 2018, 2020).[15] This legal conceptualization enabled corporations to avoid death duties, shield assets from shareholders' personal debts, and shift tax obligations onto the entity itself (Whyte 2018). Furthermore, the corporation has been increasingly recognized human rights by the international legal system and by regional courts (Khoury and Whyte 2017). The rights ascribed to the corporate person reflect a broader politics of inclusive exclusion, where the legal burden of duties, such as taxation, is nominally imposed on the entity but rarely disrupts the flow of wealth to its shareholders and beneficiaries (Whyte 2018).

As Chapter 3 shows, the gap between formal requirements and actual enforcement exposes the fiction at the heart of corporate accountability

[15] For a discussion and history of the term corporate citizen see Baars(2019), Tombs and Whyte (2015), and Whyte (2018, 2020).

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(Whyte 2018). By the mid-twentieth century, corporate tax rates in Western liberal democracies often rivaled, or even exceeded, personal income tax rates (Whyte 2018; Zucman 2015). Today, this dynamic has reversed, with corporate tax burdens significantly reduced and the weight of taxation increasingly shifting onto individuals. Popular rhetoric around "double taxation," the idea that both corporate profits and shareholder dividends are taxed, obscures this shift. In practice, many jurisdictions grant dividend allowances taxed at preferential rates, and corporate tax codes are riddled with exemptions, loopholes, and deferrals (Whyte 2018). Corporate taxes account for a shrinking share of public revenue, contributing just 8% on average across OECD countries, while governments grow more reliant on personal income taxes (Whyte 2018). This reflects a deeper structural reality: corporate citizenship is predicated on the notion that legal liability resides with the corporate entity, while the material benefits, profits, privileges, and protections accrue to the private actors concealed behind the corporate veil (Khoury and Whyte 2017; Whyte 2018).

This divergence between corporate and individual taxation, exacerbated by OECD policies, has only deepened with the rise of neoliberalism. Corporations now routinely leverage multiple nationalities and transnational legal strategies to minimize their obligations (Whyte 2018). One prominent example is the proliferation of Export Production Zones (EPZs) or Special Economic Zones (SEZs), which offer foreign investors exemptions from taxes, labor laws, and environmental regulations (Rivera-Quiñoes 2025). SEZs exemplify a global trend in which corporations are entrusted with public authority, becoming responsible for service provision, revenue collection, and rule enforcement (Whyte 2018). This transformation has restructured the citizen-state relationship in the global North and entrenched colonial domination in the global South. In many cases, these arrangements are not chosen freely but imposed, often as preconditions for loans or foreign investments orchestrated by international financial institutions (Tombs and Whyte 2015).

These dynamics reveal a powerful expression of the colonial state of exception, in which the logic of inclusive exclusion manufactures a stratified form of citizenship. While ordinary citizens face heightened surveillance, taxation, and exclusion, corporate citizens move freely, rewrite obligations, and exercise authority without meaningful democratic accountability. OFCs exemplify this condition: legally constituted zones where the logic of inclusive exclusion sustains an extractive global order at the detriment of its own populations. As Pahuja (2011) argues, international law has long served to produce the conditions of underdevelopment through

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the very promise of development – here too, law generates the appearance of inclusion while securing structures of dispossession.

1.3.1 Element Structure

This Element is organized into five chapters, each building on the argument that offshore finance is rooted in colonial structures and sustained through evolving forms of legal-political domination. Chapter 2 traces the colonial origins of offshore finance, highlighting the Caribbean as a pivotal site where secrecy converges with colonial sovereignty. It argues that Caribbean jurisdictions were deliberately structured to shield wealth extracted from the global South and continue to function within imperial legal-financial frameworks. Chapter 3 develops a typology of the core ways in which corporate citizens utilize OFCs to enhance their power. It shows how specific legal instruments developed by lawyers, asset managers, accountants, and the financial services industry in OFCs for the corporate citizens and the ultra-wealthy enable asset protection, regulatory arbitrage, and wealth concealment across transnational networks.

Chapter 4 examines the role of emerging technologies, particularly blockchain and cryptocurrencies, in reshaping offshore finance. It argues that these innovations perpetuate financial opacity and intensify dynamics of crypto-colonialism in the Caribbean and PR, creating new forms of wealth extraction and subordination. Chapter 5 turns to international tax law and global tax governance. It provides a critical overview of global North regulatory efforts to curb tax avoidance, particularly through initiatives such as the OECD's Pillar Two, and argues that these measures often reproduce the colonial logic they purport to dismantle. The chapter also addresses civil society campaigns for a UN Tax Convention and highlights grassroots movements resisting the expansion of offshore finance, particularly in PR and the broader Caribbean.

This Element proposes an anticolonial rethinking of global tax governance, regulation, and offshore finance, and calls for alternative approaches to global finance rooted in justice and sovereignty. Therefore, it concludes with a call to render the colonial offshore economy obsolete. Alas, to *abolish the paradise*.

2 *Sovereignty*: Caribbean Offshore Financial Centers as Islands of Exception

A central theme in offshore finance scholarship is the role of decolonization in expanding the offshore world (Ogle 2017, 2020). Scholars argue

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that the end of the British Empire, postwar welfarist and Keynesian policies, and the dissolution of the Soviet Union, among other historic events, created strong incentives for tax avoidance and evasion (Palan et al. 2010).[16] Similarly, Harrington (2024) notes that three factors were decisive in making the former British Empire the source of contemporary offshore finance: its tax system, the Common Law, and the distinctive strategy of London-based administrators in pushing former colonies toward economic independence. These accounts also highlight how the Euromarkets evolved alongside financial structures in the global South, where local elites, corporations, colonial administrators, lawyers, accountants, and financial service providers played central roles in constructing the offshore world (Palan et al. 2010; Ogle 2017).[17] This body of work challenges the notion that offshore finance is a purely economic phenomenon, revealing its deep roots in imperial legal and racial governance.

However, prevailing accounts of offshore finance tend to center global North narratives, overlooking the lived experiences and political agency of the territories that became OFCs (Rivera-Quiñonez 2025). Furthermore, this historiography often obscures the origins of the assets and capital hidden in OFCs. At the center of the offshore financial system are the resources, assets, and capital extracted from the global South, particularly from the colonies. Similarly, in the post–Cold War era, resources and wealth extracted from Eastern European countries further fueled the expansion of the offshore world.

By centering the Caribbean, this chapter argues that decolonization[18] elsewhere in the global South did not necessarily dismantle colonialism in the Caribbean but rather reconfigured it into an archipelago of islands of exception[19] in which corporate citizens and financial interests

[16] Scholars have traced the emergence of offshore finance to colonial histories, particularly the British Empire's establishment of secrecy jurisdictions in its overseas territories (Koram 2022; Palan 2003; Shaxson 2011; Vlcek 2019).

[17] A growing body of scholarship examines how professionals, including wealth managers, lawyers, accountant, consulting firms and other financial services providers, construct and sustain tax avoidance strategies (Christensen 2021; Christensen, Seabrooke, and Wigan 2020; Christensen and Seabrooke 2022; Harrington 2016; Hoang 2022; Hoang and Biron-Boileau 2026; Stausholm and Garcia-Bernardo 2024). Particularly important in this development has been the role of STEP (Society for Trust and Estate Practitioners) and the Big 4 accounting firms (Deloitte, PwC, EY and KPMG) (Christensen and Seabrooke 2022).

[18] Here I echo Getachew's (2019) critique of narratives that equate decolonization with a linear transition from empire to the nation-state, and instead I aim to examine imperialism and colonialism from a more expansive and ongoing perspective, one that foregrounds their legal, economic, and institutional continuities rather than treating them as resolved historical moments.

[19] Prentice (2023) similarly conceptualizes offshore islands as spaces of exception and inclusive exclusion in Australia and Aotearoa New Zealand, while Tedmanson (2008) mobilizes the concept of the isle of exception to examine the genealogy of colonial state violence

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are hyperincluded. This chapter explores the legal historiography of offshore finance,[20] with particular attention to how the colonial state of exception has structured the constitutional and politico-economic reality of Caribbean OFCs. The following are key Caribbean OFCs. Together, these jurisdictions form a vast and uneven network of financial and legal spaces of exception.[21] Thus, *islands of exception*.

Caribbean OFCs

Anguilla – overseas territory of the United Kingdom
Antigua and Barbuda*
Aruba – Kingdom of the Netherlands
Bahamas*
Barbados*
Belize*
Bermuda – overseas territory of the United Kingdom
British Virgin Islands – overseas territory of the United Kingdom
Cayman Islands – overseas territory of the United Kingdom*
Costa Rica
Curaçao – Kingdom of the Netherlands
Dominica
Grenada
Montserrat – overseas territory of the United Kingdom
Panama*
Puerto Rico – unincorporated territory of the United States
Sint Maarten
St. Kitts and Nevis
St. Lucia
St. Vincent and the Grenadines*
Turks and Caicos – overseas territory of the United Kingdom
US Virgin Islands – unincorporated territory of the United States

Adapted from Atiles and Whyte (2025).

Note: Those marked with * are also maritime flag states.

and Indigenous governance on Palm Island. Here, I explore these dynamics in the context of the Caribbean.

[20] Scholars have previously offered detailed and granular historiographies of the development of offshore finance (Harrington 2024; Ogle 2017, 2020; Palan et al. 2010; Shaxson 2011). Therefore, my discussion is not intended to reiterate existing accounts but to demonstrate how the logic of inclusive exclusion central to the colonial state of exception shaped the offshore word.

[21] These jurisdictions also provide a range of citizenship for purchased, golden passport and visas (Surak 2023) and other related services that allow those that can afford it to scape accountability.

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2.1 Structuring Offshore Finance: Early Legal History of Exceptionality and Corporate Power

Historians of offshore finance typically identify three key phases in the expansion of tax havens (Kunz 2024; Ogle 2017, 2020). The initial phase emerged after World War I, primarily within European jurisdictions. The second phase, occurring post-World War II, witnessed the expansion of offshore finance beyond Europe. The third, which unfolded during the 1970s and 1980s, saw OFCs proliferate in Caribbean and Pacific island-states and colonial territories. As shown in Chapter 4, following the 2008 financial crisis, the offshore world underwent another transformation, marked by the emergence of fintech and colonial OFCs assuming a prominent role in crypto-finance. In this sense, the history of offshore finance is inextricably linked to global crises and structural shifts in the global economy[22] (Harrington 2013). In each instance, colonial OFCs served as spaces for capital protection and stabilization of economic crises, demonstrating how the colonial world is at the center of offshore finance.

In tandem with this temporalization, Palan et al. (2010) identify three key practices that collectively shaped the structural foundations of contemporary offshore finance: US incorporation laws, British virtual residencies, and Swiss banking secrecy.[23] First, US flexible incorporation laws were developed primarily when corporations and their incorporation were highly restrictive in Common Law countries, a lasting consequence of the 1720 South Sea Bubble (Harrington 2013; Palan et al. 2010). New Jersey and Delaware were early pioneers in facilitating the incorporation of corporations, enabling their rapid creation. Palan et al. (2010) show how in the 1880s, New Jersey adopted flexible incorporation laws to attract corporate headquarters, and in 1899, the state passed legislation allowing corporations to own equity in other companies, effectively legalizing holding companies. This legislation introduced the concept of incorporation within incorporation – economically linked corporate groups – and paved the way for practices such as transfer pricing (Palan et al. 2010).

Delaware followed New Jersey in 1898, explicitly drafting legislation to attract corporate interests (Palan et al. 2010). Delaware's corporate law

[22] Peck (2019) makes a similar argument when discussing the development of the offshore industry.

[23] Palan also develops a short summary of the history of tax haven here: https://historyandpolicy.org/policy-papers/papers/history-of-tax-havens/

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is pivotal in the global infrastructure of tax havens due to its uniquely favorable legal and regulatory framework.[24] Central to this framework are low corporate taxation, minimal disclosure requirements, and legal protections that insulate shareholders (Palan et al. 2010). Delaware's corporate statutes provide exceptional flexibility, enabling multinational corporations to create sophisticated structures to manage assets, obscure beneficial ownership, and strategically minimize tax liabilities (Palan et al. 2010). Today, 66% of all US Fortune 500 companies are incorporated in Delaware.[25]

Second, British courts pioneered the concept of "virtual residencies," allowing companies to incorporate in Britain without being subject to taxation (Palan et al. 2010). This legal structure is often cited as foundational to the entire offshore finance system. Landmark cases, such as *Egyptian Delta Land and Investment Co. Ltd v. Todd* (1929), defined Britain's status as a jurisdiction where companies could evade taxation if their operations were conducted abroad, often in colonial settings, effectively transforming Britain into the center of the offshore economy (Ogle 2017; Shaxson 2011; Picciotto 1992; Palan 2003; Palan et al. 2010). This British court ruling established a precedent for the entire British Empire, which was later adopted by jurisdictions such as Bermuda, the Bahamas, and the Cayman Islands.[26] Ogle (2017) emphasizes that many seminal tax law cases in the British Common law tradition emerged from the imperial context and multinational corporations, such as *De Beers Consolidated Mines*, operating across diverse jurisdictions.

Third, the emergence of strict banking secrecy in Switzerland complemented these legal transformations. Codified in the Banking Act of 1934, the Act protects banking secrecy under criminal law (Palan et al. 2010). Triggered by financial instability stemming from the Great Depression, Swiss lawmakers intended to safeguard their banking system by enforcing "absolute silence" regarding client accounts (Palan et al. 2010). This legal framework guaranteed that capital deposited within Swiss banks would remain inviolable, creating a model subsequently emulated globally (Palan et al. 2010).

[24] At the heart of Delaware's corporate law regime is the Court of Chancery (Sybblis 2023). Established in 1792, this specialized equity court exclusively adjudicates corporate disputes, including mergers and acquisitions, fiduciary duties, and shareholder litigation. Its judges, known as chancellors and vice-chancellors, are experts in corporate law, offering specialized judicial oversight without juries.

[25] https://corp.delaware.gov/aboutagency/

[26] https://historyandpolicy.org/policy-papers/papers/history-of-tax-havens/

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Together with Switzerland, the first generation of modern tax havens, Liechtenstein,[27] Luxembourg,[28] the Channel Islands, and, to a lesser extent, Bermuda and the Bahamas, emerged in response to the introduction of more expansive income taxes in Europe during and after World War I (Ogle 2017). Amid the economic chaos of the 1920s – encompassing inflation, political instability, and the redrawing of national borders – wealthy individuals and corporations sought refuge in jurisdictions that could offer safety and secrecy (Ogle 2017). For instance, in the 1920s, the Swiss canton of Zug adopted incorporation laws similar to those enacted in the US (Ogle 2017). Banks operating in Basel began allowing international investors to register virtual holding companies and establish trusts (Palan et al. 2010). Furthermore, by the late 1920s, Zurich had emerged as a hub for *sociétés anonymes* and mailbox companies (Palan et al. 2010). Investments and deposits in Swiss banks were later reinvested internationally, often in projects and endeavors that contributed to the European empires' expansion in the colonial world (Ogle 2017, 2020; Palan et al. 2010). In a cyclical process, wealth extracted from colonies circulated through offshore networks before returning as investment in colonial projects, thereby deepening and extending colonial domination across the global South.

The Channel Islands and Gibraltar also contributed to the early configuration of offshore finance (Palan et al. 2010). Jersey and Guernsey were already considered tax havens by the 1920s, prompting British calls for anti-avoidance legislation (Hampton and Christensen 1999). The islands resisted, citing constitutional privileges, a defense that remains central to their offshore status. However, Jersey's offshore sector only developed in the 1960s with the rise of global finance (Hampton and Christensen 1999, 2002; Palan et al. 2010). The Channel Islands' experience with offshore finance underscores an important model for the development of the offshore world in the Caribbean.

[27] Liechtenstein played a pivotal role in the early formation of offshore finance. The 1926 Company Law introduced the *Anstalt*, a novel corporate form modeled on Austrian foundations, which allowed anonymous asset holding with minimal regulatory oversight, including no nationality requirements for shareholders (Ogle 2017).

[28] Luxembourg introduced its 1929 holding company law, which granted broad exemptions from income, wealth, share transfer, and withholding taxes, drawing international capital and enabling the development of increasingly favorable legal vehicles (Ogle 2017). The *Société de Gestion de Patrimoine Familial* (SPF) was designed to shelter personal investments from Luxembourg's tax regime. Dörry (2025) describes the development of financial center in Luxembourg and the global North.

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2.1.1 Bermuda, the Bahamas, and Panama as the Early Caribbean OFCs

While these European jurisdictions were developing their offshore finance, across the Atlantic, jurisdictions such as Bermuda, the Bahamas, and Panama strategically developed the legal structures for their OFCs to shelter capital from rising fiscal pressures in the colonial metropoles.

Palan et al. (2010) note that Bermuda refused to adopt British corporate law in the 1930s to block land speculators from forming real estate companies; paradoxically, this decision laid the groundwork for its transformation into an OFC. By 1936, local lawyers found ways around Bermuda's corporate law, helping the US-based Life Savers candy company to shelter its offshore earnings from the IRS (Harrington 2024; Sybblis 2023). The structure these lawyers devised, incorporating a shell company called Elbon, is widely regarded as the world's first exempted company (Palan et al. 2010). But the second exempt company, International Match Realization Co., launched Bermuda's OFC. Palan et al. (2010) show that the modern history of Bermuda as OFC would take shape in October 1947, when Shell established the first international company office on the island. A decade later, in 1958, Bermuda passed the Exempted Partnerships Act, which allowed nonresidents to operate partnerships through the jurisdiction (Palan et al. 2010; Sybblis 2023). This legal infrastructure, designed for foreign capital, attracted an elite clientele. Law firms such as Conyers, Dill & Pearman, and Appleby, Spurling & Kempe played key roles, creating mutual funds, managing insurance portfolios, and serving global elites (Palan et al. 2010; Sybblis 2023, 2024).

By the mid-1950s, Bermuda's offshore legal infrastructure was rapidly expanding. American International, a major insurance firm, employed nearly 300 people on the island (Palan et al. 2010). In 1954, Appleby, Spurling & Kempe established Bermuda's first two mutual funds, further entrenching the island as an international insurance center (Palan et al. 2010). In 1956, Bermuda's shipping laws led to a surge in maritime registrations; within a year, half the world's fleet flew the Bermuda flag (Palan et al. 2010). What followed was the creation of the captive insurance industry, another legal structure emerging from the intersections of risk, regulation, and tax avoidance. Captive insurance allowed corporations to self-insure through Bermuda entities, solidifying the island as the world's "risk capital" (Sybblis 2023, 2024). By 2008, Bermuda had hosted over 2,000 investment funds, more than $210 billion in assets, and 3,000 captive insurance firms (Palan et al. 2010). Despite competition

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from other jurisdictions such as Vanuatu, Vermont, and PR, Bermuda remains one of the most important captive insurance jurisdictions, and one of the OFCs with no income, corporate, capital gains, withholding, or inheritance taxes (Palan et al. 2010).

The Bahamas began transforming into an OFC during the 1930s, emerging as a key node in the growing offshore world (Dean 2025; Harrington 2024; Rivera-Quiñones 2025). Palan et al. (2010) state that American citizens established sixty-four personal holding companies in the Bahamas between 1935 and 1937, alongside several insurance firms. The early trajectory of the Bahamas mirrors that of many other OFCs: a local, outward-oriented financial and mercantile elite under British colonial rule constructed a legal system designed to attract foreign wealth (Palan et al. 2010; Sybblis 2023, 2024). In this case, the so-called Bay Street Boys, an exclusive circle of white merchants and attorneys who gathered regularly at a private club in Nassau, monopolized the islands' economic and political development (Palan et al. 2010). Their dominance, both licit and illicit, remained largely unchallenged until 1967, when the election of the first Black prime minister marked a rupture in the colonial racial order (Dean 2025; Ogle 2017).

The Bahamas remained relatively marginal to global finance until the early 1960s, when Meyer Lansky, the Chicago Mafia's banker, entered a partnership with members of the Bahamian elite (Palan et al. 2010). Their goal was to turn the Bahamas into a substitute for Cuba as the Caribbean's premier gambling capital (Palan et al. 2010). Palan et al. (2010) note that Lansky's network helped establish the Grand Bahamas Development Corporation through the Freeport Port Authority, installing his associates on its board. However, the development of an OFC in the Bahamas was not limited to the mafia; other sectors of the local white elites also actively participated in its legal and economic design (Dean 2025; Rivera-Quiñones 2025).

For instance, the enactment of Swiss-style bank secrecy legislation in 1965 laid the legal groundwork for what would soon become a fully developed secrecy jurisdiction (Palan et al. 2010; Sybblis 2023). Around the same period, banks such as Barclays, Bank of Nova Scotia, Canadian Bank of Commerce, Citibank, and Chase Manhattan Bank established themselves in the Bahamas, transforming it into one of the most important booking centers for Euromarkets (Rivera-Quiñones 2025). The Bahamas also became a key beneficiary of the Euromarkets (Ogle 2017), hosting the second-largest offshore hub in the world, surpassed only by London.

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By the early 1970s, the Bahamas had secured its status as one of the world's leading OFCs. According to Rivera-Quiñones (2025), by 1970, one-third of all loans issued by American banks' international branches were booked in the Bahamas, and by 1971, it had become the world's largest booking center. Its financial sector had grown to rival tourism, which attracted nearly 40% of all Caribbean-bound visitors. The country imposed no income, corporate, capital gains, withholding taxes, or estate or succession duties.

The Bahamas' success as an OFC, however, attracted scrutiny. US investigations in the 1970s uncovered widespread use of Bahamian banks by organized crime and narcotraffic (Rivera-Quiñones 2025). As a result, the Bahamas' reputation suffered, and other Caribbean OFCs, especially the Cayman Islands, soon eclipsed it (Palan et al. 2010).

Panama's emergence as a tax haven, and later as an OFC, is closely tied to the US construction and administration of the Panama Canal Zone (Hudson 2017; Ogle 2017). This period established Panama as a site of US geopolitical and commercial influence, laying the groundwork for its later transformation into a key node in the colonial offshore economy. In the 1920s, Panama began attracting international attention as a shipping registry by offering flags-of-convenience, allowing foreign-owned vessels to operate under its lax regulatory regime (Ogle 2017). However, Panama's offshore financial sector did not fully materialize until the 1970s, when it embraced the classic OFC model: exempt companies, strict bank secrecy laws, and permissive incorporation frameworks (Palan et al. 2010). A series of financial reforms in 1970, including the elimination of currency controls, further accelerated this transition (Palan et al. 2010). These changes positioned Panama as one of the world's leading OFCs, eventually hosting over 350,000 registered companies (Jansky et al 2021; Palan et al. 2010).

The early history of offshore finance is marked by imperial retrenchment and the logic of inclusive exclusion, which enabled the legal design of tax avoidance and secrecy. From the rise of European havens after WWI to the colonial reconfiguration of offshore finance, these Caribbean OFCs became embedded in and often served as extensions of broader projects aimed at preserving capital, facilitating elite mobility, and enabling regulatory arbitrage.

2.2 The Post-World War II Era and the Making of Colonial OFCs

Offshore finance expanded alongside and often in opposition to the Bretton Woods system (Palan et al. 2010), thriving with implicit support from governments in the global North (Ogle 2017). These states promoted OFCs as

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tools to bypass domestic regulations, taxation, and capital controls (Ogle 2017). As corporate income tax rates in the global North soared to unprecedented levels – often exceeding 40% to 50% – new tax havens emerged, while older ones were reactivated and repurposed. Many of these jurisdictions were still colonies or recently decolonized from European empires (Ogle 2017). Throughout the colonial period, tax regimes in the territories were already uneven, rife with exemptions, inconsistently enforced, and designed to privilege Europeans and foreign investors over local populations (Ogle 2017). By the 1940s and 1950s, the colonial world remained an attractive counterpoint to the heavily taxed metropoles, setting the stage for the institutionalization of offshore finance (Ogle 2017).

The emergence of the Euromarket in the late 1950s is central to this transformation (Ogle 2017). Often referred to as the Eurodollar, the Euromarket was shaped by specific global North regulatory and political choices.[29] In 1957, the Bank of England issued a pivotal decision: transactions carried out by UK banks with non-UK lenders and borrowers would not be treated as domestic, even when those transactions physically occurred in Britain[30] (Ogle 2017; Palan et al. 2010). This nonintervention created a space of exception, a de facto regulatory haven, through which the Euromarket evolved not in opposition to the state but in concert with it. As a result, the City of London became the epicenter of a broader offshore financial system extending across the remains of the British Empire and beyond (Harrington 2024; Ogle 2017; Palan et al. 2010; Shaxson 2011).

Two central financial instruments drove the Euromarket's exponential growth: Eurodollars and Eurobonds (Ogle 2017). Eurodollars – US dollars held outside the jurisdiction of the US Federal Reserve and European central banks – offered investors and corporations a means to evade domestic financial oversight (Palan et al. 2010; Shaxson 2011). Eurobonds, in contrast, were simultaneously issued in multiple jurisdictions by multinational underwriting syndicates, enabling regulatory arbitrage and tax minimization on a global scale (Ogle 2017). Unlike

[29] The origins of the Euromarket are often obscured by competing interpretations. Some economists describe it as a mere interbank or wholesale financial market that began trading in US dollars in the 1950s (Palan et al. 2010). Others, however, identify its more precise genesis in the wake of the 1956 Suez Crisis, when the British government imposed strict currency controls to defend the pound sterling. Commercial banks in the City of London, many of those with long-standing ties to the Commonwealth and the informal British empire in Latin America, saw their international lending capacity evaporate. In response, they began executing international transactions in US dollars, arguing that such dealings did not affect the UK balance of payments (Palan et al. 2010).

[30] https://historyandpolicy.org/policy-papers/papers/history-of-tax-havens/

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traditional bonds, which were nationally issued and taxed, Eurobonds operated in a space of exception, free from local monetary control. These instruments, emerging under the pretenses of financial efficiency, became central tools in restructuring global capital flows, disembodied from national oversight and increasingly insulated from democratic accountability (Hoang 2022; Ogle 2017).

US banks utilized this offshore infrastructure to circumvent the constraints imposed by New Deal-era financial regulations (Ogle 2017). These included the McFadden Act (1927), which prohibited interstate banking; the Glass-Steagall Act (1933), which separated commercial and investment banking; Regulation Q, which capped interest rates on time deposits (Ogle 2017); and lending restrictions that prevented banks from extending more than 10% of their capital to a single borrower (Palan et al. 2010). Together, these measures produced a highly regulated financial system that multinationals sought to evade. Thus, US banks began establishing branches in London, European, and Caribbean jurisdictions, enabling them to operate legally outside the US regulators' jurisdiction while maintaining proximity to the global financial system (Ogle 2017). The introduction of the Interest Equalization Tax (IET) in 1963, a measure intended to discourage capital outflows by taxing foreign bond investments, paradoxically accelerated the shift to offshore markets (Ogle 2017; Palan et al. 2010). US firms avoided the IET by keeping capital abroad and began using the Euromarket to fund operations (Ogle 2017). By the mid-1960s, Citibank, Chase Manhattan, and Bank of America had all opened operations in Britain,[31] joining their British counterparts in Jersey, Guernsey, and the Isle of Man (Palan et al. 2010).

This transformation cannot be reduced to regulatory evasion alone; rather, it reflects a deeper restructuring of international monetary and state power (Binder 2023, 2024). It marked the outsourcing of monetary power to offshore spaces governed not by central banks, but by transnational banks and legal structures emerging from the Common Law. Offshore US dollars, created through Eurodollar markets, were issued outside US jurisdiction yet remained functionally tied to the dollar standard, allowing global banks to co-govern liquidity and monetary policy (Binder 2024). Binder (2024) shows that the ability to create US dollars offshore, without Federal Reserve oversight, enabled a form of "outsourced empire," in which US power is exercised through contracts, law, and liquidity rather than territory.

[31] https://historyandpolicy.org/policy-papers/papers/history-of-tax-havens/

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Alongside this outsourcing process, the creation of International Business Companies (IBCs), also known as "non-resident" or "exempt" companies, marked an important shift in the 1960s (Palan et al. 2010). While their structures vary, IBCs typically follow the British virtual residency model. That is, IBCs are incorporated in jurisdictions where they do not operate, thereby benefiting from near-zero tax rates, minimal reporting requirements, and limited transparency (Palan et al. 2010). For tax havens, IBCs attract foreign capital while allowing local businesses to be taxed (Palan et al. 2010). British Treasury and Bank of England officials documented the adoption of IBC laws in Caribbean territories as early as 1968, including Antigua, Barbados,[32] Jamaica, and St. Vincent (Palan et al. 2010). Nonetheless, the 1980s BVI's IBC law was particularly successful, spurring a surge in company registrations and prompting other Caribbean jurisdictions to follow its model (Sybblis 2023).

The success of the Euromarket and the emergence of IBCs further reflect the enduring imperial logics of offshore finance. Although the formal British Empire waned, its financial geographies were reconstituted through a network of Crown Dependencies and BOT anchored by the City of London (Ogle 2017, 2020; Shaxson 2011). These islands of exception became key nodes in global finance, offering flexible legal regimes and fiscal opacity tailored to the corporate citizen and the ultra-wealthy.

2.3 Reconfiguring Offshore Finance, 1970–1990

The oil crisis and the subsequent crises in liberal democracies that engulfed the North Atlantic world in the 1970s significantly reshaped global finance and economic policies, setting the stage for the rise of neoliberalism. Policies and regulatory frameworks initially crafted for OFCs began migrating into the global North from the late 1970s onward. This shift included substantial reductions in marginal tax rates on high-income earners and widespread deregulation of financial markets, effectively blurring the boundaries between onshore and offshore practices (Ogle 2017). Financial deregulation, driven by competitive pressures from the Euromarket, contributed significantly to the neoliberal turn experienced by global North economies during the 1980s (Ogle 2017).

New York City, facing economic stagnation and budget crises in the mid-1970s, also sought to reclaim the offshore banking business lost

[32] In a 2025 brief published by ITEP, Barbados was ranked third (after the BVI and the Isle of Man) among global jurisdictions enabling corporate profit shifting and tax avoidance. https://itep.org/tax-havens-corporate-tax-avoidance-global-minimum-tax/

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to Caribbean OFCs (Palan et al. 2010). Ogle (2017) shows how in 1978, the New York State Legislature enacted legislation establishing International Banking Facilities (IBFs), which became operational in 1981 after approval by the Federal Reserve. These IBFs allowed banks to conduct foreign business domestically, effectively moving offshore finance back onshore, granting regulatory benefits such as reduced reserve requirements and exemptions from state and local taxes (Ogle 2017). Despite initial optimism and a rush by banks to establish these facilities, the expected economic benefits to local economies failed to materialize (Ogle 2017). However, as shown later, the IBF regulatory principle was crucial in enhancing the corporate tax haven in PR and contributing to its development into an OFC.

By the late 1970s, a new class of tax havens emerged, jurisdictions that did not rely on secrecy or zero taxation but functioned as conduits for multinational capital (Garcia-Bernardo et al. 2017). The Netherlands became a prime example. From the mid-1970s, the Dutch government reshaped its tax laws to attract MNEs seeking "tax-efficient" jurisdictions, transforming the country into a preferred headquarters location for firms such as Volkswagen, IKEA, and Mittal Steel (Palan et al. 2010). Central to this shift was the proliferation of shell companies (Palan et al. 2010). By 2005, over 42,000 financial holding companies were registered in the Netherlands, with many clustered at just a few addresses in Amsterdam (Palan et al. 2010). Nearly half were owned through other OFCs, including the Netherlands Antilles,[33] BVI, and Switzerland, revealing a complex structure designed to channel capital through Dutch treaty networks and minimize withholding taxes (Palan et al. 2010).

One of the more revealing cases of this conduit logic was the so-called Dutch Sandwich,[34] a tax-avoidance structure that relied on the Netherlands Antilles conduit companies to route investment into and out of the US (Ogle 2017; Palan et al. 2010). In response to the 1963 Interest Equalization Tax (IET) discussed earlier, US authorities tolerated, and even actively enabled, the use of Netherlands Antilles conduit companies to bypass withholding taxes (Ogle 2017). This is yet another example of how European powers utilized Caribbean colonial territories to facilitate tax evasion and secrecy. Although the US Treasury moved to end the IET in 1987, it underestimated how embedded the structure had become;

[33] The Netherland Antilles consisted of Aruba, Bonaire, Curaçao, and Saba, St. Eustatius, and St. Maarten.

[34] On the Double Irish Dutch sandwich see Moon (2019).

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30% of the $32 billion in outstanding Eurobonds were held through Netherlands Antilles shell companies (Palan et al. 2010). The Netherlands and its Caribbean territories embody the shift in offshore finance from secrecy to treaty-based arbitrage (Palan et al. 2010).

Ireland followed a similar path to develop into an OFC (O'Boyle and Allen 2021). Building on its Shannon export zone, it launched the International Financial Services Centre (IFSC) in Dublin in 1987, offering a 12.5% corporate tax rate and regulatory waivers for financial operations. By 2003, Ireland's total stock of foreign investment had reached €1.041 trillion, eight times its GDP, with 72% of it linked to the IFSC (Palan et al. 2010). Half the firms operating there were US-owned, and by 2000, Ireland had become the top location for reported pre-tax foreign profits by US corporations (Palan et al. 2010). O'Boyle and Allen (2021) noted that €100 billion in profits pass through Ireland every year with no intention other than to avoid taxes. The Netherlands and Ireland exemplify how European-OECD-jurisdictions have leveraged their legal systems, treaty networks, and regulatory arbitrage to embed themselves within global financial circuits.

Ogle (2017) argues that by the 1980s, the list of active OFCs included a geographically diverse range of jurisdictions, from Bahrain, the Cayman Islands, Delaware, Hong Kong, Lebanon, Malta, Mauritius, Panama, Singapore, and Switzerland. Recent scholarship has examined the capitalist and legal dynamics underpinning the development of the global offshore economy. For instance, Slobodian (2023) and Abrahamian (2024) have critically analyzed the capitalist processes producing a network of extraterritorial spaces, legal carve-outs, and special economic zones designed to facilitate the concealment and protection of wealth. Their contributions provide an important understanding of the offshore economy as a fragmented yet interconnected legal geography, where the logic of inclusive exclusion is pervasive, enabling access for capital while denying full rights, protections, and benefits to local populations. In this Element, I build on these insights by centering the Caribbean and tracing the colonial emergence of an archipelago of islands of exception, in which legal and economic asymmetries are produced and sustained through colonial legality.

2.4 *Recentering the Caribbean*: OFCs in Colonial Territories

The emergence of islands of exception in the Caribbean is embedded in the global transformations unleashed by the wave of decolonization that began in the 1960s. This process was driven by three interrelated

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factors that together enabled the consolidation of Caribbean OFCs (Atiles and Whyte 2025).

First, the constitutional and political status of Caribbean territories, shaped by enduring colonial ties to European powers and the US, created the legal conditions for their conversion into OFCs (Rivera-Quiñones 2025). While many jurisdictions retained limited autonomy over taxation and economic policy, they remained subordinated to their respective metropoles. As former colonies across the global South gained independence, capital flight increasingly flowed into Caribbean colonial jurisdictions, which imperial elites perceived as more politically stable. In this sense, decolonization elsewhere generated demand for "safe havens" capable of preserving elite wealth, thereby creating the conditions for the development of offshore finance in the Caribbean (Harrington 2024; Ogle 2017, 2020; Palan 2003). For instance, in PR and the US Virgin Islands, congressional economic policy further entrenched these territories' roles as tax havens within US imperial governance.

Second, geopolitical location and colonial imaginaries transformed Caribbean jurisdictions into both symbolic and material sites of offshore finance. While geographic isolation once provided physical secrecy, it now functions as a symbolic asset, branding these territories as idyllic financial and tourist paradises (Atiles and Whyte 2025). Their proximity to the US, combined with colonial jurisdictional boundaries, facilitated their rise as offshore nodes within global financial networks (Koram 2022; Palan et al. 2010; Shaxson 2011).

Racial and colonial hierarchies were central to this process, shaping both the governance and marketing of Caribbean OFCs (Dean 2025; Rivera-Quiñones 2025). Promoted as low-cost alternatives to industrial development, OFCs were framed as pragmatic solutions to colonial economic dilemmas (Ogle 2017, 2020). British authorities, in particular, championed this model as a means for remaining colonies to achieve financial self-sufficiency while reducing metropolitan obligations (Harrington 2024; Vlcek 2008).[35] These dynamics also intensified regional vulnerability to displacement, dispossession, and climate catastrophe, binding the Caribbean to a legal and economic order that continually reasserts colonial hierarchies.

[35] This approach sparked internal conflict: the Treasury cautioned that low- or no-tax regimes would harm long-term development, while the Bank of England and Foreign Office supported them as a way for colonies to "pay their way." By the mid-1970s, the pro-offshore stance prevailed, backed by settler elites favoring minimal taxation, laying the groundwork for today's offshore finance (Shaxson 2011).

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Third, postwar political economy and global financial restructuring positioned Caribbean OFCs as key sites for wealth protection and elite reproduction (Atiles and Whyte 2025). As Keynesian welfare states expanded, taxation and currency controls were dismantled, Britain's Common Law tax-neutral colonies emerged as attractive destinations for preserving private wealth (Harrington 2024; Ogle 2017). This process accelerated with the neoliberal restructuring of the global economy in the 1980s, as small islands became spaces for legal and financial experimentation (Ogle 2017). Lawyers, accountants, and other financial service professionals, often based in the global North, piloted offshore models tailored to the evolving needs of global capital (Ogle 2017). In this context, Caribbean OFCs served to preserve elite dominance in both the global North and South. For Britain, they provided mechanisms for returning colonial elites to shield wealth from domestic taxation (Koram 2022). For the US, Caribbean jurisdictions became crucial sites for recycling capital extracted from Latin America through both licit and illicit channels (Shaxson 2011). In both cases, offshore finance enabled imperial powers to accumulate capital while insulating domestic economies and sustaining geopolitical alliances.

These three factors are exemplified in the emergence of OFCs in the Cayman Islands and the BVI, as well as in ongoing efforts to transform PR from a corporate tax haven into a broader OFC. The following discussion examines these cases to illustrate how these dynamics have shaped, and continue to shape, the Caribbean's offshore financial landscape.

2.4.1 The Emergence of the Cayman Islands and the BVI as OFCs

The Cayman Islands is the most prominent OFCs in the colonial offshore economy. After Jamaica gained independence in 1959, the Cayman Islands remained affiliated with Britain while negotiating greater autonomy, particularly over fiscal and legislative matters (Fichtner 2016; Freyer and Morris 2013; Sybblis 2023). This autonomy enabled the territory to enact foundational legislation for its transformation into an OFC, closely tied to the decolonization processes of both Jamaica and the Bahamas (Sybblis 2023). The Cayman Islands established its OFC with a legal framework designed to offer more competitive advantages and legal guarantees than regional competitors (Rivera-Quiñones 2025). A turning point came with the 1960 Companies Law, which shifted company registration from Jamaica to the Cayman Islands (Sybblis 2023). This was followed by the Banks and Trust Companies Regulation Law,

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the Trusts Law, and the Exchange Control Regulations Law – establishing the legal basis for offshore banking, trust services, and corporate registration (Palan et al. 2010; Roberts 1994; Sybblis 2023, 2024).

In 1976, the Confidential Relationships (Preservation) Law codified professional secrecy, shielding financial information from foreign authorities, particularly in response to US regulatory pressure (Sybblis 2023). By the late 1970s, the Cayman Islands had removed all exchange controls, and, in 1979, introduced the Insurance Law to regulate its growing captive insurance industry (Sybblis 2023). By the early 2000s, the Cayman Islands had become a significant hub in the international financial services industry, and by 2008, it ranked as the world's fourth-largest financial center(Palan et al. 2010). In 2006 alone, over 81,000 IBCs were registered in the Cayman Islands (Palan et al. 2010). Likewise, the Cayman Islands emerged as the leading domicile for hedge funds (Fichtner 2014, 2016) and ranked second only to Bermuda in the captive insurance market. Institutional fund assets surpassed $1.4 trillion and continued to grow (Sybblis 2023). According to Fichtner (2016), the Cayman Islands are the largest holders of US securities in the world. Furthermore, the Cayman Islands currently houses "13,000 hedge funds, 1.2 million shell corporations, 96 banks, and 140 trust companies, managing foreign claims of $1.8 trillion and facilitating 15% of global FDIs" (Rivera-Quiñones 2025:15).

In 2009, this jurisdiction established the Financial Services Division (FSD) of the Grand Court, a specialized commercial court designed to handle complex disputes arising from the offshore sector (Sybblis 2023). The development of International Commercial Courts (ICCs), often located within Special Economic Zones (SEZs) in OFCs, has become a significant phenomenon since the 2000s. As shown in Chapter 3, ICCs are specialized tribunals within domestic court hierarchies, designed to adjudicate complex cross-border commercial disputes (Gu and Tam 2022). The FSD was granted jurisdiction over matters ranging from mutual funds and insurance disputes to trust litigation, company law, and arbitration. As Sybblis (2023) notes, while many cases involve Cayman-registered companies, the actual business activities and parties are often located elsewhere, and adjudicating these transnational disputes within a local court can be challenging. The court's institutional design closely mirrors the London Commercial Court (Sybblis 2023). Final appeals continue to be heard by the Judicial Committee of the Privy Council in London (Sybblis 2023), reinforcing the colonial judicial hierarchy that underpins much of the Cayman Islands' legal structure.

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Similar arrangements proliferated throughout the Caribbean, each characterized by extensive concessions to corporate citizens and private capital in exchange for promised development (Harrington 2024; Ogle 2017; Sybblis 2023). For instance, in the Turks and Caicos Islands, investors openly sought to establish a tax haven, receiving tentative approval from British authorities despite acknowledging that they effectively sought to control the territory (Ogle 2017). Similarly, the BVI leased Anegada Island to the Development Corporation of Anegada for 199 years, exempting corporations operating there from taxes and duties (Ogle 2017). In Antigua, a 1967 proposal by Global Risk Underwriters intended to transform Barbuda into an OFC, explicitly offering secrecy protections and raising suspicions of involvement in arms and drug trafficking (Ogle 2017). Despite clear financial risks, Caribbean governments, often faced with a lack of investment by the colonial power, accept these deals as a mechanism for economic development and growth (Sybblis 2023).

This is exemplified by the BVI, which entered the colonial offshore economy with the enactment of the International Business Companies Ordinance (IBCO) in 1984 (Maurer 1995; Sybblis 2023). Like other OFCs, the BVI crafted specialized legislation to facilitate offshore finance, but the IBCO also served as a symbol of political identity and local agency (Maurer 1995). Officials proudly framed it as a homegrown law, asserting that other jurisdictions later adopted their model. As Maurer (1995) observes, the symbolic authorship of "our law" often carried more weight than public understanding of the regime itself. BVI leaders also positioned the territory as politically stable and well-governed, implicitly distancing themselves from "less stable" competitors (Maurer 1995; Sybblis 2023). This narrative of good governance helped attract capital in a period when investors increasingly valued regulatory predictability and institutional competence (Sybblis 2023).

The IBCO model and the jurisdiction's emphasis on incorporations positioned the BVI to challenge older centers like Bermuda and the Cayman Islands. In areas such as mutual funds, BVI emerged as a competitor to the Cayman Islands, offering streamlined services and fewer restrictions (Sybblis 2023). For example, while jurisdictions such as Jersey, Guernsey, and Panama require annual board meetings onshore or impose minimal taxes on investment earnings, the BVI has eliminated such requirements (Sybblis 2023). The BVI is now the second-largest source of foreign direct investment (FDI) in China, largely due to its exceptional legal frameworks tailored for foreign joint ventures (Sybblis 2023). Similarly, 40%

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of assets managed by BVI-registered companies can be traced to Chinese and Hong Kong-based investors (Sybblis 2023).

Sybblis (2023) notes that like Bermuda and the Cayman Islands, the BVI established a specialized Commercial Court. Still, uniquely, it operates as a division of the Eastern Caribbean Supreme Court (ECSC), which serves multiple island jurisdictions (Sybblis 2023). As BVI's financial sector grew, the surge in commercial litigation overwhelmed its local judiciary. In response, the ECSC established a dedicated Commercial Division based in the BVI to manage complex, cross-border, and transnational financial disputes, reflecting the territory's growing role in global finance (Sybblis 2023).

2.4.2 From Corporate Tax Haven to OFC: PR's Tax Incentives and Legal Developments

Historically, PR has functioned as a corporate tax haven, offering low or zero taxes to US investors and multinational corporations (Dick 2015; Rivera-Quiñones 2025). Due to its colonial status,[36] bona fide residents of PR[37] are exempt from federal income taxes on earnings generated on the archipelago. The Puerto Rican government has actively leveraged its colonial status to implement tax policies that aim to attract US capital, facilitate corporate tax avoidance, and open avenues for local elites to accumulate capital.

Tax incentives have been central to Puerto Rican economic development strategies to this day. In 1947, PR established the first US-linked foreign trade zone, targeting the pharmaceutical and oil industries (Rivera-Quñones 2025). This marked the beginning of a developmental strategy known as "industrialization by invitation," later formalized under Operation Bootstrap. These policies offered generous tax exemptions to US corporations while suppressing the growth of local industry. By the 1970s, amid the global oil crisis, PR adopted a new financial strategy centered around Section 936 of the US Internal Revenue Code (1976), which allowed US firms to repatriate profits from the archipelago tax-free. These incentives targeted capital and knowledge-intensive sectors such as pharmaceuticals, electronics, and financial services. While Section 936 temporarily stimulated manufacturing and finance, it

[36] The constitutional definition of unincorporated territory established in the Insular Cases have meant that the Constitution's Uniformity Clause does not apply to PR (Rivera-Quñones 2025). This entails that federal taxes are not applied to the territory as they will in other US states.

[37] A person that resides in PR for 183 days per year. www.irs.gov/taxtopics/tc901

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entrenched PR's dependency on externally controlled capital flows and fiscal incentives. Simultaneously, in the late 1980s, the local government sought to incentivize the development of finance, insurance, and real estate sectors in the archipelago.[38]

When Section 936 was phased out in 2005, partly due to US concerns about tax base erosion and the advent of NAFTA, PR was left without a viable alternative. In response, the PR government turned to bond issuance and infrastructure megaprojects to stimulate the economy, further increasing the public debt (Atiles 2024). This shift entrenched a financialized model of development based on speculative investment rather than production. As the 2000s progressed, economic stagnation and mounting debt worsened. By 2004, there were approximately 40 tax incentive laws on the books; by 2008, that number had increased to 60, and by 2020, it had surpassed 90 (Quiñones and Seda 2020). Multinational corporations, especially in the tech sector, took full advantage of these incentives. In 2014, Microsoft disclosed in its SEC filings that it had $92.9 billion in offshore profits, much of which was held in PR, Ireland, and Singapore (Zucman 2015). The firm estimated that repatriating these funds would trigger a $29.6 billion tax bill, implying it paid no more than 3.1% in foreign taxes (Zucman 2015).

Similarly, PR has been moving toward developing OFC since 1989, with the enactment of the International Banking Center Regulatory Act (Act 52). Central to this legislation was the provision of tax incentives for international banks to establish in the territory. This transformation from a corporate tax haven to an OFC intensified during the 2006 financial and economic crisis,[39] during which the PR government moved to incentivize the services industry, including financial and banking services, as well as tourism (Atiles 2026). In this context, the PR government saw the transformation of its tax haven into an OFC as an avenue to generate revenue and attract FDI. These efforts followed the traditional format

[38] Similarly, in the 1970s, the US launched development policies in the US Virgin Islands (USVI) aimed at attracting heavy industry through the Industrial Development Commission (IDC) (Navarro 2021). As global capital shifted toward finance in the 1990s, the IDC informally welcomed financial firms, a move formalized in 2001 with the creation of the Economic Development Commission, offering tax breaks to lure US financial services (Navarro 2021).

[39] Since 2006, PR has faced severe economic and humanitarian crisis, culminating in its 2016 default and bankruptcy and the subsequent imposition of the Financial Oversight and Management Board (FOMB) by the US government under the Puerto Rico Oversight, Management and Economic Stability Act of 2016. The economic crisis was compounded by Hurricanes Irma and María in 2017, the earthquakes of 2020, the COVID-19 pandemic, and Hurricane Fiona in 2022.

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of diversifying offshore finance in other Caribbean territories, in which sectors such as international banking, captive insurance, private equity, and other financial services are encouraged to relocate to the territory. Alongside governmental efforts, local elites and the private sector have cultivated the service sector (Valentín 2021), including the development of real estate firms, law firms, insurance companies, and banking services, all of which are designed to capitalize on the archipelago's colonial tax advantages.

In 2012, three pivotal laws, Act 20 (Export Services Act), Act 22 (Individual Investors Act), and Act 273 (International Financial Center Act), were enacted by the local government facilitating the operation of the OFC in PR. Act 273 established the regulatory and financial framework necessary for international banks and financial entities to operate in the archipelago. Since its enactment, at least fifty International Financial Entities (IFEs)[40] have been established in PR, benefiting from tax breaks, lax regulations, and other state-granted incentives (Atiles 2024).

Act 20 extends tax incentives to corporations and individuals exporting services from PR. This framework has incentivized financial consulting, investment banking, and wealth management to relocate to PR. Wealth management firms have flourished under Act 20, emerging as one of PR's most significant financial sectors. Act 22 has been instrumental in PR's efforts to become an OFC by providing individual investors who relocate to the archipelago with generous tax exemptions.[41] Since 2012, over 4,000 individual investor degrees have been granted under Act 22. Proponents of these tax incentives argue that these investors stimulate the local economy, primarily through real estate investments, and create employment opportunities in the services industry, real estate, and the construction of luxury megaprojects. Some claim that Act 22 beneficiaries often establish businesses eligible for Act 20 incentives, amplifying their economic contributions.

In addition to these local policies, US federal tax initiatives have accelerated PR's transformation into an OFC. The 2017 Tax Cuts and Jobs Act and Opportunity Zone incentives designated 98% of PR as an Opportunity

[40] PR offers two 'financial entities' options: International Financial Entities (IFEs) and International Banking Entities (IBEs), both designed to provide financial service to non-residents. IBEs face stricter oversight from OCIF, including a 20% reserve requirement.

[41] According to PR's tax expenditure report, the government lost approximately $6.62billion in revenues related to Act 22 from 2017 to 2026. In the lates tax expenditure report published in June 2025, the projected revenue losses from 2024 to 2030 quadrupled to $18.4 billions. For more see: https://prnosevende.com/wp-content/uploads/2025/10/Pain-Profit-3-ENG-Oct-28-update.pdf

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Zone. This policy allows investors to defer taxes on capital gains earned elsewhere by reinvesting them in Opportunity Zones, with profits from these investments exempt from taxation if held for at least ten years. This legislation has drawn venture capitalists to PR, many of whom have invested in luxury real estate, beachfront properties, and land grabs, exacerbating the displacement of local communities and intensifying territorial struggles.[42]

In 2019, Acts 20 and 22, 273, and other tax incentive laws were consolidated under the PR Incentives Code (Act 60), which provides tax benefits for IBEs, IFEs, captive insurance, asset managers, hedge funds, private equity firms, cryptocurrencies, and the visitor economy. The law has eleven chapters, including tax incentives for various areas, from individuals, exports, financial services, and the creative economy, to entrepreneurship. Since its enactment, tax incentives and benefits under Act 60 have been systematically expanded, and, according to the Department of Economic Development and Commerce (DDEC), the cost of these tax policies has amounted to $21 billion, more than double the PR government's operational budget (Valentín 2023).

A lesser-known and often overlooked law, the PR Private Equity Funds Act (Act 185 of 2014), was later incorporated into Act 60. This law provides two types of private equity structures, Private Equity Funds (PEFs) and PR Private Equity Funds (PRPEFs), offering significant tax incentives for qualifying investors.[43] To qualify, funds must meet specific legal requirements, including maintaining a physical office in PR, using a PR-based, registered investment adviser, and investing primarily in non-publicly traded securities.[44] Hedge funds, by contrast, do not qualify for these fund-level tax incentives if they invest in publicly traded securities. However, hedge fund managers who relocate to PR may still benefit from Act 60 provisions, specifically Sections 2031.01 and 2021.01 (formerly Acts 20 and 22), which provide preferential tax treatment on advisory fees, performance allocations, and carried interest earned from non–PR investors.

The production of the OFC relies heavily on tax incentives and transferring capital to the private sector. Tropes of paradise, tropicality, and endless summers have been central to this shift, serving as key tools for

[42] https://prnosevende.com/wp-content/uploads/2025/10/Pain-Profit-3-ENG-Oct-28-update.pdf

[43] www.dlapiper.com/en/insights/publications/2022/05/private-equity-and-hedge-funds-in-puerto-rico

[44] PEFs must invest at least 15% in PR-linked assets, while PRPEFs require 60% in local economic activity. Both must have accredited investors and a minimum capital of $10 million. These funds enjoy exemptions from PR income, municipal, and property taxes, with resident investors getting major tax break.

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reconfiguring PR into an OFC. In this context, tourism and high-end real estate have become vehicles for offshore diversification (Atiles 2026). By marketing the archipelago as a tropical tax haven, Puerto Rican officials aim to attract both foreign investors and financial firms. Tourism and offshore finance in PR are increasingly entangled through overlapping legal frameworks, financial flows, and elite networks (Atiles 2025). Shared beneficiaries and standard political-economic logics are driving the convergence of tourism megaprojects and offshore finance, underscoring the pivotal role of tax incentives and permissive legal frameworks in PR's repositioning as a node within the global offshore economy.

2.5 Offshore Finance as a Decolonial Project?

Thus far, we have examined how the logics of inclusive exclusion structured the colonial offshore economy. However, framing these developments solely as impositions by colonial powers overlooks the political agency of colonized peoples. In many cases, the rise of OFCs reflects strategic decisions by local elites and institutions responding to limited economic opportunities.

Sybblis (2024) challenges the interpretation of OFCs as inherently corrupt, arguing that offshore financial law can, in some colonial contexts, serve as a form of practical autonomy. While not decolonization in a sovereign sense, this autonomy allows for internal self-governance and reduced colonial oversight. Analyzing Bermuda, the BVI, and the Cayman Islands, Sybblis (2024) shows that these BOTs, though not fully sovereign, have achieved significant economic independence. Unlike many of their Caribbean neighbors, who pursued independence and later faced debt, coups, and internationally imposed structural adjustment programs, these jurisdictions remained under British rule while developing successful offshore financial sectors.

Sybblis (2024) argues that the shift to financial services in some BOT and postcolonial jurisdictions was a strategic response to the constraints of imperialism. It allowed them to diversify beyond extractive industries and tourism, developing legal frameworks facilitating easy incorporation, favorable corporate governance, and specialized commercial courts. This institutional infrastructure attracted international business, fostering economic growth and financial independence (Sybblis 2023).

However, not all colonial OFCs followed this path. For instance, Anguilla, Montserrat, and Turks and Caicos, among other BOTs, have struggled with weak governance, corruption, and limited state capacity, hindering their ability to convert financial flows into sustainable

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development or autonomy (Sybblis 2024). Yet, it is important to note that Sybblis (2024) does not aims to romanticize offshore finance or ignore its harms, in his work he foreground the agency of historically subordinated communities and peoples. His work calls for a more nuanced understanding of how some have used legal-financial tools to pursue autonomy and urges global regulatory frameworks to reflect these histories and aspirations.

In dialogue with Sybbli's (2024) work and other critical scholars (Dean and Waris 2021), I argue that understanding the operability of colonial legality and how colonized people accommodate colonialism is a central component of analyzing the colonial offshore economy. At the same time, this perspective should complement, rather than substitute for, a critique of imperial power and the devastating effects of colonial policies. Thus, the critique of financial imperialism and colonial plunder enabled by *corporate citizens* should be at the center of discussions of the legal and politico-economic processes that constitute these territories as islands of exception.

As this chapter has shown, the development of Caribbean OFCs exemplifies the historical dynamics of wealth extraction constituted through the colonial state of exception. That is, through logics of inclusive exclusion, colonial territories have been strategically accommodated within imperial legal systems in ways that facilitate financial resettlement and the preservation of class power. While these jurisdictions attract vast amounts of global wealth, the benefits flow disproportionately to institutions and elites in the global North, deepening inequality and reinforcing racialized hierarchies. In this sense, offshore finance perpetuates colonial plunder through financial imperialism.

3 *Hyperinclusion:* The Law and Political Economy of the Corporate Citizen

Since the 2008 financial crisis, a series of major data leaks containing details of offshore bank accounts and shell companies in OFCs have redefined how we understand offshore finances (Ogle 2025). Primarily made possible by the work of whistleblowers and investigative journalists, these major data leaks include the Panama Papers (2016),[45] the Paradise Papers (2017),[46] the Pandora Papers (2021),[47] and the lesser-known

[45] Including 11.5 million records from twenty-one offshore jurisdictions, exposing 214,000 companies, trusts, and other entities tied to the Panama-based law firm Mossack Fonseca.

[46] Revealing 13.4 million records linked to over 120,000 individuals across multiple jurisdictions.

[47] Consisting of 11.9 million files from fourteen offshore service providers, exposing offshore holdings of thirty-five world leaders and over 300 public officials.

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HSBC Geneva (2009),[48] HSBC Jersey (2012), Offshore Leaks (2013), and LuxLeaks (2014). These leaks offer a deeper understanding of the offshore world's operations and highlight the distinct roles that lawyers, accountants, bankers, wealth managers, and regulatory agencies play in tax avoidance (Ogle 2025). These leaks also allow citizens to identify how normalized offshore finance is (Jansky et al. 2021), demonstrating their criminogenic, sociolegal, and politico-economic structures.

Zucman (2015) estimated that more than $7.5 trillion, or 8% of the world's financial wealth, is hidden offshore. While a small portion of these assets is properly declared, approximately 80%, or $6 trillion, remains untaxed (Hoang and Biron-Boileau 2026). Further research by Alstadsæter, Johannesen, and Zucman (2019) found that the wealthiest 0.01% of households evade roughly 25% of their taxes. More recent estimates from the Tax Justice Network (TJN) suggest that between $21 and $32 trillion in financial assets are held offshore.[49] However, due to the secrecy of offshore finance, precise figures remain difficult to determine, leading to significant variations in estimates.

For instance, Shaxson (2019) noted that tax havens collectively cost governments between $500 billion and $600 billion a year in lost corporate tax revenue, while the TJN further calculates that tax havens cost approximately $427 billion in lost tax revenue each year.[50] American Fortune 500 companies alone held an estimated $2.6 trillion offshore in 2017, though a small portion of that has been repatriated following US tax reforms in 2018 (Shaxson 2019). Given the layered structure of secrecy provided by shell companies and other legal-financial arrangements, corporate tax avoidance is even more challenging to quantify than the concealment of individual wealth in offshore accounts. In the US, it is estimated that 55% of US foreign corporate profits are "earned" in low-tax jurisdictions through accounting manipulations (Shaxson 2019).

These numbers demonstrate the scale of wealth, assets, and resources lost due to the corporate citizen's use of OFCs. This chapter discusses specific examples of how the corporate citizen is hyper-included in the legal-financial structures of the colonial offshore economy.[51] It emphasizes

[48] Exposing records from HSBC's private bank in Geneva, revealing at least 106,000 account holders from over 200 countries with accounts totaling $255 billion.

[49] https://taxjustice.net/faq/how-much-money-is-in-tax-havens/

[50] https://taxjustice.net/reports/the-state-of-tax-justice-2024/#:~:text=19%20November%202024,-Category%3A&text=Tax%20havens%20,Countries%20are%20losing%20US%24492%20billion%20in%20tax%20a%20year,State%20of%20Tax%20Justice%20finds.

[51] An early version of this typology was developed in Atiles and Whyte (2025).

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the structural and symbiotic relationships between colonial offshore jurisdictions, corporations, and financial intermediaries in producing and sustaining these dynamics. That is, while the previous chapter was largely focused on the territoriality of OFCs and the analysis of the legal structures of offshore finance in the Caribbean, this chapter examines the specific legal-political liabilities that corporate citizens derive from the colonial legal structures that sustain OFCs. Hence, this chapter underscores how colonial legality and the logic of inclusive exclusion, through which the corporate citizen becomes the privileged actor within an archipelago of islands of exception, have sustained and extended global dynamics of wealth extraction rooted in colonial hierarchies.

3.1 *Structures of Impunity*: Secrecy and Trust

As discussed in the introduction, the primary function of secrecy in OFCs is to provide a legal shield for corporations and individuals seeking to escape scrutiny. The defining characteristic of these jurisdictions is their ability to offer legislative and financial secrecy to entities based elsewhere, enabling them to obscure ownership structures, financial transactions, money, and the very existence of assets from tax authorities and regulatory bodies (Cobham et al. 2015; Palan et al. 2010).

Approximately 36% of all profits generated by multinational corporations are channeled into secrecy jurisdictions globally (Tørsløv et al. 2023). Atiles and Whyte (2025) noted that 68% of fossil fuel financing flows through subsidiaries in these jurisdictions, making it nearly impossible to track their financial activities. This opacity is not an accident, but a deliberate legal-political tactic used by major players in the global oil market. It is no coincidence that three of the world's largest oil-producing countries – Saudi Arabia, the UAE, and Venezuela – are among the top three nations, with more than 50% of their wealth held offshore (Alstadsæter et al. 2019; Atiles and Whyte 2025). This significant offshore capital flow exacerbates inequality and stymies efforts to track fossil fuel industry revenues, which continue to evade national and international regulatory frameworks (Atiles and Whyte 2025).

The legal institution of the trust, a centuries-old creation of Anglo-American Common Law jurisprudence, has become central to the secrecy structures shaping offshore finance (Harrington 2017, 2024; Shaxson 2011). Originally developed to manage and protect family wealth, trusts have evolved into sophisticated legal instruments that corporations use to obscure ownership, minimize tax obligations, and evade regulatory

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scrutiny (Harrington 2017; Tait 2023, 2025). At the core of the trust's functionality is its capacity to bifurcate ownership: by separating legal from beneficial ownership, trusts enable control over assets without formal accountability (Palan et al. 2010). This partitioning creates a legally distinct asset pool, offering advantages over corporate or contract law by facilitating securitization and liability isolation. As such, the trust operates not merely as a fiduciary arrangement but as a powerful property law tool for enclosing capital (Tait 2023).

Trusts allow beneficiaries to enjoy the benefits of property while escaping its obligations (Tait 2023, 2025), which is a feature invaluable to corporate actors embedding trusts into global wealth chains to shelter assets and shift liabilities. Trusts are widely used in bond issuances, securitizations, and mutual funds to manage financial instruments and move liabilities off-balance sheet, concealing risk and enhancing credit profiles (Harrington 2017). The Cayman Islands, Jersey, and the BVI have established specialized legal frameworks for trust formation, offering features such as perpetual duration, minimal reporting, and discretionary beneficiary rules that allow corporations to retain effective control (Antoine 2007). The global expansion of offshore trusts is deeply tied to financialization, wherein increasingly abstract and mobile capital demands legal structures that facilitate flexibility and insulation from regulatory oversight (Harrington 2017; Tait 2025).

Pistor (2019) identifies trust as a central component in the legal coding of capital, transforming assets into durable, self-replicating entities by granting them priority, convertibility, and legal protection. This coding, Pistor (2019) suggests, is not democratically produced but crafted by elite legal actors and enforced by the state. New forms of trust, such as perpetual, charitable, and purpose trusts, used to hold corporate shares or intellectual property, reflect this strategic evolution. Trusts are also used to acquire luxury real estate and secure high-value assets like jets and yachts (Harrington 2017). In cities like New York and London, they obscure ownership of vacant luxury properties, driving up housing prices and intensifying gentrification (Tait 2023).

Meanwhile, the competitive deregulation of trust law within the US has turned jurisdictions such as South Dakota, Wyoming, and Nevada into domestic secrecy jurisdictions (Tait 2025). The rise of trust-based secrecy highlights the flexibility of legal institutions in adapting to capitalist imperatives, enabling global asset protection and shielding corporate citizens from accountability.

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3.2 *Corporate Veil:* Shell Companies and Tax Avoidance

A standard method companies use to restructure their tax liabilities is establishing shell companies in OFCs, which can be used to book profits and shift financial resources away from higher-tax jurisdictions (Atiles and Whyte 2025). While public corporations are generally obligated to disclose accurate financial information to shareholders, investors, and analysts, shell companies enable corporate citizens to circumvent these obligations, creating myriad opportunities to present incomplete data to regulators and investors.

Furthermore, shell companies in OFCs create multi-layered corporate structures that facilitate "treaty shopping" or regulatory arbitrage, whereby firms route investments through jurisdictions that offer favorable double taxation treaties and low or zero withholding taxes. The Netherlands, Luxembourg, and Ireland are prominent examples of OECD members frequently employed in this way (Palan et al. 2010). The Caribbean and Delaware are global hubs for shell companies. As shown in Chapter 2, the Cayman Islands host over 100,000 registered companies despite having a population of only about 65,000 (Palan et al. 2010). At the same time, the BVI is estimated to house hundreds of thousands of shell companies (Sybblis 2023). Jurisdictions like Bermuda and the Bahamas also contribute significantly to the establishment of shell companies in the Caribbean.

Another widely used form of tax avoidance is transfer pricing, in which companies manipulate the prices of goods or services exchanged between subsidiaries in different jurisdictions with varying tax rates (Deneault 2018; Hoang and Biron-Boileau 2026). This allows them to shift profits to low-tax jurisdictions, reducing their overall tax liabilities. PR has been historically a key node in the structure of transfer pricing, enabling pharmaceuticals, tech companies, and the retail industry to engage in this practice (Atiles 2024). The corporate citizen also uses intra-group loans or internal financing to move funds across borders, charging interest on the loans to reduce their tax obligations (Atiles and Whyte 2025).

Additionally, corporations often use OFC to strategically relocate the legal ownership of IP, such as patents, trademarks, copyrights, and software licenses, into low-tax or no-tax jurisdictions (O'Boyle and Allen 2021). These arrangements enable firms to reroute royalty payments and licensing fees to OFCs, where such income is taxed at a lower rate. That is, corporations such as Apple, Google, and Microsoft, among others, may assign intellectual property rights or the ability to collect revenue from intangible

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assets to subsidiaries located in Ireland, the Netherlands, or PR, creating a complex web of financial transactions that obfuscates the actual location of profits (Tørsløv et al. 2023). Using trusts and shell companies to hold IP allows corporations to avoid domestic IP taxation and to obscure the ultimate ownership and control of these lucrative intangible assets.

These techniques of obfuscation draw directly on the logic of inclusive exclusion embedded in the colonial state of exception, enabling the corporate citizen to leverage legal structures that render financial flows within these networks exceptionally difficult to trace.

3.3 *Hiding Away*: Shadow Banking and Financial Circuits

Shadow banking institutions, including private equity, private credit, and asset management companies, heavily utilize OFCs to facilitate their operations, often circumventing regulatory oversight. Significant offshore finance scholarship has focused on the impact of shadow banking on the 2008 financial crisis (Nesvetailova 2015; Nesvetailova and Palan 2019; Rixen 2013).

Atiles and Whyte (2025) underscored that shadow banking has become a primary financial source for the fossil fuel industry. Approximately two-thirds of financing for fossil fuel projects is conducted through offshore jurisdictions. Major global banks, such as Citigroup, JPMorgan, Wells Fargo, and Bank of America, utilize OFCs to underwrite bonds, engage in mergers and acquisitions, and channel substantial funds into the fossil fuel industry. Barclays, Deutsche Bank, and Credit Suisse finance significant infrastructure projects, including pipelines and drilling operations, using the financial opacity afforded by regulatory havens (Atiles and Whyte 2025).[52]

Private equity firms benefit significantly from OFCs, using their secrecy and minimal regulation to obscure their activities and evade scrutiny. The Cayman Islands and the BVI are the leading destinations for private equity, with up to 80% of new private funds[53] domiciled in the former. The industry, which controls approximately $7.5 trillion in global assets and owns companies that employ millions worldwide, relies heavily on institutional investors, pension funds, endowments, and insurance companies for capital (Atiles and Whyte 2025). Regular fundraising cycles involve

[52] https://news.littlesis.org/2023/07/13/the-big-bank-power-structure-and-how-it-finances-climate-destruction/

[53] According to CIMA there are 17,741 private funds registered in the Caymans: www.cima.ky/investment-statistics

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attracting institutional investors, known as limited partners (LPs), who commit to new funds regularly. Furthermore, private credit has emerged as a key mechanism in the private equity industry, keeping debt and other liabilities off books, providing yet another avenue for secrecy.

The Paradise Papers leaks have explicitly exposed how private equity companies exploit Caribbean OFCs. For instance, in 2021, 80% of energy portfolios within the largest private equity firms remained invested in fossil fuels (Atiles and Whyte 2025). Blackstone notably utilizes offshore structures to minimize tax liabilities, holding significant stakes in oil and gas production and infrastructure, even amidst substantial environmental controversies and accidents.[54]

Asset management firms such as BlackRock, Vanguard, and State Street also exploit offshore financial networks in the Caribbean (Atiles and Whyte 2025). The Bahamas and the Offshore leaks demonstrate that these asset managers maintain holding companies and subsidiaries in Bermuda, the Bahamas, BVI, and Nevis.[55] Similarly, as a result of the tax incentives enacted under Act 20 of 2012 (now consolidated into Act 60 as discussed in Chapter 2), PR has become an important emerging jurisdiction for financial services, wealth managers, and family offices. The colonial condition of PR has created a unique arrangement in which asset managers enjoy the fiscal benefits of an offshore environment while operating within the legal protections and regulatory umbrella of the US.

Multinational insurance and reinsurance companies similarly capitalize on offshore jurisdictions, using them as bases for substantial investments (Atiles and Whyte 2025). Companies such as Zurich, Liberty Mutual, and Lloyd's maintain substantial offshore presences in jurisdictions such as the Bermuda, Bahamas, Panama, Guernsey, and particularly St. Kitts and Nevis, a growing hub for insurance and banking secrecy.[56] Captive insurance further highlights the centrality of offshore finance to shadow banking. KPMG actively promotes the Cayman Islands as a leading captive insurance hub, with over 657 entities managing $74.9 billion as of 2021 (Atiles and Whyte 2025). Approximately 90% of Fortune 500 and S&P 500 companies utilized captive insurance arrangements, primarily domiciled in Caribbean OFCs and specific US states.[57] Many

[54] https://news.littlesis.org/2023/08/03/how-the-private-equity-power-structure-drives-climate-chaos/

[55] https://news.littlesis.org/2023/02/02/the-asset-manager-power-structure-and-the-climate-crisis/

[56] https://news.littlesis.org/2023/08/17/insuring-climate-catastrophe-how-big-insurers-finance-and-prop-up-the-fossil-fuel-industry

[57] www.captiveinternational.com/regional-reports/usa/captives-by-numbers

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captive insurance companies similarly operate from jurisdictions such as Bermuda, the Bahamas, and the Cayman Islands, benefiting from lower transparency and minimal regulatory scrutiny.

Hence, offshore finance facilitates shadow banking by significantly reducing corporate accountability, obscuring financial oversight, and enabling continued economic exploitation despite growing regulatory pressures from international organizations.

3.4 *Elsewhere*: Regulatory Arbitrage and Corporate Power

Spaces of exception structured as Special Economic Zones (SEZs), Free Trade Zones (FTZs), and Export Processing Zones (EPZs) provide corporations with expansive legal exemptions from financial disclosure, labor protections, environmental regulations, and civil and criminal liability (Abrahamian 2024; Hall et al 2023; Slobodian 2023). SEZs in OFCs enable corporations to exploit global disparities in regulatory standards, thereby minimizing costs while maximizing control over labor, capital, and environmental risks.

Across sectors, SEZs offer an escape from labor law compliance, minimum wage laws, occupational safety standards, and union protections (Cotula 2017). Workers in these spaces frequently experience disproportionately high rates of occupational illness, injury, and fatality, consequences of production models designed to be insulated from social and legal accountability (Atiles and Whyte 2025). Furthermore, in recent years, SEZs have undergone a significant transformation, shifting from industrial production to accommodating digital activities, including cryptoassets, art storage, and illicit art trafficking, among other illicit activities (Abrahamian 2024). SEZs are pervasive, providing mobile and highly adaptable legal accommodations for corporate citizens.

Corporate citizens use OFCs to sidestep financial regulations, such as anti-money laundering provisions, international banking supervision, and know-your-customer rules. Combined with their capacity to host shell companies and Special Purpose Vehicles, financial entities use OFCs to shuffle assets, liabilities, and risk across borders with little traceability.

For instance, hedge funds' significant presence in OFCs underscores the importance of the legal design and regulatory exemptions offered by Caribbean jurisdictions. Fichtner (2014) observes that hedge funds are lightly regulated by both their home countries, primarily the US, UK, and Japan, and by Caribbean OFCs that are subject to the sovereignty of the UK and the US. Most hedge funds are legally domiciled in the

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Cayman Islands, followed by other BOTs. Fichtner (2014) also notes that in 2011, the largest hedge fund administrator in the world was the Curaçao International Trust Company, based in Curaçao – an OFC under Dutch sovereignty.

A significant and growing share of global FDI is channeled through Caribbean OFCs, often via shell companies that obscure ownership, purpose, and capital flows. Roughly one-third of FDI by multinational corporations is routed through OFCs (Palan et al. 2010). As noted in Chapter 2, the BVI[58] ranked among the top five global FDI destinations in 2023, receiving $40 billion in FDI, behind only the US, Singapore, Hong Kong, and Canada. The Cayman Islands followed in eleventh place with $28.13 billion. Contrary to the conventional view of FDI as productive investment, Haberly and Wójcik (2015a) estimate that 30–50% of global FDI stock is channeled through offshore networks of shell companies, which function not as engines of economic activity but as vehicles for regulatory arbitrage and detachment from legal and territorial accountability.

These capital flows are not random; they follow historical, political, and geographic patterns rooted in colonial legacies. Haberly and Wójcik (2015b) demonstrate that offshore FDI networks are highly centralized and shaped by former imperial powers, which continue to influence the legal and financial systems of their former colonies. Offshore FDI enables capital flight from developing economies, distorts national statistics, erodes public revenues, and weakens regulatory oversight. These dynamics of wealth extractions attest to the structures of global wealth chains (Seabrooke and Wigan 2017), and their use of shell companies, trusts, and offshore entities to evade regulation. Through these mechanisms, the corporate citizen shifts risk from shareholders to workers, from corporations to communities, and from private wealth to public resources.

3.5 *Extraterritorial Justice*: International Commercial Courts

In recent decades, International Commercial Courts (ICCs) have emerged as pivotal institutions in the reconfiguration of global legal-financial governance (Abrahamian 2024; Antonopoulou 2024; Basedow 2024; Gu and Tam 2022; Ogle 2024b). ICCs should be situated within broader trends of neoliberal globalization, forum marketing, and legal arbitrage, as they function as nodes in a global network of private adjudication intricately connected to OFCs, SEZ, and the broader global political

[58] www.macrotrends.net/global-metrics/countries/VGB/british-virgin-islands/foreign-direct-investment

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economy. Although their rise is typically associated with the Middle East (e.g., Dubai, Qatar), Asia (e.g., Kazakhstan, Singapore, and China), and Europe (e.g., London, Germany, the Netherlands), the Caribbean has played a role in these transformations. According to Gu and Tam (2022), there are currently thirteen major ICCs worldwide, yet their analysis does not consider Caribbean courts, overlooking a region where similar adjudicatory transformations are underway.

ICCs are specialized domestic tribunals – contrary to their name, they are not international law organisms – embedded within national legal orders (Basedow 2024). These courts typically handle cross-border commercial disputes of considerable monetary value, relying on flexible procedural frameworks comparable to those of international arbitration, including multilingual proceedings and the appointment of overseas judges or foreign legal experts (Gu and Tam 2022). Historically, ICCs have drawn inspiration from long-established models, such as the London Commercial Court (established in 1895), the US Court of International Trade (originating in 1890), and the Commercial Division of the New York State Supreme Court (established in 1995). These courts emerged to serve commercial actors in global financial centers, providing legal legitimacy to transnational contracts, corporate governance, and investment flows (Basedow 2024).

Contemporary ICCs adapt and extend these traditions in response to market pressures, functioning not as purely state initiatives but as institutions frequently promoted by elite law firms and transnational legal networks eager to expand commercial litigation markets (Basedow 2024; Gu and Tam 2022). According to Basedow (2024:1767), ICCs exhibit four common features: (1) they adjudicate transnational business disputes; (2) they have a standing bench of assigned judges rather than party-appointed arbitrators; (3) they allow resolution based on foreign law, frequently English or New York law, often operating in English-language; and (4) they address high-value disputes. Many ICCs operate within SEZs as "Common Law spaces" distinct from local legal systems (Dimitropoulos 2021). For example, the Qatar Financial Centre Courts, Dubai International Financial Centre Courts, Abu Dhabi Global Market Courts, and the Astana International Financial Center Court adopt Common Law to "boost investor confidence" through familiar legal rules and English-language proceedings (Abrahamian 2024; Ogle 2024b). Other ICCs, such as those in Singapore, the Netherlands, and China, operate as specialized divisions within their national court hierarchies rather than as separate entities based in SEZs.

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Forum marketing has become central to the proliferation of ICCs. Antonopoulou (2024) describes how ICCs engage in active branding, high-profile judicial appointments, and reputational cultivation to secure their place in the global legal marketplace, catering to corporate elites. Yet these developments raise normative concerns.[59] As Alcolea (2022) warns, ICCs risk commodifying justice, eroding local legal sovereignty, and deepening power asymmetries. By diverting high-value disputes from domestic courts, ICCs may weaken national legal systems and serve as reputational laundering devices, lending credibility to jurisdictions with questionable governance (Alcolea 2022).

As shown in Chapter 2, the Cayman Islands, Bermuda, and the BVI have developed ICCs modeled on English legal traditions, reinforcing and further diversifying their status as OFCs (Sybblis 2023). The Cayman Islands' Financial Services Division, for example, handles hedge fund and cross-border disputes with international judges versed in transnational commercial law. These courts operate within broader ecosystems of regulators, elite law firms, and financial intermediaries, sustaining global hierarchies while raising fundamental questions about accountability, justice, and public legitimacy. ICCs reinforce the colonial logic of inclusive exclusion by constituting a privileged legal system that serves only the corporate citizen and wealthy individuals.

3.6 The Global Shipping Industry and Flags of Convenience

Caribbean OFCs are central to the global shipping industry, mainly through the provision of flags of convenience (Ogle 2027, 2024a). This practice allows ships to be registered in jurisdictions different from their owners' countries (Ogle 2024a). Often, vessels registered in a flag-of-convenience jurisdiction are "owned" by shell companies equally domiciled in an OFC. Under these arrangements, ships fly the civil ensign of the flag state, subjecting them to its laws, which typically feature minimal taxation, lax labor protections, and weak safety or transparency regulations. These flag states effectively function as regulatory havens, enabling the registration of various vessels, including pleasure craft, freighters, and

[59] Arbitration remains the dominant method for resolving international commercial disputes, supported by its large caseload and broad enforceability under the New York Convention. ICCs effectiveness is further hindered by the absence of a widely adopted enforcement framework. Instruments such as the Hague Convention on Choice of Court Agreements and the Hague Judgments Convention have seen limited uptake, leaving enforcement of ICC rulings uncertain across jurisdictions. www.ibanet.org/challenges-criticisms-international-commercial-courts-effectiveness-legitimacy-accessibility#:~:text=The%20idea%20behind%20ICCs%20is,have%20faced%20during%20their%20development

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oil tankers, as well as offshore rigs and platforms used for oil exploration and production (Atiles and Whyte 2025). By circumventing standard regulatory requirements for ship maintenance, maritime waste disposal, health and safety at work, labor laws, and taxation, these jurisdictions provide a haven for minimizing operational costs (Deneault 2018) and evading international laws and regulations.

Maritime flag states host most of the world's merchant shipping fleet, with approximately three-quarters of all container ships registered in such jurisdictions. The Caribbean has the highest number of registered oil tankers, totaling 1,232, followed by Africa, which has 1,166, most of which are registered in Liberia (Atiles and Whyte 2025). The environmental and governance implications of these arrangements are profound. The global shipping industry accounts for approximately 3% of greenhouse gas emissions, with ships registered under the most common flags of convenience, including those of the BVI, Bahamas, Bermuda, Cayman Islands, and Panama, contributing significantly (Ogle 2024a).

Open registries in Liberia, Panama, and the Marshall Islands[60] host over 45% of the world's shipping fleet. Many of these registries are outsourced to private firms, often based in Singapore or the US, further diminishing regulatory accountability (Atiles and Whyte 2025). For example, US-based companies headquartered in Virginia manage the Liberian and the Marshall Islands registries. In contrast, St. Kitts and Nevis's registry operates out of the East London suburb of Romford (Ogle 2024a). Moreover, seventeen countries have ceded their voting rights at the UN International Maritime Organization (IMO) to private companies managing their flag registries (Ogle 2024a), undermining international efforts to regulate emissions and decarbonize the shipping industry.

The widespread use of flags of convenience and shadow fleets or ghost ships[61] underscores systemic flaws in global maritime governance, exemplifying how corporate organizational structures and the use of OFCs enable capital to exploit legal and regulatory frameworks for significant advantage.

[60] All three jurisdictions have had direct colonial ties to the US. The Marshall Islands, for example, remains under a Compact of Free Association that reproduces neocolonial economic dominance.

[61] Shadow fleets or ghost ships are aging vessels, often with concealed ownership and dubious insurance, routinely disable their automatic identification systems to evade detection, increasing the risk of collisions and environmental disasters (Ogle 2024a). They operate outside international maritime and insurance regimes and enable oil-producing states under US and UN sanctions to continue exporting fossil fuels. Gabon has emerged as a leading flag state, with 98% of its tankers classified as high-risk or lacking an identifiable owner (Ogle 2024a).

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3.7 Corporate Citizenship Means Avoiding Sociopolitical Conflicts

As Atiles and Whyte (2025) argue corporate citizens and wealthy individuals frequently use Caribbean OFCs to conceal assets tied to extractive, speculative, or politically contentious activities, including mining, real estate speculation, privatization of public assets, debt-financed development, corruption, and illicit financial flows. These assets often face public scrutiny, legal challenges, or calls for redistribution. As grassroots movements contest these regimes of accumulation, OFCs provide strategic insulation from political accountability (Atiles and Whyte 2025).

In this context, the veil of sovereignty offered by Caribbean OFCs becomes indispensable. These jurisdictions function as legal enclosures that obscure ownership, mask financial flows, and neutralize dissent. Corporations do not relocate assets to Caribbean jurisdictions merely to avoid taxes, but to sever capital from the geographies and communities it harms. Assets implicated in corruption, environmental destruction, and colonial extraction are strategically relocated and anonymized through secrecy tools such as trusts and shell companies, displacing the site of political struggle and depoliticizing contested wealth.

What makes these assets politically volatile is not simply their material form but their origins in colonial violence, dispossession, and imperial extraction (Atiles and Whyte 2025). The corporate citizen suppresses this history by shielding ultimate beneficiaries from scrutiny, thereby muting demands for justice and redistribution. In the Caribbean, where those most affected by extractive development, climate change, and displacement are often leading resistance efforts, OFCs reinforce structural exclusion, making it nearly impossible to hold powerful actors accountable.

For instance, OFCs facilitate sanctions evasion by mirroring money laundering tactics, using front companies to obscure the origins of assets and their beneficiaries. Venezuela offers a clear example, where elites have used PR's offshore financial services to conceal oil revenues and evade US sanctions (Atiles and Whyte 2025).[62] As PR has evolved into an offshore hub, it has enabled illicit Venezuelan capital to access US markets through services tailored for sanctioned entities, creating new sectors that profit from unilateral US sanctions and often give rise to corporate crimes in third countries.

[62] www.reuters.com/article/business/exclusive-new-york-fed-cracks-down-on-puerto-rico-banks-following-venezuela-san-idUSKCN1RU2EH/

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Caribbean OFCs, as spaces of exception structured by the logic of inclusive exclusion, constitute rarefied arenas of political containment designed to suppress popular sovereignty and thwart justice movements. Ultimately, their value lies in their ability to shield unaccountable capital from the growing global demands for transparency, redistribution, and justice.

4 *Technologies*: Blockchain, Crypto-Islands, and Offshore Diversification

The rise of financial technologies (FinTech), blockchain, and cryptoassets[63] marks a new phase in the development of offshore finance in the Caribbean and beyond. While decentralized finance (DeFi) platforms and cryptocurrencies are often celebrated as innovations promising disintermediation, peer-to-peer (P2P) governance, and digital transparency (Mackenzie 2022), in practice, they have become key instruments for facilitating illicit financial flows and sustaining systems of tax evasion, fraud, and sanctions circumvention (Mackenzie 2022; Rivero 2025; Rosales 2025). Scholars have shown that cryptoassets embedded secrecy play a central role in blurring the distinction between onshore and offshore finance (Marian 2013, 2020; Sanchez 2017; Ylönen, Raudla and Babic 2024). Other studies have highlighted the foundational role of OFCs in facilitating the expansion of the cryptoeconomy, demonstrating that major cryptofirms are overwhelmingly headquartered in such jurisdictions. Far less attention, however, has been devoted to examining how cryptoassets are reshaping offshore finance itself and how OFCs have incorporated blockchain technologies into their financial and regulatory frameworks.

This chapter addresses this gap by analyzing how cryptoassets have become embedded in Caribbean OFCs such as Bermuda, the BVI, the Cayman Islands, and PR, jurisdictions marked by the colonial state of exception and imperial legal orders.[64] The argument advanced here is that cryptoassets do not replace offshore finance; instead, they intensify it. By embedding cryptoassets within existing legal frameworks of secrecy and wealth protection, Caribbean OFCs have been able to diversify, reanimate, and expand their financial activities while recalibrating their position within the global offshore economy. That is, blockchain's immaterial

[63] Cryptoassets are defined as digital representations of value or contractual rights secured through cryptographically encoded distributed ledgers (Hung 2024). Cryptocurrencies are finite, privately mined, and in some cases resistant to centralized control (Hung 2024).

[64] While El Salvador, Estonia, Malta, Nevis, and Portugal have sought to attract crypto-capital, this chapter focuses on Bermuda, the BVI, the Cayman Islands, and PR because of their colonial entanglements with the UK and US.

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infrastructure converges with colonial legal structures of offshore finance, producing a new yet familiar geography of secrecy and capital mobility.

It is worth underscoring that the wealth and revenue not captured by states, due to the use of OFCs by wealthy individuals and corporate citizens, now increasingly fuels the cryptoeconomy. The greater the concentration of resources in private hands, the more capital is reinvested in highly speculative ventures such as cryptocurrencies, AI projects, data centers, and other high-risk financial activities. This paradox is crucial, since the erosion of public taxation does not create conditions for reinvestment in productive, socially oriented sectors. Instead, it channels capital toward speculative, extractive, and often toxic activities that ultimately require further state intervention, regulatory arbitrage, and offshore financial infrastructures to sustain them.

Against this backdrop, this chapter introduces the concept of *crypto-islands* to describe the legal, political, and institutional reconfigurations driven by the rise of cryptoassets. *Crypto-islands* are conceptualized as a legal-financial formation emerging at the intersection of offshore finance and digital capitalism. Drawing on the cases of Bermuda, the BVI, the Cayman Islands, and PR, this chapter traces how these jurisdictions provide the legal, regulatory, and political foundations of the cryptoeconomy. It argues that the offshore world is not retreating but evolving in the Caribbean, as cryptoassets reanimate longstanding logics of secrecy, extraterritoriality, and wealth protection through intertwined legal, regulatory, and digital infrastructures. As with earlier phases of offshore digitization (Maurer 1998), cryptoassets have reignited concerns over legality, sovereignty, and regulations. Current debates over crypto-regulation in the Caribbean echo enduring imperial logics: capital mobility is celebrated, while the jurisdictions that enable it are questioned and blacklisted. Thus, the development of the cryptoasset industries in Caribbean OFCs is the latest phase in a long history of imperial extraction through legal design.

These crypto-islands materialize across a dispersed yet interconnected set of jurisdictions or nodes that function as territorialized safe havens for cryptoassets. Although crypto-islands are heterogeneous, shaped by shifting legal, economic, and geopolitical conditions, this chapter conceptualizes some of the principal modalities through which they materialize. The chapter shows how established OFCs such as Bermuda, BVI, and the Cayman Islands have redesigned their legal, tax, and financial systems to attract cryptoassets, reinforcing their historical functions as OFCs under new technological conditions. It then examines PR as a site of *crypto-colonialism*, where the logic of inclusive exclusion, territorial subordination

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to the US, and tax incentives converge to facilitate the relocation of crypto-investors to the archipelago. PR illustrates how Caribbean jurisdictions have deployed tax and legal structures to attract crypto-investments as a strategy to enhance their offshore appeal, while deepening extractive dynamics, displacement, and environmental degradation.

These cases reveal the uneven legal geographies of the cryptoeconomy. By tracing its development across distinct regulatory and political contexts, this chapter offers a sociolegal framework for understanding how cryptoassets reshape offshore finance without disrupting its colonial and extractive foundations.

4.1 *Technologies of Dispossession*: Crypto, Fintech, and the Digitalization of Offshore Finance

As this Element shows, the offshore world is not static; it evolves alongside technological innovation, international legal shifts, and changes in the global political economy. Events like the 2007–2008 financial crisis, the Panama and Pandora Papers, and civil society campaigns prompted interventions on tax havens, leading to stronger anti-money laundering regulations, tax information exchange, and compliance measures (Ylönen, Raudla, and Babic 2024). Despite these efforts, the demand for secrecy endures, highlighting persistent gaps in global tax governance and financial oversight. In response, corporate citizens and wealthy individuals have turned to new financial and technological tools to preserve secrecy and enable regulatory arbitrage.

At its core, the cryptoeconomy revolves around converting fiat currency into digital assets, driven by the speculative promise of future profits. This seemingly simple process conceals an opaque system of trading, leveraging, and synthetic token creation that amplifies volatility and systemic risk (Mackenzie 2022). Blockchain, lauded as a decentralized and tamper-proof ledger, facilitates this ecosystem (Pistor 2019). While originally framed as stateless and decentralized, cryptocurrencies like Bitcoin are better understood as private forms of money reliant on law and private digital infrastructures (Pistor 2019). While Bitcoin dominates headlines and market share, it is only one part of a sprawling ecosystem, in which thousands of altcoins have emerged, offering varying technical features and degrees of secrecy (Perkins 2022). Cryptocurrencies' scarcity, volatility, and lack of intermediaries have enabled their use as a tool for wealth concealment, tax avoidance, and speculative finance.

Ethereum's 2015 launch introduced decentralized applications, such as NFTs and smart contracts, expanding the blockchain's utility beyond

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transactions to a broader ecosystem that includes stablecoins like Tether, privacy coins like Monero, and DeFi platforms that facilitate token swaps without intermediaries, exposing users to financial risks (Mackenzie 2022). Similarly, the proliferation of memecoins has intensified market speculation and tax evasion. Meanwhile, stablecoins, pegged to the US dollar, have raised regulatory concerns about systemic risks, transparency, and financial stability.[65]

Ylönen, Raudla, and Babic (2024) observe that secrecy-seeking capital has evolved beyond traditional tax havens, leveraging financial and technological innovations that increasingly blur the distinction between onshore and offshore. Similarly, Nesvetailova and Palan (2019) identify several ways in which cryptoassets facilitate tax evasion: (1) crypto's financial engineering enables complex tax-exempt transactions such as stock and gold swaps; (2) the proliferation of Initial Coin Offerings (ICOs) and Initial Token Offerings (ITOs) has created vast opportunities for fraud and evasion. ICOs, modeled after IPOs but operating in lightly regulated environments, have a dismal record – 81% were classified as scams, 6% failed, 5% went inactive, and only 8% traded on exchanges (Nesvetailova and Palan 2019).

These dynamics have prompted growing attention within international tax law, where scholars increasingly frame cryptocurrencies as catalyzing a new generation of tax avoidance infrastructures (Avi-Yonah and Salaimi 2023; Marian 2013, 2020; Sanchez 2017). Marian (2013) describes cryptocurrencies as "super tax havens," disembedding tax avoidance infrastructures from territorial jurisdictions and replicating core offshore traits, secrecy, extraterritoriality, and nontaxation, while eliminating reliance on financial intermediaries. Furthermore, Marian (2020) argues that OFCs have repositioned themselves as "blockchain havens," and documents how jurisdictions like the Cayman Islands have actively courted crypto by offering tax exemptions, regulatory incentives, and flexible incorporation regimes.

Sanchez (2017) extends this analysis by demonstrating how crypto-earnings can be generated, held, and exchanged entirely outside existing regulatory thresholds, ultimately undermining the legal enforceability of the global tax compliance regime. Sanchez (2017) also highlights increasingly complex forms of crypto tax avoidance, including crypto-equity swaps and using tax-exempt intermediaries to evade taxes without audit trails. For instance, an investor might channel stock gains into Bitcoin via

[65] www.nytimes.com/2025/12/07/technology/how-a-cryptocurrency-helps-criminals-launder-money-and-evade-sanctions.html

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a tax-exempt agent, effectively avoiding capital gains taxes while maintaining regulatory invisibility. Through P2P protocols and encrypted digital wallets, users can transfer and store wealth without disclosure obligations, thereby bypassing global enforcement mechanisms such as the OECD's Common Reporting Standard and the US Foreign Account Tax Compliance Act (FATCA). As Harrington (2024) argues, complexity operates as a refuge for the powerful, shielding the mechanisms of accumulation from scrutiny and contestation. Cryptoassets intensify this dynamic by introducing a technological inflection to the enduring logics of predation and extraction that underpin offshore finance.[66]

To be sure, the broader cryptoeconomy, driven by developers, exchanges, venture capital, and industry lobbyists, has actively shaped regulatory debates and has accelerated the spread of shadow banking, tax avoidance, and regulatory arbitrage. Yet, despite claims of decentralization, the sector remains deeply dependent on state intervention, tax incentives, and permissive regulatory frameworks.[67] As this chapter shows, their success as speculative assets relies precisely on state support and regulatory leniency. Cryptoassets reinforce the central function of OFCs to shield wealth from democratic control, redistribute risk onto the public, and displace political contestation into spaces of exception. This becomes particularly clear in the constitution of crypto-special economic zones (SEZs).

The emergence of crypto-focused SEZs marks a significant shift in the global governance of digital assets. Once tied to manufacturing and export-led growth, SEZs are now reimagined to meet the needs of fintech and cryptoassets. Across the Caribbean, crypto-SEZs have emerged as spaces of exception in which the logic of inclusive exclusion enables cryptoassets to operate within limited regulatory oversight.[68] A defining feature of crypto-SEZs is their function as regulatory sandboxes, where financial rules are suspended or significantly reduced. This echoes the SEZ's historic role in piloting policies without formally changing national legal frameworks.

For instance, the Cayman Enterprise City (CEC),[69] a SEZ launched in 2011, includes a dedicated blockchain and digital finance park, offering

[66] Beyond crypto, the integration of AI is transforming offshore finance. While some tax scholars are optimistic about AI's role in detecting tax evasion, Alarie (2023) warns that AI can just as easily be deployed to optimize it. AI-driven systems can relocate the infrastructure of evasion into the algorithmic space, where opacity is enhanced through speed, complexity, and predictive computation (Alarie 2023).

[67] For a similar argument see Amanda Parsons: https://lpeproject.org/blog/the-anarchist-currency-with-a-government-sponsor/

[68] https://denationalize.me/investments-en/a-guide-to-cryptocurrency-special-economic-zones/

[69] www.caymanenterprisecity.com

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tax exemptions, minimal reporting obligations, intellectual property protections, streamlined licensing, and open-ended business visas. The Cayman Islands exemplify the emergence of a distinct crypto-island form that relies on infrastructural investment and definitional elasticity to serve cryptoassets. This model supports token issuance and decentralized ledger projects while bypassing the legal constraints of traditional jurisdictions. Furthermore, Dubai, the Maldives, Palau, and PR have sought to integrate tourism, cryptoeconomies, and SEZs or charter cities[70] into their developmental policies (Lynch and Munoz-Viso 2024).

The development of *Próspera* city in Honduras' Roatán Island vividly illustrates the emergence of crypto-SEZ. Established under the ZEDE (Zones for Employment and Economic Development) framework, Próspera operated as a libertarian "startup city" with its own tax and legal systems, adopting Bitcoin as legal tender. Backed by Silicon Valley investors, Peter Thiel and Marc Andreessen,[71] it aimed to make Roatán a blockchain hub (Simpson and Sheller 2022). Later, the ZEDE was ruled unconstitutional by the Honduran courts, and it was repealed in 2022 under President Xiomara Castro's administration, citing threats to national sovereignty and the rights of the Garifuna community. Still, Próspera's investors launched an $11 billion investor-state arbitration claim under the Central American Free Trade Agreement, showing how corporate citizens can attempt to override democratic and environmental protections.

From Nevis,[72] El Salvador to Honduras, crypto-SEZs are creating spaces of exception under the banner of development, yet raising profound questions about harm, exclusion, and accountability. The following subsection examines how colonial OFCs have been reconfigured to support the offshore cryptoeconomy.

4.2 *Crypto-Islands*: From Financial Services to Crypto-Colonialism

Crypto-islands aims to provide a more encompassing analytical lens to the debates discussed through this chapter. Rather than treating crypto merely as a technological intensification of tax avoidance, crypto-island theorize the institutional, spatial, and ideological arrangements through which digital capitalism embeds itself within offshore structures. Crypto-islands

[70] www.ft.com/content/b127ee7a-5ac4-4730-a395-c9f9619615c7?shareType=nongift
[71] www.technologyreview.com/2022/04/20/1049384/crypto-cities-central-america/
[72] On the proposed development of "Destiny" see: www.ft.com/content/cd171921-a0f5-49d9-a383-41a37e34dbb4

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highlight the adaptive capacity of colonial OFCs, demonstrating how these jurisdictions operate not only as sites of legal arbitrage but also as active participants in reconfiguring state–market relations to attract capital while displacing tax governance and redistribution. These dynamics are especially pronounced in Caribbean OFCs that have restructured their legal regimes to accommodate cryptoassets. While the BVI, Bermuda, and Cayman Islands follow a conventional OFC model in which these jurisdictions serve as booking centers for financial activities taking place elsewhere, PR represents a distinct manifestation in which crypto-entrepreneurs relocate to the archipelago under the guise of innovation, enacting settler-colonial logics through the financialization of territorial governance.

In this sense, the Puerto Rican case exemplifies the convergence of offshore finance, digital capitalism, and *crypto-colonialism*. Crypto-colonialism refers to the exploitation of land, legal regimes, and economic sovereignty under the guise of decentralization and innovation (Atiles 2022a). Howson (2020) situates it within broader dynamics of extractivism, data colonialism, and surveillance capitalism, while Crandall (2024) defines it as the use of blockchain and cryptocurrencies to extract land, resources, and data from vulnerable populations and territories, thereby intensifying imperial patterns of dispossession from the global South to the global North. Through mechanisms such as techno-experimentation, reliance on proprietary platforms, and the privatization of public infrastructure via distributed ledgers, crypto-colonialism embeds new digital forms of exclusion within existing colonial frameworks.

In this context, *crypto-islands* provide a conceptual bridge between the structural logics of offshore finance and the colonial ambitions of blockchain governance. They allow us to theorize crypto as a spatial and legal project that actualizes colonial relations through circuits of capital, code, and legal arbitrage.

4.2.1 Enhancing Financial Services: Bermuda, BVI, and The Cayman Islands

Bermuda, the BVI, and the Cayman Islands demonstrate how jurisdictions integrate digital finance into longstanding structures of secrecy and risk displacement. Rooted in colonial legal orders, they exemplify a crypto-island model built on regulatory adaptation and legal continuity. Collectively, they reveal how established OFCs incorporate blockchain finance while preserving core logics of wealth protection and regulatory arbitrage.

Bermuda's emergence as a cryptoasset jurisdiction builds on a long legacy of offshore financial accommodation and recalibration. Through

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the Digital Asset Business Act (DABA) of 2018,[73] Bermuda established one of the world's first comprehensive licensing regimes for digital asset businesses, exempting cryptocurrency transactions[74] from income, capital gains, withholding, and other taxes (Ioffe 2025).[75] Administered by the Bermuda Monetary Authority (BMA),[76] the DABA framework offers three types of licences to firms seeking to operate in Bermuda: the Test "T" Licence, for those seeking to test their proof of concept; the Modified "M" Licence for those seeking to expand operations for a limited period and the Full "F" Licence reserved for established firms and carry more demanding requirements for capitalization, reporting, and governance.[77]

Although this tiered approach projects regulatory prudence by scaling obligations to firm size and complexity, the DABA requires firms to implement Anti-Money Laundering and Anti-Terrorist Finance (ATF) controls; however, enforcement remains largely discretionary and reactive.

With forty virtual asset service providers (VASPs) currently supervised by the BMA under the DABA licensing framework,[78] oversight primarily operates through self-regulation and reputational management rather than proactive intervention. In effect, Bermuda's regulatory regime institutionalizes lighter-touch rules encouraging experimentation with minimal scrutiny, while the prospect of full licensing reinforces the jurisdiction's credibility in global markets. This flexibility illustrates a dynamic central to crypto-zones, where legal frameworks that appear rigorous are in fact structured to attract mobile capital and embed digital finance within longstanding offshore logics of permissiveness.

Bermuda's approach to ICOs[79] and stablecoins reinforces this permissive regulatory model. The ICO Act of 2018[80] requires only ministerial approval and the submission of a public offering document, without

[73] www.bma.bm/viewPDF/documents/2023-11-14-11-11-48-Digital-Asset-Business-Act-2018.pdf

[74] Most jurisdictions treat cryptocurrencies as property, which means that common transactions such as selling, trading, receiving, mining, or even spending crypto are considered taxable and need to be declared. By contrast, when crypto-islands exempt these transactions from taxation, they are effectively granting property a form of tax-immunity.

[75] Bermuda was one of the first countries to allow taxes payments with cryptocurrencies (Ioffe 2025).

[76] www.bma.bm

[77] www.bma.bm/digital-asset-business

[78] https://thebanks.eu/list-of-vasps/Bermuda

[79] www.conyers.com/wp-content/uploads/2018/08/2018_07_BDA_Alert_Bermuda_ICO_Legislation_Regulations_take_effect-0.pdf

[80] www.bermudalaws.bm/Laws/Annual%20Law/Acts/2018/Companies%20and%20Limited%20Liability%20Company%20(Initial%20Coin%20Offering)%20Amendment%20Act%202018

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mandating physical presence or substantial economic activity beyond incorporation. As shown later, this is one of the key differences with PR, which requires crypto-investors to be bona fide resident of PR. The BMA's stablecoin framework follows a principles-based model prioritizing flexibility over prescriptive controls.[81] Firms are afforded wide latitude in operational structuring, with minimal capital thresholds, often as low as $100,000, and discretionary cybersecurity protocols.

Bermuda's digital asset strategy does not disrupt its offshore model but extends and intensifies it. As exempted companies and captive insurance once underpinned its OFC status, crypto-regulation now adapts these legal fictions to blockchain finance. The BMA's approach institutionalizes a permissive regime that presents regulatory compliance while preserving core incentives: secrecy, flexibility, and minimal state intervention. This recalibration toward the cryptoeconomy continues Bermuda's longstanding political economy of risk externalization and capital protection.

The Cayman Islands introduction of the 2020 Virtual Asset Service Providers Act (VASP Act)[82] marked a critical moment in its OFC digital recalibration. As in Bermuda, in the Cayman Island cryptocurrency transactions are free from income, capital gains, withholding, and other taxes. The VASP Act introduced a licensing framework nominally aligned with the Financial Action Task Force (FATF) standards, but it incorporated significant regulatory elasticity into its design (Perkins 2022). Entities engaging in the issuance, exchange, transfer, or safekeeping of virtual assets are required to register with the Cayman Islands Monetary Authority (CIMA).

Currently, twenty VASPs are supervised by the CIMA.[83] However, like the Bermuda case, the Act establishes a two-tiered system: smaller or early-stage firms qualify for light-touch registration processes. At the same time, larger entities can exploit definitional loopholes to avoid classification under existing financial statutes such as the Securities Investment Business Act (SIBA)[84] and the Monetary Services Act (MSA)[85] (Perkins 2022). Despite signing onto OECD tax transparency initiatives such as BEPS and various Tax Information Exchange Agreements (TIEAs), Cayman's compliance has mainly been cosmetic

[81] www.bma.bm/document-centre/policy-and-guidance-digital-asset-business
[82] www.cima.ky/upimages/lawsregulations/VirtualAssetServiceProvidersLaw,2020_1594210684_1599485320.PDF
[83] https://thebanks.eu/list-of-vasps/Cayman-Islands
[84] www.cima.ky/securities
[85] www.cima.ky/upimages/lawsregulations/MoneyServicesAct2024Revision_1708532636.pdf

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(Marian 2020). As a result, the regulatory system projects the appearance of comprehensive oversight while leaving significant areas of crypto-activity effectively unregulated.

Beyond its legislative strategies, the Cayman Islands has invested heavily in infrastructure to support crypto-enterprises. As mentioned earlier, the Cayman Islands developed a crypto-SEZ dedicated to blockchain and digital finance, providing tax exemptions, streamlined licensing, and intellectual property protections to crypto-enterprises that establish themselves in the SEZ. Thus, the Cayman Islands exemplify the emergence of a specific form of crypto-island that relies on infrastructural investment and definitional elasticity to serve the cryptoasset industry.

The enactment of the Virtual Assets Service Providers Act (VASP Act) in 2022 exemplifies BVI's shift toward the cryptoeconomy. Like Bermuda and the Cayman Islands, the Act introduced a tiered registration system that nominally distinguishes between high- and low-risk crypto-activities, leaving token issuances, stablecoins, and DeFi ventures largely outside formal oversight (Carey Olsen 2025). The VASP Act signals compliance with international AML standards, such as those set by the FATF, while preserving the BVI's core appeal: low taxation, flexible corporate structures, secrecy, and limited enforcement (Freeman Law 2025). Crypto-regulation in the BVI is layered on top of the existing offshore infrastructure rather than replacing it. The BVI remains a jurisdiction with no personal income, corporate, capital gains, or value-added tax, conditions enabling the consolidation of crypto assets under opaque legal forms. Crypto-mining activities still need to be officially regulated, meaning they are not taxed (Ioffe 2025).

The BVI has also institutionalized regulatory experimentation as part of its crypto strategy. In 2020, the Financial Services Commission (FSC) introduced a regulatory sandbox, enabling fintech and blockchain ventures to test products outside conventional licensing requirements. There are seven VASPs currently supervised by the FSC.[86] Rather than a testing mechanism, the sandbox shields early-stage crypto-ventures from scrutiny and regulatory obligations. This permissive environment is reinforced by broader legislative tools, such as the Securities and Investment Business Act (SIBA) and the Financing and Money Services Act (FMSA), which enable firms to classify tokens as utilities rather than securities and payment systems as software rather than financial instruments (Carey Olsen 2025). The cryptoassets industry is thus not a disruption but an intensification of the offshore model.

[86] https://thebanks.eu/list-of-vasps/British-Virgin-Islands

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By redesigning their regulatory frameworks to accommodate crypto-assets, Bermuda, the BVI, and the Cayman Islands have embedded the cryptoeconomy within their existing legal-financial systems. Each jurisdiction represents a distinct configuration of crypto-islands, Bermuda through reputational governance and early regulatory adoption, the Cayman Islands through infrastructural investment and definitional elasticity, and the BVI through legislative minimalism and regulatory sandboxing. Together, they exemplify how OFCs adapt to digital capitalism by redesigning and extending their role in the colonial offshore economy.

4.2.2 Puerto Rico and Crypto-Colonialism

In recent years, blockchain publications, financial media outlets, and investigative reports have documented PR's transformation into a "crypto tax haven."[87] This development has been actively promoted by a network of legal and financial intermediaries, including law and accounting firms,[88] wealth managers, and public-private partnerships such as *Invest Puerto Rico*,[89] which markets the archipelago to US investors as a jurisdiction offering full exemption from federal income tax, capital gains taxes, and tax exemptions on cryptocurrency transactions. While US-based crypto investors face capital gains taxes of up to 37%, those who relocate to PR under the archipelago's tax laws can legally avoid such tax obligations altogether.

Unlike Bermuda, the BVI, and the Cayman Islands, where crypto strategies reinforce already established offshore models, PR's crypto-island is structured around physical resettlement. That is, to enjoy the tax benefits provided by the local government, investors must be bona fide resident of PR. These tax and legal incentives have drawn a wave of US-based crypto-investors, often white males dubbed *Puertopians*, who portray the archipelago as a blank slate for techno-capitalist experimentation (Klein 2018). High-profile figures such as Brock Pierce and Logan Paul have acquired significant property holdings, contributing to gentrification, speculation, and housing displacement (Yaffe-Bellany and Pérez 2024). Although precise numbers are elusive, the crypto-sector's presence in PR is notable. Seventeen companies offer digital asset services on the archipelago; six have received venture capital or private equity funding totaling $25.6 million.[90]

[87] https://gordonlaw.com/learn/puerto-rico-crypto-tax-haven/
[88] https://geo.tax/about/
[89] Created under the PR Law 13 of 2017. www.investpr.org
[90] https://coinledger.io/blog/puerto-rico-crypto-tax

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The sector also exhibits a relatively high exit rate, with 5.9% of crypto-firms acquired, surpassing the broader tech industry's average. These figures suggest a dynamic, fluid market driven by speculation, legal arbitrage, and entrepreneurial opportunism.

As discussed earlier, the foundations of PR's crypto-island model lie in Act 60 of 2019, which explicitly includes blockchain among the incentivized economic activities. Chapter III of Act 60 grants tax exemptions for blockchain operations, online exports, cloud-based services, and income from licensing, subscriptions, and service fees. Promoted aggressively by the Puerto Rican government, these incentives have drawn US crypto-investors, developers, and venture capitalists to the archipelago (Crandall 2019). A network of lifestyle influencers and a financial service sector composed of real estate developers, offshore banks, and crypto-focused law firms has actively facilitated this migration.[91] They have branded PR as a crypto-paradise for digital nomads and crypto-investors (Atiles 2022b, 2025), which allows US individuals to evade taxes while retaining their American passport. The result is a speculative economy geared toward offshore investors who exploit the archipelago as a legally insulated zone for digital wealth extraction.

Similarly, US tax policy has played a central role in accelerating PR's transformation into a crypto-island. The 2017 Tax Cuts and Jobs Act designated 98% of PR as an opportunity zone, eligible for tax-advantaged investment. These provisions allow investors to defer and reduce capital gains taxes by relocating profits to these zones, with gains from long-term holdings ultimately exempt from taxation. Under these incentives, some investors or *Puertopians* proposed building a blockchain-based city called Sol and explored purchasing 9,000 acres of the former Roosevelt Roads Naval Station in Ceiba, PR (Atiles 2022b), echoing similar crypto-SEZ proposed in El Salvador and Honduras (Slobodian 2023). Another failed project, the Viejo San Juan Community Re-Fund Security Token Offering (STO), aimed to tokenize investment shares in Old San Juan's historic properties (Crandall 2023, 2024). Marketed to democratize access, the project effectively sought to privilege US investors while reinforcing territorial dispossession. Even if unsuccessful, such projects illustrate how blockchain technologies can deepen land privatization, displacement, and data extraction under the guise of innovation (Crandall 2023, 2024).

[91] Cintrón (2021) notes that the "Promoter Services Clause" of Act 20 allowed intermediaries to collect a 10% commission for each individual or business they convinced to relocate.

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PR's regulatory environment has drawn increasing scrutiny. In 2020, the IRS launched an investigation into Act 60 beneficiaries, with a particular focus on cryptoassets; by 2023, arrests had followed.[92] In January 2025, the US Senate Committee on Finance opened an investigation into compliance with federal tax law by wealthy US individuals who established residency in PR to claim Act 60 exemptions.[93] Although such tax avoidance may be formally legal, weak enforcement has enabled widespread criminogenic activities and facilitated illicit financial flows.

PR's crypto-island is not a story of economic revival or technological advancement, but of colonial extraction through legal design. These tax incentives have been paired with significant financial infrastructure. Counterintuitively, crypto-investors are not necessarily autonomous actors, but rather deeply dependent on the state. Blockchain and the cryptoeconomy are, like other capitalist technological endeavors, highly efficient externalizing machines. From tax incentives, financial deregulation, energy production and distribution, environmental deregulation, educational facilities, and workforce development to infrastructure (airports, internet, etc.), blockchain depends on the state for its survival. Alas, crypto-colonialism.

4.3 Blockchain and the Future of Offshore Finance

The rise of crypto-islands reflects the diversification and adaptation of colonial OFCs and their dynamics of secrecy, regulatory arbitrage, and elite/wealth protection. Bermuda, the BVI, the Cayman Islands, and PR demonstrate how the logic of inclusive exclusion allows these crypto-islands to legally and strategically accommodate changes in secrecy demands by corporate citizens and wealthy individuals. For instance, regulatory sandboxes, principles-based licensing, and flexible definitions of financial instruments appear to promote enforcement while reinforcing systems of risk externalization and wealth shielding. Similarly, territorial legal subordination intersects with tax incentives, resulting in a regime where offshore capital can settle physically while remaining legally and financially insulated.

Together, these Caribbean OFCs show that crypto-islands are central to the post-2008 reorganization of offshore finance, which this Element

[92] www.bloomberg.com/news/articles/2023-07-12/irs-probes-puerto-rico-tax-breaks-that-lured-crypto-traders-fund-managers?embedded-checkout=true

[93] www.finance.senate.gov/ranking-members-news/wyden-unveils-investigation-of-crypto-billionaires-tax-scheme-involving-puerto-rico-residency-scam

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identifies as a new stage in the evolution of offshore finance. Rather than displacing offshore finance, blockchain deepens its logic, embedding secrecy and regulatory arbitrage into digital systems. Far from decentralizing finance, the cryptoeconomy reinforces the structural inequalities of financial capitalism, corporate power, and colonial governance.

Understanding these dynamics requires critical international law and political-economic approaches that are attentive to how law enables enclosure and extraction in the global South. Crypto-islands emerge through the repurposing of legal tools, trusts, tax codes, regulatory waivers, and digital asset classifications that drive capital accumulation under the guise of innovation. Regulating crypto without addressing its broader legal and economic context risks reinforcing the very social harms such reforms claim to address. Ultimately, governing the cryptoeconomy demands confronting its ties to financial imperialism and colonial legality, or risk legitimizing new forms of digital colonialism disguised as regulation.

5 *Regulations:* The OECD, UN, and the Remaking of the Colonial Offshore Economy

International tax law,[94] global tax governance, and regional efforts to curb tax competition have often excluded colonial OFCs or the very jurisdictions most affected by anti-tax avoidance regulatory efforts. Frequently, Caribbean and Pacific colonial jurisdictions are denied meaningful participation in international forums, such as the OECD and the UN, due to their limited sovereignty. As a result, colonial jurisdictions are simultaneously excluded from international fora where tax policy is formulated and subject to blacklisting, shaming, and punitive measures that fail to account for their unique legal, political, and economic realities.

This chapter critically examines global North and international attempts to regulate offshore finance, revealing how these efforts disproportionately target colonial Caribbean and global South jurisdictions while ignoring the historical and structural conditions enabling the offshore economy (Dean 2025). Far from resolving the underlying issues, these regulatory measures often exacerbate racial hierarchies, local harms, restrict access to financial markets, stall development, and deepen poverty for populations that primarily do not benefit from offshore finance (Dean 2025; Hearson 2021). The paradoxical condition of international regulatory regimes is highlighted by the US and the UK's central role

[94] Pirlot (2025) offers an insightful discussion of the connections between international law and international tax law.

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in regulating offshore finance, while simultaneously designing, sustaining, and legitimizing the colonial offshore economy they claim to oppose. These interventions reproduce colonial logics of inclusive exclusion, reinforcing the asymmetries of a global system built on extraction, dispossession, and legal plunder.

This chapter turns to recent international initiatives such as the OECD's Global Minimum Tax (GMT) and its Pillar Two, arguing that these reforms operate within a narrow financial and regulatory paradigm. They fail to confront the colonial and racialized foundations of offshore finance, thereby reinforcing rather than dismantling the structures of colonial exploitation. The chapter also discusses the UN's efforts to enact an international tax treaty and shows the central role that civil society organizations have played in these reforms. Altogether, the chapter seeks to illustrate the pervasive colonial entanglements of global tax governance.

5.1 Global Tax Governance: A History of the Systemic Erasure of the Colonial World

The regulation of and the broader architecture of global tax governance have undergone significant evolution over the past century. Key institutions include the UN, the OECD, the World Bank (WB), the IMF, the G7 and G20, and, more recently, regional organizations such as the African Tax Administration Forum, the European Union (EU),[95] and various nongovernmental organizations (Stewart 2025). Each actor contributes differently to the international tax system, reflecting profound geopolitical asymmetries and diverging policy priorities (Baker 2025).

The origins of international tax governance can be traced back to the League of Nations, which, in the 1920s, commissioned studies on double taxation (Dean 2025). The study and the works following it laid the groundwork for bilateral tax treaty networks (Christensen 2022; Titus 2024). These treaties, initially designed to prevent double taxation, increasingly facilitated double nontaxation (Cobham 2024). The League's failure to build consensus led to the development of competing models: the Mexico Model (1943), which favored source-based taxation, and the London Model (1946), which favored residence-based taxation, mirroring the divide between capital-importing and capital-exporting states (Hearson 2021; Stewart 2025; Titus 2024). Crucially, the League adopted the "separate entity" and "arm's-length" approaches, laying the legal

[95] On the role of the EU in international tax governance see Christense (2021).

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foundation for transfer pricing (Ogle 2023), which the corporate citizens have exploited to shift profits to low-tax jurisdictions.

The postwar UN Fiscal Commission attempted to address these tensions but lacked enforcement mechanisms and institutional continuity. In contrast, the OECD has dominated international tax standards since the 1960s (Brauner 2025; Dean 2025). For Dean (2025), the OECD's rise as the global tax policymaker was no accident. It coincided with African decolonization and the growing influence of global South states in the UN, which threatened to democratize international economic law and global taxation. By relocating tax governance to an all-white, Euro-American institution, the US and its allies insulated policymaking from postcolonial demands (Dean 2025). They ensured that newly independent states would remain subject to fiscal discipline rather than free to chart redistributive futures. Critical to the creation of what Dean (2025) calls the Global Jim Crow was the system of tax treaties developed under the OECD, which forced recently independent states into unequal arrangements with their former imperial and colonial powers (Hearson 2021). The OECD thus crystallized as a racially exclusive forum, what Dean (2025) calls a World Tax Organization in all but name, designed to reproduce imperial/racial hierarchies and exclude precisely those states most in need of equitable taxation.

In this sense, OECD's Model Tax Convention, commentaries, and guidelines have shaped over 3,300 bilateral treaties worldwide, generally favoring residence jurisdictions, limiting withholding taxes, and constraining source-country taxing rights, deepening North–South fiscal asymmetries (Baker 2025; Dagan and Pirlot 2025; Stewart and Nidumolu 2023). Hearson (2021:4) describes these bilateral tax treaties as the hard law foundational to the international tax regime. "Tax treaties cover 82% of the world's foreign direct investment (FDI) stocks, including 81% of the FDI in lower-income countries."

To counterbalance OECD dominance, the UN introduced an alternative model treaty in 1980 and has since maintained a Committee of Experts to issue nonbinding guidance on equitable tax practices (Stewart and Nidumolu 2023). While not as influential globally, the UN Model offers critical tools for developing countries negotiating with capital-exporting states (Stewart and Nidumolu 2023).

In parallel to multilateral institutional efforts, covert state collaboration also played a significant role in the development of global tax governance. Ogle (2023) documents the creation of the "Group of Four," an intergovernmental forum established in 1970 by France, the UK, the US, and West Germany to combat international tax evasion and coordinate

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enforcement efforts. The group targeted transfer pricing abuses by major pharmaceutical and consumer goods multinationals, including Roche, Pfizer, and Nestlé. These investigations revealed widespread use of shell companies, tax treaty abuse, and strategic corporate structuring through jurisdictions such as Switzerland, Panama, and the Netherlands Antilles (Ogle 2023).

By the 1980s and 1990s, neoliberal globalization and tax competition intensified, prompting many developing countries to lower their corporate tax rates to attract mobile capital. The 1998 OECD Harmful Tax Competition Initiative (HTCI) marked a turning point, identifying preferential regimes within member states and initiating a blacklist of jurisdictions deemed noncooperative (Palan et al. 2010; Ylönen, Raudla, and Babic 2024). The HTCI initiative sparked significant debate and scholarly attention in the early 2000s, particularly regarding its impact on small states (Sanders 2002; Sharman 2006; Vlcek 2008). Sharman (2006) and Vlcek (2008) demonstrate how the OECD sought to pressure OFCs to adopt a standard package of tax, financial, and banking regulations to control or prevent the race to the bottom. This initiative targeted forty-one small jurisdictions across the Caribbean and Pacific, pressuring them to overhaul their tax systems in compliance with OECD standards or face sanctions and blacklisting. Sanders (2002) characterizes this intervention as a form of fiscal colonialism. Vlcek (2008) further notes that the implementation of the OECD's agenda had adverse effects on employment and tax revenue in small Caribbean states, including the Bahamas, Dominica, St. Vincent and the Grenadines, and the Cayman Islands.

Blacklisting tax havens or noncooperative jurisdictions illustrates the failures of global tax governance (Christesen 2025; Maurer 2008). That is, while blacklisting may be effective at naming and shaming "deviant jurisdictions," this regulatory approach has been ineffective at generating tax compliance, as it often disproportionately focuses on small, racialized states and colonial jurisdictions (Dean 2025). Although the OECD later abandoned its list, the EU revived the practice in 2016 with the launch of the External Strategy for Effective Taxation (ESET),[96] part of its Action Plan for Fair and Effective Corporate Taxation launched in 2017. The ESET aims to confront the global challenges posed by harmful tax competition and aggressive tax planning by coordinating anti-tax-avoidance measures across EU member states and strengthening tax agreements with third countries. On May 25, 2018, the European Commission published

[96] Com (2016)24/F1: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016DC0024

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a blacklist[97] in which six of seven jurisdictions were Caribbean or Pacific islands, and all were US unincorporated territories[98] or BOTs.[99] Similarly, in February 2019, the Commission adopted a list of High-Risk Third Countries with Weak Anti-Money Laundering and Terrorist Financing Regimes, which included four of the five US unincorporated territories.[100]

These blacklists demonstrate how many of the jurisdictions targeted are colonial territories with limited sovereign authority to regulate their broad economic activities. In practice, the strategy of blacklisting, while increasing public visibility, has reinforced double standards. British Crown Dependencies and key EU member states have remained conspicuously absent from the lists, despite their central roles in global tax avoidance (Jansky et al. 2023).[101]

Nonetheless, the HTCI was not the only international initiative confronting OFCs. The Financial Action Task Force (FATF),[102] established in 1989, positioned itself as an intergovernmental body responsible for developing global policies to combat money laundering (Vlcek 2007), working alongside efforts by the UN Commission on Money Laundering (Sanders 2002). While money laundering is legally distinct from tax avoidance and evasion, the FATF's agenda was often conflated with broader efforts to discipline OFCs under the rhetoric of financial transparency and security (Vlcek 2007). In June 2000, the FATF published a list of jurisdictions deemed "non-cooperative" with its AML objectives (Vlcek 2007). This list was disproportionately composed of Caribbean colonial and postcolonial states, including Antigua and Barbuda, the Bahamas, Bermuda, BVI, the Cayman Islands, Dominica, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines (Vlcek 2007). The FATF's blacklist approach faced widespread criticism, and by 2002, the responsibility for conducting evaluations was transferred to the IMF (Vlcek 2007). The IMF, seeking a renewed purpose in the early 2000s, conducted reviews of dozens of jurisdictions and recommended technical reforms. However, it downplayed deeper issues of transparency, information exchange, and coordination (Palan et al. 2010).

[97] www.taxjustice.net/2017/11/27/blacklisting-the-eu-paradise-lost/
[98] American Samoa, Guam, and USVI.
[99] Anguilla, Bermuda, BVI, Cayman Islands, Turk and Caicos Islands.
[100] https://ec.europa.eu/info/policies/justice-and-fundamental-rights/criminal-justice/anti-money-laundering-and-counter-terrorist-financing/eu-policy-high-risk-third-countries_en
[101] Dean and Waris (2021) challenge the racialized legal imaginaries that construct Caribbean OFCs as exceptional threats while allowing white-dominated secrecy jurisdictions like Switzerland or Delaware to escape scrutiny. This selective enforcement reflects a racialized narrative that portrays Black and Brown jurisdictions as inherently corrupt.
[102] www.fatf-gafi.org/en/the-fatf/who-we-are.html

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In this context, and in the aftermath of the September 11, 2001, terrorist attacks, the US – supported by the OECD and other allied states – developed a series of national and international policies aimed at preventing terrorist financing and promoting international tax transparency (Eccleston and Gray 2014; Maurer 2008). For instance, the USA PATRIOT Act is heavily focused on combating illicit financial flows and establishing an anti-terrorist financing framework. These policies had a direct and significant impact on Caribbean jurisdictions, which faced increased pressure from the US to implement Anti-Money Laundering and Countering the Financing of Terrorism regulations.

Subsequent measures implemented by the OECD, including tax haven blacklists (Eggenberger 2018) and the expansion of automatic tax information exchange, sought to curb secrecy-seeking capital. These efforts led to the 2003 creation of the Global Forum on Transparency and Exchange of Information and, following the 2008 financial crisis, the push for automatic exchange of information under the OECD's Common Reporting Standard, which was adopted by nearly 100 countries (Hakelberg 2016; Ylönen, Raudla, and Babic 2024).

The 2008 global financial crisis marked a significant shift in global tax governance and broader economic governance (Christensen 2021, 2022; Christensen and Hearson 2019; Eccleston and Gray 2014; Rixen 2013; Sharman 2010). Notably, important was the framing of the crisis as resulting from actions carried out by hedge funds based in Caribbean OFCs (Sharman 2010). Under this understanding, the US and the OECD moved to impose limitations and restrictions on access by banking and financial institutions based on Caribbean OFCs.

The introduction of the Foreign Account Tax Compliance Act (FATCA) by the US in 2010 is perhaps one of the most significant unilateral actions against tax competition in the post-crisis period (Dean 2025; Eccleston and Gray 2014; Christensen and Hearson 2019). FATCA requires financial institutions operating in the US to provide data on Americans' foreign accounts or face withholding taxes and other penalties. FATCA established a de facto international standard for the exchange of tax information (Eccleston and Gray 2014). FATCA also "unlocked" a path for similar multilateral systems at the EU and OECD levels, expanding the automatic exchange of tax information to cover almost 150 countries (Christensen and Hearson 2019).[103]

[103] On FATCA see: Eccleston and Gray (2014) and Hakelberg (2016). For a discussion of US extraterritoriality see Emmenegger (2015).

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By the 2010s, regulatory efforts expanded to corporate profit shifting, reducing reliance on traditional tax havens and forcing many secrecy jurisdictions to increase tax information sharing (Christensen and Hearson 2019). However, the corporate citizen adapted by shifting toward new forms of regulatory arbitrage, particularly in onshore jurisdictions (Ylönen, Raudla, and Babic 2024). This raises broader questions about how private actors respond to international regulations and what new strategies emerge to circumvent oversight (Seabrooke and Wigan 2022).

The OECD's Base Erosion and Profit Shifting (BEPS) project, launched in 2013, further expanded multilateral regulatory capacity. Christensen (2022) explains that BEPS introduced fifteen concrete action points aimed at comprehensive and coordinated global policy change, with a particular emphasis upon corporate tax transparency. Accordingly, the aim was to make more information available to stakeholders regarding companies' tax affairs, including a controversial demand for an unprecedented level of transparency and geographical segmentation through so-called country-by-country reporting (Christensen 2022). Combining strong political backing from the G20 with the OECD's technical expertise on tax policy, the BEPS initiative successfully produced new, globally accepted standards on corporate tax transparency by 2014 (Christense 2021).

Despite the proclaimed progress on international taxation, these reforms reflect technocratic solutions that struggle to address the systemic inequities entrenched in the international tax order (Christensen and Hearson 2019). The continued resistance to more democratic and redistributive models suggests that, while the regulatory frameworks have evolved, the underlying power dynamics and privileges in global tax governance remain largely intact. These dynamics will become clear in the development and implementation of the OECD's Global Minimum Tax.

5.2 OECD's Global Minimum Tax and the Limits of International Tax Cooperation

A significant shift in global tax governance took place in 2021 with the adoption of the OECD's Global Minimum Tax (GMT) under the Inclusive Framework on BEPS (Christensen 2025). Currently 137 countries have adopted the GMT, which amount to 95% of the global economy. Established in 2015 to expand participation beyond OECD members, the Inclusive Framework eventually produced a two-pillar approach: Pillar One focuses on nexus and profit allocation in the digital

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economy (Schoueri and Schoueri 2025), while Pillar Two introduced a global minimum tax rate of 15% (Dagan and Pirlot 2025; Christensen 2025). Based on the Global Anti-Base Erosion (GLoBE) Model Rules, the GMT requires implementation through domestic legislation (Dagan and Pirlot 2025; Schoueri and Schoueri 2025; Stewart 2025; Vella 2024). The GMT aims to reconfigure both residence- and source-based taxation by requiring multinational corporations to pay a minimum effective tax rate of 15% in each jurisdiction where they operate, regardless of their headquarters location.

At the heart of Pillar Two are two interlocking mechanisms: the Income Inclusion Rule (IIR) and the Undertaxed Payments Rule (UTPR). Together, these components allow states to impose top-up taxes if income booked in a jurisdiction is not taxed at the agreed minimum rate (Christensen 2025). One of the most consequential shifts involves allowing countries to tax profits earned abroad by multinationals, provided the firm maintains a local subsidiary or permanent establishment (Christensen 2025). In practice, this aims to challenge the long-standing principle of separate-entity accounting and instead treats the multinational corporation as a singular global economic actor, mobilizing its networked liabilities – those domestic footprints created through global operations – to generate tax obligations (Christensen 2025).

Although Pillar Two has been widely hailed as a landmark in the fight against unfair tax competition, its implementation has proven technically complex and politically fraught. Many developing countries have raised concerns that the rules were crafted primarily for the interests of high-income countries (Titus 2024). For example, the design of the IIR gives priority taxing rights to the parent jurisdiction of a multinational, typically a developed country, rather than to the source jurisdictions where economic activity occurs. This results in a distribution of taxing rights that systematically disadvantages developing or global South countries (Dean 2025; Schoueri and Schoueri 2025). Moreover, the 15% GMT has been criticized as too low to effectively stem harmful tax competition, especially given the widespread carve-outs and exceptions. Analysts have warned that these carve-outs, including those for substance-based income and refundable tax credits, may further reduce the effective tax rate, undermining the reform's objectives (Christensen 2025).[104]

[104] Hearson, Christensen, and Randriamanalina (2022) show that developing countries have leveraged expert networks, technical knowledge, and regulatory credibility to influence OECD-led tax processes.

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Critics contend that reforms led by the OECD continue to be structurally biased (Dean 2025), rooted in origin-based taxation and separate-entity accounting, which facilitate corporate profit shifting (Vella 2024). Alternatives such as unitary taxation with formulary apportionment have been suggested but face political resistance from global North states (Vella 2024). Furthermore, dispute resolution mechanisms like the Mutual Agreement Procedure (MAP) often lack enforcement and tend to favor developed countries. Multilateral arbitration proposals remain contentious due to concerns over sovereignty (Brauner 2025). Despite these concerns, the G20 and more than 140 jurisdictions have committed to implementing some form of the Pillar Two rules, though legislative progress has varied widely. The EU has adopted a directive mandating implementation across member states,[105] while others face domestic political obstacles.[106]

The US has completely withdrawn from the agreement, arguing that it violates its sovereignty. On January 20, 2025, Trump issued a memorandum entitled "The Organization for Economic Cooperation and Development (OECD) Global Tax Deal."[107] In it, Trump criticized the Joseph R. Biden administration's support for OECD's GMT, claiming that this and other international tax measures discriminated against US companies. With his opposition to the GMT, on February 21, 2025, Trump issued the memorandum "Defending American Companies and Innovators from Overseas Extortion and Unfair Fines and Penalties,"[108] reinforcing the administration's "America First" trade policy.[109] The directive authorizes broad retaliatory tariffs against foreign governments imposing taxes or fines deemed discriminatory against US businesses, particularly targeting digital services taxes from Austria, Spain, Italy, France, Canada, and India. Accordingly, these measures unfairly burden US tech firms such as Apple, Google, and Amazon by directly taxing their revenues and allegedly transferring wealth to foreign governments and domestic competitors.

Additionally, on February 3, 2025, the US announced its withdrawal from negotiations at the UN's Framework Convention on International

[105] https://eur-lex.europa.eu/eli/dir/2022/2523/oj
[106] https://taxfoundation.org/data/all/eu/pillar-two-implementation-europe/
[107] www.whitehouse.gov/presidential-actions/2025/01/the-organization-for-economic-co-operation-and-development-oecd-global-tax-deal-global-tax-deal/
[108] www.federalregister.gov/documents/2025/02/26/2025-03188/defending-american-companies-and-innovators-from-overseas-extortion-and-unfair-fines-and-penalties
[109] www.whitehouse.gov/presidential-actions/2025/01/america-first-trade-policy/

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Tax Cooperation (UNFCITC).[110] UNFCITC aims to restructure the principles of global tax governance, fostering international cooperation against tax evasion, harmful tax practices, and fairer taxing rights, issues crucial for the global South. The Trump administration emphasized that the envisioned international framework, expected to culminate in 2027, conflicted fundamentally with its national priorities and tax sovereignty (Cobham 2025).

Lastly, on June 28, 2025, the G7 reached a deal to exclude the US from the application of the OECD's GMT, opting instead for a "side-by-side" arrangement whereby US companies would remain subject to existing US tax rules.[111] The decision comes after the US threatened to impose retaliatory taxes on jurisdictions that enforce the GMT on US corporations. Although US firms remain subject to the Global Intangible Low Tax Income (GILTI) regime, which predates the OECD deal, the carve-out weakens the goal of uniform implementation and underscores the geopolitical asymmetries in global tax negotiations.[112] This creates a particularly damming situation for PR and other US unincorporated territories, as discussed later.

5.2.1 GMT in Colonial Settings: The Puerto Rican Case

The PR case highlights the limitations and contradictions inherent in the OECD's Pillar Two when applied to colonial jurisdictions. While the OECD frames Pillar Two as a key instrument to curb base erosion and profit shifting by MNEs, territories like PR face structural constraints that fundamentally complicate implementation, exposing how global tax governance often reproduces colonial asymmetries rather than resolving them. Like PR, other OFCs, such as Antigua and Barbuda and the BVI, have drafted legislation to implement the GMT, although it has not been enacted.[113]

As this Element demonstrates, PR has relied on a low-tax, high-incentive economic model designed to attract FDI, especially from US-based multinationals in sectors such as pharmaceuticals, medical devices, and manufacturing (Cole 2024; Rivera-Quiñones 2025).

[110] https://usun.usmission.gov/statement-at-the-session-for-the-intergovernmental-negotiating-committee-on-the-un-framework-convention-on-international-tax-cooperation/

[111] https://thehill.com/blogs/blog-briefing-room/news/5375491-g7-agrees-to-exclude-us-from-corporate-minimum-tax/

[112] www.bruegel.org/first-glance/implications-g7-agreement-global-minimum-tax

[113] www.bdo.global/en-gb/insights/tax/international-tax/pillar-two-updates-status-of-implementation-around-the-world

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This strategy evolved from federal provisions like Section 936 of the US Internal Revenue Code to local tax incentive laws such as Act 60. Yet, the introduction of the OECD's Pillar Two disrupts this model. The GMT imposes a 15% minimum effective tax rate on MNE profits, allowing jurisdictions to collect a top-up tax if local rates fall below the threshold. Crucially, if PR fails to impose its own Qualified Domestic Minimum Top-Up Tax (QDMTT), other jurisdictions can claim the difference through the Income Inclusion Rule (IIR) or the Undertaxed Profits Rule (UTPR), thereby redirecting billions of dollars in potential revenues offshore (Espacios Abiertos 2024).

With a current effective tax rate of just 2.4% for many MNEs, PR could lose approximately $3.8 billion annually if it fails to adopt compliant GMT legislation, as other jurisdictions claim top-up taxes on the profits of MNEs operating in the archipelago (Espacios Abiertos 2024). This figure represents nearly one-third of PR's General Fund budget, underscoring the scale of the challenge. Without legislative action, approximately 100,000 jobs in the multinational sector could be at risk, compounding PR's already fragile economic situation. Moreover, the GMT's design, with its limited carve-outs for tangible assets and payroll, offers little protection to jurisdictions that rely primarily on tax incentives rather than substantive economic activities, leaving PR unprotected against external revenue capture.[114]

PR's efforts to implement the GMT focused on House of Representatives Bill 1908, which sought to align local tax policy with OECD standards. While the Bill passed the House of Representatives, it stalled in the Senate, amid concerns raised by the PR Department of the Treasury, the US Treasury, and the Financial Oversight and Management Board (FOMB) (Serrano-Román 2024). Former Governor Pedro Pierluisi ultimately deferred the issue, leaving it to the administration of Governor Jenniffer González, who signaled skepticism about implementing the GMT, aligning with the Trump administration's broader opposition to the OECD framework.

At first glance, PR's failure to pass the GMT legislation might seem a case of local political dysfunction. However, a deeper analysis reveals that the archipelago's colonial status structurally constrains its capacity to engage with global tax governance. As a US colony, PR lacks fiscal sovereignty and cannot enter international treaties or negotiate tax agreements independently. While the OECD clarified that territories

[114] www.congress.gov/crs-product/R47174

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like PR can adopt Pillar Two provisions through local legislation, doing so without federal coordination risks legal and political complications (Serrano-Román 2024). Especially after the Trump administration declared the global agreement inapplicable to the US.

Furthermore, PR's dependence on individualized tax agreements with corporations further complicates matters. Many MNEs operate under binding tax contracts that limit the government's ability to impose new obligations retroactively (Cole 2024). Moreover, PR's fiscal policy is subject to FOMB oversight, adding another layer of colonial control. Adding to the complexity is that PR is treated as part of the US under some OECD rules (like Pillar One) but as a separate jurisdiction under Pillar Two (Cole 2024). Further complicating matters, the IRS has expressed concerns about whether taxes paid under Puerto Rican law would be creditable under US foreign tax credit rules, adding another layer of uncertainty (Serrano-Román 2024). These constraints reveal how colonial legality intersects with international tax regimes, placing PR in a uniquely precarious position.

PR's lack of implementation of the GMT highlights the colonial limits embedded in global tax governance. While Pillar Two is often portrayed as a universal reform to promote tax fairness, its design, like much of the OECD's policies, operates on assumptions of sovereign equality that do not hold for colonial territories. PR's experience exposes the vulnerabilities of jurisdictions operating within the logic of inclusive exclusion, where local policy choices are constrained by colonial governance and global capital dynamics. Furthermore, when these colonial jurisdictions choose a specific fiscal path, they are exposed to international condemnation, blacklisting, and shaming.

5.3 Transnational Activism for Tax Justice and the UN's Tax Governance

Transnational activism has emerged as a powerful counterforce in response to regulatory unevenness and institutional failure of blacklisting strategies. While multiple organizations and civil society initiatives are mobilizing for tax justice (Cobham 2024), three examples of transnational activism are the Tax Justice Network (TJN), the Independent Commission for the Reform of International Corporate Taxation (ICRICT), and the Global Alliance for Tax Justice (GATJ), which have played a pivotal role in shifting global discourse on global tax governance.

Founded in 2003, TJN emerged from grassroots activism and critical scholarship. Through public campaigns, research, and international

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advocacy, TJN has exposed how financial secrecy and offshore regimes perpetuate inequality, enable corruption, and erode democratic governance. It aims to influence policy through tools like the Corporate Tax Haven Index, Financial Secrecy Index (Cobham, Janský, Meinzer 2015), and the State of Tax Justice reports, and frameworks linking tax to human rights. Seabrooke and Wigan (2016, 2024) emphasize the pivotal role of the TJN in exposing corporate tax secrecy through a combination of technical expertise and moral authority. Drawing on the professional backgrounds of accountants, lawyers, and economists, TJN successfully promoted country-by-country reporting as a new standard for corporate financial disclosure. Seabrooke and Wigan (2016, 2024) emphasize the significance of TJN's activist-professional networks in transforming tax justice from a technical, low-salience issue into a global political priority.

ICRICT advocates for a fundamental restructuring of international tax rules, grounded in global equity and democratic accountability.[115] Launched by a coalition of civil society, labor, and intergovernmental organizations, ICRICT critiques elite-controlled forums like the OECD and advocates for inclusive global governance that reflects the interests of both the global South and the North. Among ICRICT's key proposals is the establishment of a Global Asset Registry, designed to increase transparency, facilitate wealth taxation, and enable fully informed public debates. The Registry would encompass high-value assets such as property, financial accounts, aircraft, and artworks, and apply to all legal vehicles, including trusts, companies, and foundations. Some of this data would be publicly available at the individual level, fostering accountability and reducing illicit financial flows (Cobham 2024).

The GATJ is a South-led global coalition at the forefront of the international tax justice movement.[116] Established in 2013, GATJ unites regional networks across five continents, representing hundreds of organizations. Rooted in a commitment to equity and democratic accountability, GATJ advocates for progressive and redistributive tax systems that counteract global and domestic inequalities and ensure sufficient public funding for essential services and human rights. Over the past decade, GATJ has led the charge in advocating for the relocation of global tax rulemaking from the OECD to the UN. As a result of the adoption of the UN Framework Convention on International Tax Cooperation

[115] www.icrict.com
[116] https://globaltaxjustice.org

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(UNFCITC) in November 2023, the GATJ has been actively involved in the negotiations leading the UN Tax Convention.

Together, these activist interventions have helped to reframe global tax governance not merely as a technical fix but as a site of political struggle over sovereignty, democracy, and justice. By exposing the limitations of blacklisting and advocating for structural alternatives, they illuminate pathways toward a more just and democratic global tax order.

5.3.1 The UN's Tax Governance and Inclusive Exclusion

The adoption of the UN's UNFCITC marks a key moment in the history of global tax governance. Scholars and activists have argued that the 2024 UN General Assembly vote to initiate formal negotiations on a binding tax convention marks a significant shift away from the long-standing dominance of the OECD and the marginalization of global South countries in global tax governance (Titus 2024). As discussed earlier, for nearly a century, international tax rules have been shaped by a handful of wealthy nations and the OECD (Dean 2025; Titus 2024; TJN 2025). Counterintuitively, this exclusive system has enabled the growth of offshore finance, fueling capital flight, elite accumulation, and fiscal degradation. TJN (2025) argues that through the UNFCITC, 193 countries have committed to reconfiguring the architecture of international tax cooperation on the basis of equity, transparency, and inclusiveness.

The negotiation process, structured through three annual sessions alternating between New York and Nairobi until mid-2027, is grounded in multilateralism (Chaparro and Meinzer 2024). The August 2024 Terms of Reference outlined core objectives, including creating a framework body for future "Conferences of the Parties," ensuring a fair allocation of taxing rights, addressing tax avoidance by high-net-worth individuals, and enabling the equitable taxation of MNEs (TJN 2025). The final UN General Assembly resolution passed overwhelmingly, with only nine countries opposing it, leaving the US and UK diplomatically isolated (Chaparro and Meinzer 2024). At the same time, the EU abstained after failing to insert amendments requiring full consensus decision-making (Chaparro and Meinzer 2024).

Unlike the OECD's Inclusive Framework, where nonmembers have limited influence and consensus is interpreted to advantage powerful countries, the UNFCITC is governed by majority and supermajority voting rules when consensus is impossible (TJN 2025). The Intergovernmental Negotiating Committee, which leads the process, includes representation

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from all five regional blocs, and its work is divided into three workstreams – on the framework convention, and two early protocols: one on the taxation of cross-border services in the digital economy, and another on dispute resolution (Chaparro and Meinzer 2024). This multilateral governance model empowers the global South to shape agendas and push for reforms without the threat of vetoes or diplomatic coercion. Civil society and other nonstate stakeholders also have formal roles in the process, a sharp contrast with the opaque and business-dominated procedures of the OECD (Chaparro and Meinzer 2024).

Recent geopolitical developments have further legitimized the move toward the UN process (Chaparro 2025). As noted earlier, in 2025, Trump withdrew the US from the UN multilateral tax talks and issued a memorandum instructing retaliatory measures against any country pursuing tax rules that impact US multinationals. Chaparro (2025) argues that the Trump administration's position underscores the urgent need for an international framework that defends the tax sovereignty of all countries. The failure of the OECD's Pillar Two framework, which would have redirected 80% of redistributed profits to rich nations, further eroded the institution's credibility (Chaparro 2025).

The UNFCITC offers an important opportunity to reconfigure global tax governance in the interests of most countries in the global South (Chaparro and Meinzer 2024). It represents a historic shift in the distribution of legal authority, fiscal sovereignty, and policy-making power in international economic law. Scholars and activists have argued that whether the process results in lasting change will depend on continued participation, resistance to elite capture, and the political will to center the needs of those historically excluded from global tax governance.

Despite ongoing UN-led initiatives, current global tax governance still reflects colonial dynamics of inclusive exclusion. For instance, most countries and territories operating as Caribbean OFCs are not represented in the UNFCITC negotiations, given their colonial status. The lack of international recognition and presence in global fora has led to Caribbean jurisdictions, including PR, being absent from a process that might have a direct impact on the future of their economies. These absences require us to reconsider how to address and discuss international tax law, global tax governance, and regulations from the spaces of colonial exclusion. Hence, genuine reform requires confronting the colonial structure of offshore finance and relinquishing the corporate citizen's extraordinary powers and privileges. As a result, we have to begin to recognize that decolonization is necessary for achieving tax justice.

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6 *Abolition:* Dismantling the Empire, Ending the Paradise

Understanding the offshore world as a colonial formation requires recognizing that imperial forces have shaped these legal-financial spaces. As this Element has demonstrated, the production of Caribbean OFCs must be understood as part of a broader imperial project rooted in legal subordination, racialized governance, and extractive capitalism. However, this Element resists deterministic accounts that erase local political agency. Caribbean colonial jurisdictions have, at times, strategically leveraged offshore finance to assert limited forms of self-determination (Sybblis 2024). Within the constraints of the colonial state of exception, these moments of legal accommodation and partial autonomy have produced both short-term economic gains and long-term dependencies.

Central to this Element is the concept of the colonial state of exception and its constitutive logic of *inclusive exclusion* – a structure that enables the integration of colonial territories into international legal and financial systems while withholding full legal, political, and economic recognition. Within this legal structure, corporate citizens enjoy a privileged form of inclusion, as the colonial state of exception provides constitutional and legal mechanisms for evading liability and regulation. Hence, the corporate citizen is the privileged figure of the colonial state of exception and its configuration of offshore finance.

By centering Caribbean OFCs, such as PR, this Element shifts the study of offshore finance away from the global North and toward the racialized spaces that sustain it. These reframing challenges dominant narratives that blame the Caribbean and other colonial and racialized jurisdictions for financial opacity, tax evasion, money laundering, and other criminogenic practices. Offshore finance is not merely about secrecy; it concerns colonial power, empire, and the legal structures that have long upheld them.

The experience of PR, as explored throughout this Element, reveals how the tax haven model facilitates settler colonialism and displacement. Transforming PR into an OFC has required not only the legal restructuring of the archipelago tax incentives and laws, but also the systemic exclusion and expulsion of communities from their homes. In this context, civil society organizations such as *Abolish Act 60*, *Espacios Abiertos*, *Losing Puerto Rico*, and the *Center for Popular Democracy*[117] have mobilized to challenge the tax policies that have turned PR into an *island of*

[117] Over thirty organizations are part of the anti-tax haven initiative "PR no se vende" https://prnosevende.com/sobre-nosotres/

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exception. These organizations, among other, have developed pedagogical tools to educate the public on the socioeconomic, environmental, political, and legal implications of Act 60 and related fiscal policies. They demonstrate that confronting tax injustice requires opposing the racialized and colonial architecture of global finance. For these organizations, the call to abolish the tax haven cannot be separated from the broader demand to dismantle the global governance structures that uphold white supremacy, colonial subordination, and financial imperialism.

For instance, the arrival of blockchain proponents or Puertopians and their increasing control over urban property has sparked a new wave of struggle among Puerto Ricans fearing displacement. *Abolish Act 60* and other groups have opposed the transformation of PR into a crypto-island, resisting the establishment of Puertopian enclaves (Atiles 2022b). Alongside these efforts, many activists and communities are resisting the transformation of PR into a tourist destination and the systemic privatization of the beaches (Atiles 2025). Puerto Ricans have developed sophisticated arguments against the paradisiacal portrayals of the archipelago, connecting the emergence of an exclusive property market to the tax incentives enabled by Act 60. Importantly, this opposition comes not only from organized movements but also from communities whose livelihoods are threatened by real estate speculation (Atiles 2026).

Activism against the colonial offshore economy illustrates concrete pathways for resisting offshore finance at the local level, offering an important vision for a decolonial future. This vision requires dismantling the legal and regulatory frameworks that sustain offshore finance, such as Act 60 and the financial services industry, and reimagining development to prioritize community well-being, environmental justice, and collective self-determination. These civil society and grassroots movements demonstrate how collective action can challenge entrenched colonial and capitalist structures, opening the possibility for alternative futures grounded in decolonial justice.

Building on this analysis, this Element seeks to advance TWAIL, critical international law, and political economy scholarship by reframing the role of international law and global tax governance in facilitating the rise of the colonial offshore economy. The Element traces the expansion of offshore finance in colonial settings through the historical development of specific legal devices, demonstrating how the law has facilitated wealth extraction, corporate power, and sovereign inequality.

In this sense, this Element situates the emergence of OFCs within broader histories of empire and racialized governance, challenging

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approaches that isolate offshore finance from the dynamics of colonialism or treat it merely as a symptom of late capitalism. Instead, it argues that the structures and practices underpinning OFCs are rooted in the colonial logic of inclusive exclusion. From tax treaties to SEZs, from trusts to crypto-financial enclaves, colonial OFCs have continually adapted to serve the evolving needs of global capital and the corporate citizen. Their development has often accelerated during periods of global financial crisis, demonstrating how offshore finance helps preserve existing hierarchies of wealth and power even amidst instability.

Furthermore, by centering the Caribbean and PR, this Element foregrounds the region's critical role in global finance while exposing the dual burden borne by colonial OFCs. These jurisdictions are tasked with facilitating mobile capital while simultaneously enduring the environmental destruction, labor precarity, and political instability that such capital generates. This burden becomes particularly acute amid the global climate crisis, as many colonial jurisdictions are now treated as sacrifice zones in an imperial order that prioritizes capital mobility over sustainability (Atiles and Whyte 2025).

The Element also aims to interrogate the law and political economy of the paradise, highlighting the ideological and material construction of the Caribbean in the legal imagination of the global North. Legal, aesthetic, and discursive techniques romanticize Caribbean territories while obscuring their colonial condition and the exploitative and extractive impact of the visitor economy, privatization of the commons, and exclusion. Colonial OFCs are exemplary sites of imperial legal ordering, where landscapes, laws, and lives are reordered to serve the extractive needs of capital.

In this Element, I have examined the paradoxes of global North regulatory regimes, exposing how efforts such as the OECD's Pillar Two and the UN's tax cooperation framework often reinforce the very hierarchies they claim to dismantle. Rather than challenging the foundational structures of offshore finance, these initiatives frequently reproduce colonial dynamics by imposing regulatory burdens on OFC jurisdictions while leaving core drivers of opacity, such as the US and UK, largely untouched. In doing so, international organizations entrench racialized and colonial structures of governance into global tax governance.

Furthermore, in these global North proposals the corporate citizen remains unaddressed. Building on Whyte's (2018) critique of the corporate citizen, we can envision alternatives to the colonial state of exception and the legal structures that have enabled the corporation's privileged

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and protected incorporation into the offshore world. Whyte (2020) urges us to imagine interventions at both the local and international levels, including breaking up corporate forms, ending impunity for investors and shareholders, and holding corporate executives legally accountable. These proposals alongside demand such as "killing the corporation" (Whyte 2018, 2020), underscore that dismantling the legal structures that elevate the corporation as the dominant mode of economic organization is inseparable from a decolonial project. Such a project centers reparations and justice for those harmed by imperial legal orders and requires abandoning the legal, epistemic, and economic foundations that made the corporation citizen existence possible.

This Element intervenes in critical debates in international law and political economy by foregrounding the colonial condition of offshore finance. It insists that any meaningful effort to confront global financial injustice must begin with a reckoning with empire, its legacies, legal forms, and operative institutions. As Puerto Rican grassroots movements make clear, decolonization is a necessary precondition for dismantling the colonial offshore economy. Ultimately, we ought to dismantle the Empire to abolish the *paradise*.

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Acknowledgement

I am deeply grateful for the support, intellectual companionship, and guidance of the series editors, Luis Eslava, Markus Gunneflo, Nadia Lambek, and Richard Clements, who accompanied this project from its early conceptualization through drafting and review. I am also thankful to the anonymous peer reviewers who took the time to read the manuscript with care and offered thoughtful, rigorous, and constructive feedback.

I am especially grateful to Rasmus Corlin Christensen and Maya Barak for generously reading and commenting on an earlier version of this manuscript. I am in debt to David Whyte for his sustained intellectual guidance, constant support, and friendship. Portions of this Element were developed in collaboration with David; all such sections are appropriately cited.

I am grateful for the generous feedback, comments, and intellectual engagement of colleagues at the Faculty of Law at Lund University, Copenhagen Business School, the Center for Political Studies at the University of Michigan, and Queen Mary University of London, where early versions or portions of this Element were presented. I am also thankful for the encouragement and sustained engagement of members of the Law and Society Association's CRN 23 (International Law and Politics), a scholarly community in which I have consistently shared and refined successive versions of this manuscript.

Finally, I am thankful for the institutional support of the University of Illinois Urbana–Champaign, including the College of Liberal Arts and Sciences, the College of Law, and the Department of Sociology. The intellectual community and support of my colleagues there made this work possible.

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Cambridge Elements

International Law and Society

Richard Clements

Tilburg University

Richard Clements is an Assistant Professor of International Law at Tilburg Law School in the Netherlands. His research primarily concerns the interconnections between international legal thought, managerial ideas and practices, and the changing styles of international legal expertise.

Markus Gunneflo

Lund University

Markus Gunneflo is an Associate Professor of Public International Law at Lund University, Sweden. His research interests include the theory and history of international law, focusing on inequalities – especially in a North–South dimension – in the context of using force, international humanitarian law, human rights, development, migration, the law of outer space, and more.

Luis Eslava

La Trobe University

Luis Eslava is a Professor of International Law at La Trobe University, Australia. Luis' interdisciplinary research straddles the fields of international law, international legal history and theory, and international development, with a particular focus on the global legal and economic order and its relation to precarity and violence in the Global South.

Nadia Lambek

Western University

Nadia Lambek is an Assistant Professor at Western University Faculty of Law in Canada. Her research explores international law's constitutive role in shaping the "rural" and global food systems, social movement engagement with and resistance to international law-making, the mobilization of international legal expertise, and the law of work.

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