

**Swiss Cheese**  
Atossa Araxia Abrahamian

*The Hidden Wealth of Nations: The Scourge of Tax Havens*  
by Gabriel Zucman  
University of Chicago Press, 2015, 200 pp.

Last year, a whistleblower presented a German journalist at *Süddeutsche Zeitung* with a trove of data. The data included information about accounts held in Panama by some of the world's wealthiest and most powerful people: Vladimir Putin's best friend, cellist Sergei Roldugin; the Icelandic prime minister Sigmundur Davíð Gunnlaugsson, who subsequently stepped down; even the young British actress Emma Watson, who is known for her role in the *Harry Potter* films. When the International Consortium of Investigative Journalists (ICIJ) began to publish articles on the "Panama Papers," the stories came peppered with a disclaimer: there isn't anything inherently illegal about anonymously holding one's wealth in accounts sheltered in a secrecy jurisdiction.

The ICIJ's note tells us as much about the world we live in as it does about which celebrities and political figures have offshore accounts. Beyond the machinations of Mossack Fonseca, the firm that set these accounts up, and beyond the demands of the 1-percenters looking to "optimize" their tax bill, it's the "legitimacy," or at least the purported non-illegality, of the practice that was the most damning part of the whole fiasco.

Unlike tax evasion, which breaks the law outright, the practice of shielding wealth from view or finding creative ways to pay less tax on it can be done in legal ways. This kind of tax avoidance isn't permitted because the IMF, the WTO, the OECD, or any other international alphabet soup decided it was perfectly okay (not that they really have much say when it comes to enforcement to begin with). It often ends up being legal because one country says it's okay and there's nothing anyone else can or will do about it. It also occurs because without robust international laws and a legitimate enforcing authority, the laws of sovereign nations end up getting played like a game of chess: jump over one, sidestep another, go in for the prize once you've swept the board clean of liabilities. What's at stake—and what was so acutely captured by the Panama Papers—is that we operate in a global economic context that is overwhelmingly beneficial to a small group of the rich and powerful. The rules are often regressive, if not outright harmful, for everyone else. The ability of the wealthy to "shop" for tax jurisdictions is one example of how the current global order reinforces social inequalities.

Gabriel Zucman's *The Hidden Wealth of Nations* explains the origins and the impact of this tax system with clarity and charm. Perhaps of equal importance, he gives us the critical numbers. Before figuring out how to end tax avoidance, or indeed, decide whether it needs ending at all, we need to know what it means and how it has affected social and economic



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stratification. "You will not find either oligarchs or African dictators, venal bankers of great money-changers in the city of London here," Zucman writes. What you will find—and what makes his book so critical for our moment—is a plainspoken version of what we are constantly told is "too complicated" for us to understand: the flight itineraries of capital, an explanation of the systems that support them, and a passionate articulation of why ending tax havens is in the interest of ordinary people around the world.

This dovetails nicely with the work of Zucman's mentor, superstar economist Thomas Piketty, who has advocated for higher taxes to correct for the tendency of returns on capital to grow at a faster rate than wages, leading to the top-heavy accumulation of wealth we have in the world today. Piketty has proposed a tax of 80 percent on those who earn more than \$500,000 per year, and of 50 to 60 percent on those who earn upwards of \$200,000; these proceeds would allow governments to invest in education and infrastructure, but also prevent the sort of wealth accumulation that allows for massive disparities to flourish in the first place.

Such a tax cannot be executed unless the wealth it is being levied from is accounted for, and efforts to collect on it are coordinated on a global scale. And that's a lot harder than it sounds because globalization is an unruly beast: in *Capital in the Twenty-First Century*, Piketty himself acknowledged that "nation-states built over centuries find that they are too small to impose and enforce rules on today's globalized patrimonial capitalism" and that because of this, there is "a chasm between the triumphant declarations of political leaders and the reality of what they accomplish." Zucman's work lays out these non-accomplishments, and suggests ways in which states can actually start doing something. After all: what's the point of running after untaxed wealth if it has so many places where it can hide?

Estimates of how much wealth is held offshore have been as high as \$21 trillion. In *The Hidden Wealth of Nations*, Zucman

arrives at \$7.6 trillion, or a minimum of 8 percent of the total financial wealth of households in the world. His estimate is a bare minimum; it does not include real estate, art, yachts, or plain old savings. Of the sum of offshore wealth, Zucman believes 80 percent is undeclared, and therefore, untaxed. Of this, \$125 billion constitutes lost national income taxes (mostly in the form of interest and dividends); \$55 billion in unpaid inheritance taxes; and \$10 billion in wealth taxes. Undeclared offshore accounts thus cost governments around the world almost \$200 billion in unpaid tax in 2014. "Nothing in the logic of free exchange justifies this theft," he writes.

In the United States, repatriating hidden fortunes could amount to increasing the taxes on the wealthiest citizens by 18 percent. For developing countries, the stakes are higher. By Zucman's estimates, 30 percent of Africa's financial wealth in 2014 was held offshore, costing the continent's governments and its people \$14 billion. That's compared to 10 percent of financial wealth in Europe, 4 percent in both the United States and Asia, 9 percent in Canada, and more than 50 percent of financial wealth held by Russians and citizens of the Gulf countries (which, it bears mentioning, is hardly taxed to begin with, so the losses are relatively small).

These are all numbers that tell stories by themselves. But one of the wonders of Zucman's book is how he pairs this data with other findings. Zucman begins his book by examining international datasets that register national net foreign asset positions. A country's net foreign asset position is the value of the equities, bonds, mutual funds, and other financial assets a country's population owns abroad minus the value of its domestic assets held by foreigners. This position is almost always negative. Foreigners hold more in U.S. assets, for instance, than the United States holds in foreign assets, and the same is true for most countries in the world. Based on this measurement practically the whole world is in debt—"as if planet Earth were in part held by Mars," writes Zucman. Something doesn't add up.

Zucman explains this financial anomaly

by assuming "don't sleep," international firms accumulate at the cracks. "The lies are not the image of the equals via their writes.

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by assuming that large private fortunes "don't sleep," but instead, get invested in international financial markets, where they accumulate and find ways to slip through the cracks. "The global statistical anomalies are nothing other than the mirror image of the investments made by individuals via their offshore accounts," Zucman writes.

For example: if a British person holds, say, \$1 million worth of Google shares in an investment account domiciled in Switzerland—incidentally, where one-third of all offshore financial wealth "lives"—the shares are recorded as a liability in the United States because she's a non-American with equity in a U.S. company. The sum shows up neither as a liability nor an asset in Switzerland, because the shareholder is a non-resident Brit who owns shares of a non-Swiss company. The United Kingdom similarly registers nothing at all, even though it ought to appear as a net asset, because no one is telling the UK government that one of its citizens has U.S.-based Google stock that is accumulating or losing value in a Swiss account.

Tax havens thus create what Zucman dubs "an illusion" of indebtedness in national economies. They also create, more importantly, economic inequality by allowing a citizen's taxable income and wealth to bypass a country's redistributive systems or help pay for various state services.

The possibilities are endless for those who don't want their governments to know where their money is, because the money can then be transferred, invested in, and shielded from taxation in other jurisdictions, which are often intended to be havens and whose laws ensure maximum secrecy. In the case of Luxembourg, a major hub for mutual funds and home to some \$3.5 trillion worth of such shares, only \$2 trillion are recorded as assets in other countries, with \$1.5 trillion showing "no identifiable owner in global statistics." This also opens the door to fraud, money laundering, and other illicit activities. Most consequentially, he argues, it makes us all poorer.

Zucman's *The Hidden Wealth of Nations* offers more than datasets and a fresh approach to interpreting them. He also provides us with a potted history of tax havens. Beginning with Switzerland and ending in Asia, he charts the evolution of the practice of hiding money from oversight, and, in the process, debunks some common financial-sector talking points.

Have you ever been told that Swiss banks helped Jews and other persecuted minorities flee Nazi Germany? That's a vast overstatement, Zucman argues. He cites Swiss data to show that just 1.5 percent of non-Swiss accounts opened between 1933 and 1945 were linked to Holocaust victims. What of the argument that these account holders are *investing* in the tax haven? Again, not true: these "investors" use Switzerland as a shield and an intermediary and buy "securities denominated in Euros, dollars, or pounds sterling." What of the chestnut about wealthy people looking not for tax cuts, but a safe, stable home for their cash? That might apply to investors from the low- or no-tax Gulf states, but more than half of the wealth kept in Switzerland is European. In fact, the Swiss banking sector experienced a "boom" when France, Germany, and the United Kingdom raised taxes in the 1920s.

The European Union, the United States, and the OECD have tried on several occasions to account for this hidden wealth through treaties, laws, and enforcement. They have also attempted to find ways to tax it, but their efforts are often foiled by arguments concerning national sovereignty or by concessions that have been made for microstates like Luxembourg. If Zucman's tone is measured in his discussion of numbers, the gloves are off when he moves to treaties that are intended to tax offshore wealth and income but, in his opinion, fail abjectly to do so. With the notable exception of FATCA, an American law that imposes steep penalties on foreign financial institutions that fail to declare the accounts of U.S. citizens, Zucman characterizes these attempts as counterproductive at best, and corrupt and unethical at worst. His descriptions of Switzerland and Luxembourg drip with contempt. "The trade of sovereignty knows

no limits. Everything is bought; everything is negotiable.”

Luxembourg, for instance, got out of European data-sharing and reporting requirements by saying it would apply a tax on some foreign accounts and repatriate three-quarters of the withheld sum to the account holder's “home” country. But Zucman states that the country's financial institutions could easily get around this by shifting ownership of the assets in question to shell companies or to other jurisdictions in order to “disconnect [the] money from its true owners.”

Analogous accounting acrobatics often take place in Switzerland, which now reports certain foreign accounts or taxes them heavily. Account managers in Switzerland are today bound by new transparency rules. However, as Zucman explains, “the money stays inside the same banks, but it chooses the most advantageous laws (or rather, non-laws)—and those of the tax havens in Asia are today the most protective, in particular because American pressure is much weaker there than in Switzerland.” “The network of treaties in effect today is full of holes,” he writes. Swiss cheese, indeed!

And because tax law is the responsibility of individual nations, one haven's downfall is another's gain. Between 2009 and 2013 Singapore and Hong Kong gained deposits to the detriment of a place like Jersey, which lost out on business. “In the face of such virtuosity, citizens are helpless, nation-states are powerless, even the experts are overpowered,” Zucman mourns.

To end tax evasion therefore is a “truly global” project and must include tariffs imposed by a coalition of countries that would deal a country like Switzerland (or Dubai or Macau—the list goes on) a massive blow economically if its authorities do not comply with calls for transparency.

We haven't even turned to the problem of corporate taxation yet. Individual tax evasion is a considerable problem on its own but when coupled with the elaborate and artificial shifting of profits to low-tax locales by large multinational companies, things get even worse. Facebook, by assembling a careful house of cards, found

a way to pay £4,317 pounds, or just around \$6,000, in British taxes in 2014—easily less than I wound up paying in state and federal taxes as a writer. (Clearly, I need a new accountant.)

Zucman estimates that U.S. multinational corporations reduce their tax liabilities by 20 percent, or \$130 billion per year, by using tax havens. His book doesn't focus on the corporate angle, but his take is consistent with an increasingly mainstream view that radical reform is needed, and that corporate profits should be taxed based on things like sales, not the location of a P.O. box on an island with “few sales, workers, or material capital.”

Shortly after the Panama Papers were published, I attended a conference in Miami hosted by the investigative website OffshoreAlert. The event was attended by both “practitioners” (people in the tax biz) and enforcers; there was also a smattering of journalists present, including the editor of the ICIJ. With such a diverse crowd, the debate over *l'affaire Panama* was predictably heated. A number of people in the audience—industry types, it seemed—were angry about the leaks, but their stated objection wasn't political, or indeed even legal: they contended the problem with the leaks was a matter of personal and national privacy.

This isn't a stupid response; it's built on the same logic that nobody would celebrate a massive breach of personal medical data or a wealthy person's credit card bills. Even those who generally support leaks and free information were disgusted by Julian Assange's recent decision to “dox” millions of ordinary women in Turkey. Some things are private and should be.

But other kinds of disclosures are in the public interest. It's possible at any given moment to find out who owns virtually any property in New York City by searching the online ACRIS database. Those who would prefer not to have their name attached to a piece of real estate can easily hide behind a shell company, but at least the company is a matter of public knowledge. Norway famously makes everyone's tax returns available because it believes that this kind

of transparency. So where sl it comes to tax for a kind of property regis 2016, taxation affair—not for person, not for not for a coun

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of transparency is in the public interest.

So where should we draw the line when it comes to tax privacy? Zucman advocates for a kind of halfway point: for a global property registry of securities. Because in 2016, taxation is not an internal, private affair—not for a poor person, not for a rich person, not for a corporation, and certainly not for a country.

Let's imagine if Zucman's wish came true. What would it mean for there to be a global register of financial wealth? Let's go even further and give Zucman's mentor, Thomas Piketty, his own wish: for a global wealth tax. Let's throw in a couple of high-profile indictments for good measure, to set an example. Then what?

There's a common assumption on the left that if governments could collect more taxes, then inequalities would suddenly disappear. Education would improve dramatically. Infrastructure would cease to be a public embarrassment. Universal health care would be funded overnight. In fact, the person who leaked the Panama Papers cited income and wealth inequality as their primary motivation—but these are social and political problems as well as fiscal ones. It is not only that Western democracies are not capable of paying for more expanded social welfare states; it is also that their citizens might have other priorities, or might not even want such a state.

There is immense value in exposing the structures that allow wealthy people to operate in a different legal world from the rest of us and in naming names in the public interest. This kind of investigative work can help us understand and strengthen our political systems. Serious, factually grounded structural reforms—whether proposed by Zucman, Piketty, or another bright thinker—can lead to less tax avoidance and, eventually, make the super-rich pay a fair share in their societies, which in turn could begin to tip the scales of inequality more widely.

Following the publication of the Panama Papers, the European Commission announced a crackdown on offshore trusts with regulations that would “stamp out tax abuse” and close loopholes, in the words of commissioner Pierre Moscovici. The details of this plan are to be determined; Zucman's

characterization of past attempts, however, inspires little confidence.

Even if it does succeed, though, we can't assume that we'll all necessarily be richer as a result. The next step is to ensure that the recouped resources we collectively share are actually redistributed toward those who need them the most, rather than, say, funding a war. Writing tax policy is a slog; collecting the cash is even harder; but deciding how to spend it is a whole other ballgame.

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### A Radical History of Free Speech Sophia Rosenfeld

*The Taming of Free Speech: America's Civil Liberties Compromise*

by Laura Weinrib

Harvard University Press, 2016, 480 pp.

Freedom of speech has, in recent years, been a rallying cry as much on the right as on the left. Sure, the protection of dissenters, including government whistleblowers, retains its currency among American progressives skeptical of state power. But the Supreme Court ruling in *Citizens United v. Federal Election Commission* (2010), which protects the speech rights of corporations, has come to symbolize a rightward tilt in our free speech jurisprudence. Plus, from university campuses to the Black Lives Matter movement, we have all become familiar with the seemingly odd spectacle of the left fighting for increased regulation of speech in the hope of either suppressing the repressive or amplifying the unheard in our cacophonous and wildly unequal era.

Does this right-wing capture of the language of expressive freedom represent a historical anomaly? Today's status quo has, in fact, reshaped the way scholars treat the history of American free speech claims. Historians, especially those with sympathies on the left, have become more inclined to ditch their triumphalist First