

„Our Banking Secrecy is a Strong Castle“
*Regulation Failure and the Use of Metaphors on
Offshore Economy*

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„Our Banking Secrecy is a Strong Castle“

Regulation Failure and the Use of Metaphors on Offshore Economy

- 1) Rhetoric and Reform
- 2) The use of metaphors on offshore economy – Case studies
- 3) Conclusions: Constructing a national front on behalf of elite interests – and deconstructing it?

1. Rhetoric and Reform

The G20s' demands on tax evasion (2008)

- Information sharing;
- Commitment to international standards with regard to bank secrecy and transparency;
- Promoting tax information exchange.

***Promoting Integrity in Financial Markets:** We commit to protect the integrity of the world's financial markets by bolstering investor and consumer protection, ... protecting against illicit finance risks arising from non-cooperative jurisdictions. We will also promote information sharing, including with respect to jurisdictions that have yet to commit to international standards with respect to bank secrecy and transparency. ... Tax authorities, drawing upon the work of relevant bodies such as the Organization for Economic Cooperation and Development (OECD), should continue efforts to promote tax information exchange. Lack of transparency and a failure to exchange tax information should be vigorously addressed.*

Declaration of the Summit on Financial Markets and the World Economy, November 2008

1. Rhetoric and Reform

Common declaration of Angela Merkel and Nicolas Sarkozy, Meeting of the German-French council of ministers, May 2010:

- Non-cooperative Jurisdictions should be sanctioned. They should be identified and called by their names.

German Ministry of Finance Wolfgang Schäuble on the Banking Secrecy, Interview Süddeutsche 2010:

„...Wir müssen mit der Schweiz zu einem allgemeinen Informationsaustausch kommen. Das Bankgeheimnis darf im 21. Jahrhundert kein Instrument mehr sein, das von Staats wegen die Steuerhinterziehung ermöglicht. Das Bankgeheimnis hat keine Zukunft mehr. Es ist am Ende. Es hat sich überlebt. ... Ich rate Steuerhinterziehern in zur raschen Selbstanzeige. Da soll niemand auf eine darüber hinausgehende Amnestie hoffen.“

1. Rhetoric and Reform

Austrian Chancellor Werner Faymann, Interview Kurier 2012:

„Nein, wir müssen die Steuerhinterzieher stärker bestrafen, auch auf europäischer Ebene.“

Austrian Ministry of Finance Maria Fekter on the European Council, May 2012:

"Hier haben wir auf das Bankgeheimnis gepocht und klargemacht, wenn das der einzige Wille der Kommission ist, unser Bankgeheimnis auszuhebeln, können wir dafür kein Mandat erteilen"... "Nur warum soll Österreich seinen Standortvorteil als kleines Land aufgeben, als offene Volkswirtschaft. ... Würden wir das alles aufgeben ohne dass gleichzeitig andere Länder wie die Kanalinseln oder Andorra oder Monaco auch den automatischen Datenaustausch haben, würden wir isoliert als Österreich in der EU das aufgeben, dann würden große Kapitalien sofort in diese Länder, die keinen automatischen Informationsaustausch kennen, abwandern".

1. Rhetoric and Reform

Real existing regulation

- OECD: The blacklist is still empty; OECD does not ask any more for automatic information exchange.
- Savings directive of the EU: Revision blocked by Austria and Luxembourg.
- Banking Secrecy and DTAs: BS should be maintained in exchange for DTAs, which are less effective than the revised savings directive.
- FATCA: Seems to be effective. Similar legislation is not applied by other governments unilaterally.

1. Rhetoric and Reform

- Real existing regulation failed in most cases.
 - Regarding reform failure, it might be useful to ask why offshore economy is not regulated despite public opinion usually is against it.

Theories on Regulation Failure in Taxation

Upward orientation of the lower classes

- The lower classes vote for parties imposing a tax policy which is against their own interest because they identify with the upper class, hope to get up and want to demonstrate that they are different from the lowest class (Hermann 2010).

Lobbying and Think Tanks

- A case study on the abolition of the estate tax (named “death tax”) showed that a few individuals managed to threaten American consensus on progressive taxation by campaigning for several years against the estate tax which was only paid by the richest 1-2% of the population (Graetz/Shapiro 2005).

Theories on Regulation Failure in Taxation

Uncontested conventions (Beckert 2004)

- Today's regulation of inheritance and the taxation of estate are based on long lasting social developments and discourses.
- Whereas in the American system equal opportunities and the effects of wealth on democracy influenced the law, the German system mainly promotes family cohesion – the family inherits. This system is taken as granted and is not questioned.

Theories on Regulation Failure in Taxation

Elite discourses and the use of language

- Once mass democracy was introduced, elites started to impose their interests by implementing discourses and narratives to make people vote against their own interests and make concessions. Example: The city of London as the goose who lays golden eggs. (Froud et al. 2010; Engelen et al. 2011)
- Conservatives used language and metaphors to infiltrate thinking on a deep level. Example: *Tax relief*, *death tax* etc. (Lakoff & Wehling)

The Intrusion of Elite Discourses – Offshore Metaphors

- Hypotheses: Offshore Economy has not properly be regulated because its defenders successfully used language and images to transport narratives serving their interests.
- Why is metaphorical thinking relevant?
Metaphors uncounciously transport meaning and give an orientation for actions: *„...die Metapher [ist] nicht nur ein Bild, sondern auch die mit einem bekannten Konzept verbundenen Handlungshorizonte und Werte. ... Metaphorisches Sprechen manifestiert sich schließlich in Handlungen und legitimiert sich dadurch rückwirkend ... Dies kann im Endeffekt zu blindem (wörtlichem und unhinterfragtem) Handeln gemäß der Metapher führen.“* (Kruse et al. 2011, 72).

Spaces of the Offshore World and Spatial Metaphors



Categories of spaces

- Isolated or protected spaces: Oasis, islands, high mountains, heavens, the paradise, the haven, the family home;
- Nature / the natural: The sea, lakes, the mountain, the valley;
- Clear and clean spaces;
- Spaces or objects of high culture (art, design, architecture);
- National clichés / national identities.

→ Images have nothing to do with taxes.



Real Spaces



Metaphor Analysis - Methods

- Which Metaphors are used in which context?
Which narratives are transported by these metaphors?
- Data: Newspapers which are key media and may be attributed to different political positions (conservative and centre-left):
NZZ and Tagesanzeiger (CH), Times and The Guardian (GB), Standard and Presse (AT), New York Times and Wall Street Journal (USA).
- Key words: „Bankgeheimnis“ (CH) and „Offshore“ + “London“ (GB)
- The first 5 hits by relevance by newspaper.
- Method of analyzing (Kruse et al.): Underlining, segregating and compiling metaphors, determining categories, rearranging in a scheme of categories.

Originaltext Nr. 1	OT mit Markierung der Metaphern	ohne Metaphern	nur Metaphern
<p>Offshore - and out of reach to the Revenue</p> <p><i>The second day of a Guardian special investigation into the tax gap: the billions lost to company tax avoidance schemes - and we all foot the bill</i></p> <p>Three FTSE100 companies have quietly "offshored" legal ownership of their valuable trademarks to low-tax locations, the Guardian's tax gap investigation has found. Two drug firms, GlaxoSmithKline, and AstraZeneca, both headquartered in London, have moved title to their drug brands to Puerto Rico in the Caribbean. The Anglo-Dutch oil giant Shell, although it is still a British plc operating under UK company law, has shifted its trademarks to Switzerland and its main tax residence to the Netherlands.</p> <p>These are three of Britain's most successful corporations, continuing to generate huge profits and returns for their shareholders despite the global downturn. AstraZeneca has been one of the best performing shares on the FTSE over the last year, seeing its share price go from around</p>	<p>Offshore - and out of reach to the Revenue</p> <p><i>The second day of a Guardian special investigation into the tax gap: the billions lost to company tax avoidance schemes - and we all foot the bill</i></p> <p>Three FTSE100 companies have quietly "offshored" legal ownership of their valuable trademarks to low-tax locations, the Guardian's tax gap investigation has found. Two drug firms, GlaxoSmithKline, and AstraZeneca, both headquartered in London, have moved title to their drug brands to Puerto Rico in the Caribbean. The Anglo-Dutch oil giant Shell, although it is still a British plc operating under UK company law, has shifted its trademarks to Switzerland and its main tax residence to the Netherlands.</p> <p>These are three of Britain's most successful corporations, continuing to generate huge profits and returns for their shareholders despite the global downturn. AstraZeneca has been one of the best performing shares on the FTSE over the last year, seeing its share price go from around</p>		<p>Offshore - out of reach Revenue</p> <p>investigation tax gap lost company tax avoidance schemes foot the bill</p> <p>quietly "offshored" ownership trademarks low-tax locations tax gap investigation</p> <p>headquartered brands oil giant operating company shifted trademarks tax residence</p> <p>corporations generate returns shareholders downturn best performing shares</p>

1	disclosed their accounts
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7	is still a British plc operating under UK company law.
8	a continuing fight between the business and the Treasury
9	its existing tax disputes
10	in territory regulations but
11	is poised on a knife-edge
12	almost wiped out all its reserves
13	The bid has provoked fierce controversy
14	and this is the threat they pose to the world.
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16	The threat facing offshore
17	Tax havens will sabotage attempts
18	The arrangements are still obscure.
19	All of the nations of the current crisis
20	also the falling banks exploited.
21	do have which every jurisdiction seeks on the poor at home and abroad.
22	Unless they are locked, tax havens will sabotage any efforts to build global governance and international cooperation.
23	gear up for a global fight against tax havens.
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1	Politicians can, and must, be brave now public interest demands it
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4	a higher rate tax paper
5	to make sense
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7	origin the game: offshore
8	its profits in the final three months of 2008 were down
9	to accept a global downturn
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11	tax haven investigation
12	Mystery last night surrounded a network of offshore bank accounts
13	groups under a special tax haven
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15	it will undermine all efforts to deal with it
16	tax haven jurisdiction
17	Opacity has been at the heart of the matter.
18	It is secrecy jurisdictions that create this opacity.
19	its Jersey-based shadow, Craxie
20	opened its books
21	had plunged very deep into
22	generate international a form of opacity
23	to protect their winnings in offshore black boxes ...
24	effectively closing a window on it.
25	Undermining democratic accountability is what they [SI] do for a living
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Metaphor Analysis:

Der Standard - Sample

Structure

- Bankgeheimnis ist verankert
- das im Verfassungsrang stehende Bankgeheimnis
- Hintasten zur Öffnung des Bankgeheimnis
- Bankgeheimnis lockern
- Das Bankgeheimnis lüften
- Durchbrechung des Bankgeheimnisses
- Aufweichung (maceration)
- Druck auf Bankgeheimnis / den Druck herausnehmen

Nature / Personification

- Zuwächse von Kapital
- Behörden werden vom Amtsgeheimnis entbunden werden
- Bankgeheimnis hat Geburtsfehler
- BG schmarotzerhaft / Schmarotzertum
- Quellensteuern
- Behörden den Rücken stärken (pro BG)
- Steueraffäre wird überschwappen

Violence / War

- Bekämpfung von Steuerhinterziehung
- Bankgeheimnis entschärfen / gehört entschärft
- steuerlicher Schurkenstaat
- Bankgeheimnis ist Sicherheitsrisiko
- es geht nicht um Klassenkampf
- Rückzugsargument Schweiz
- das Bankgeheimnis verletzen
- Bankgeheimnis ist erkämpft
- Angriff auf Österreichs Souveränität

Protection and Victims

- hinter dem Schutz des Bankgeheimnisses
- kleine Sparer werden geschützt
- Unternehmen sind ausgeliefert
- BG erscheint gefährdet
- das BG verletzen
- BG unangetastet lassen
- Sparer wird vor Verfolgung geschützt

Lightness / Dark

- Geldwäsche
- Indizien können nicht ausgeleuchtet werden
- Geld aus trüben Quellen fischen
- schmutziges Geld
- Transparenzregelungen
- dem Fiskus wird Transparenz gewährt
- Geld ist schwarz verdient worden
- Schwarzhandel
- Aufklärung
- schwarze Liste

Metaphor Analysis: *Wall Street Journal* - Sample

Structure

- tax shelters are like balloons – squeeze them in one place, and they inflate in another.
- the pool of offshore money made of tax advantages

Violence / War

- combat offshore tax evasion
- banks would be hit
- most-aggressive critics of tax avoidance
- the offshore private-banking model has suffered damage
- squeezing tax shelters / squeezing information from banks
- crack down on offshore tax havens
- stamp out tax evasion
- prosecuting tax dodgers
- UBS was forced
- pressure for transparency

Protection and victims

- private-banking has suffered
- tax shelters are dead
- banks would be hit
- UBS was forced

Hiding / Prosecuting

- hiding\$
- Evaders / tax evasion
- to avoid detection
- lost tax / losing billions of dollars
- prosecuting tax dodgers
- finding tax evaders
- the threat of disclosure

Game

- cheating
- wealth managers give up the game
- lose out
- his bank played by the rules
- the International Revenue Service is staging a poker game
- the IRS has invited account holders to the table
- this high stake-game
- how many are willing to gamble

Main Metaphors and Narratives in chosen Swiss Newspapers

	<i>Tagesanzeiger</i>	<i>NZZ</i>
Structure / location	The banking secrecy wobbles and will be slacken.	The banking secrecy is an „old dignified building“ or a with a solid base that should be kept or again get a fortress. But the basis is eroding because its sustaining values get lost.
Nature / animistic		The banking secrecy is rooted in the Swiss' heads, it suffers, seems to be dead but will probably resurrect. Money is flowing out.
Violence / war	The abolishment of the banking secrecy is imposed from outside. There are internal struggles and the defenders are fighting „until the end“.	Switzerland is attacked from the outside (US, the big brothers). The banking secrecy is hurted because of missing internal support.
Protection / victims		Individual freedom is in danger
Religious / values		It would have been possible to defend the universal value of privacy. But common values are sacrificed by traitors.

→ „Stab-in-the-back“ / Dolchstoßlegende“

Key narratives in chosen Swiss Newspaper Articles

- 1) The banking secrecy is an „old dignified building“ with a solid base rooted in the thinking of the Swiss that should be kept or again get a fortress. It is attacked from the outside (USA / Big Brothers) and the basis is eroding because its sustaining values get lost.
- 2) There is pressure from the outside to abolish the banking secrecy and internal struggles about that question.



Main Metaphors and Narratives in chosen Austrian Newspapers

	<i>Standard</i>	<i>Presse</i>
Positioning of the country		Gaulish villages have been closed up to now. Austria gets insulated because it is blocking. Money lays in Switzerland, and Switzerland will not resist.
Structure / location	The banking secrecy is anchored and has a place in the constitution. It will be slacken, macerated, put under pressure, ventilated and will fall.	Our banking secrecy should not be be slackened or tilted. It will be slacken and macerated.
Violence / war	Internal struggle between a) defenders: the Austrian banking secrecy had been fight for. Intentions to remove it are an aggression against Austrias sovereignty. b) those who compare tax havens to „rogue states“ (Schurkenstaat) and want to defuse it.	There is a worldwide war against tax evasion. Tax sinners might expect a „sharp wind“ and the opponents forge an effective weapon. But the defenders are not Robin-Hood-like.
Victims	The banking secrecy protects 'little savers' and firms.	
Lightness vs. dark	Dirty money is fished in muddy wells. There is money laundering. There should be more transparency and enlightenment.	

→ Contradictory statements. Shift of opinion in the conservative press

Key narratives in chosen Austrian Articles

- 1) The banking secrecy is anchored in Austria (in the constitution / Austrians were fighting for it) and protects savers. Because of increasing pressure from the outside, Austria risks to become insulated and has no choice. But assets will go to Switzerland and elsewhere.
- 2) Austria is pays for Greece and rich Greek bring their assets to Switzerland. Tax havens should be abolished.
- 3) Austria should get clean and collect lost money by joining international initiatives.



Main Metaphors and Narratives in chosen Austrian Newspapers

	<i>The Guardian</i>	<i>The Times</i>
Positioning of the country	Offshore is at the same time seen as outside the UK, appearing inside and being the heart of offshore with attached satellites.	Offshore is elsewhere, but it sometimes appears in the UK. Tax evasion might be disadvantageous for the site, but London should be enforced as an international financial center.
Nature		The market has a (confidential) nature. Flows of money react to environment.
Violence / war	War between big business and treasury, between firms and attacks for offshore economy against society. Offshore economy „undermines“ societies. „Tax havens will sabotage attempts“ to „build global governance“ and 'compete' against reputable countries.	There is war between different groups: Citizens/consumers against law firms and the „taxman“, entrepreneurs against the board, minority owners against the „free float“, regulators against listed offshore companies. There are armies of accountants. Banks are under pressure, such as Politicians being forced to impose taxes. The UK and its finance industry is seen in its global context. The UK and China form an alliance while „Europe is falling into pieces“. „London at the front“.

→ Offshore and/or unregulated markets are seen as causing conflicts. In the conservative position UK finance industry should make the best of it. TJN could influence discourses.

Key narratives in chosen British Newspaper Articles

- 1) Offshore is elsewhere. London is seen as an international financial centre. It occupies a place in the global financial system in the nation's interest.
- 2) The flow of money should not be inhibited, but directed to London.
- 3) Offshore is a problem if rich individuals have unfair advantages and if Britain loses taxes.
- 4) Offshore is not only outside, but London is „at the heart“ of a system of secrecy jurisdictions. Because of distributional issues (justice) and universal values the UK should get clean and collect lost money by joining international initiatives.



Main Metaphors and Narratives in chosen Austrian Newspapers

	<i>New York Times</i>	<i>Wall Street Journal</i>
Structure / location		Capital is mobile and goes to the place with the most convenient regulation (balloon: „squeeze them in one place, and they inflate in another“). Those who „access our capital markets“ need to adapt.
Violence / war	Tax havens should be cracked down and rules should be tightened. There is „diplomatic wrangling“and an internal „blockade“ (republicans), „democrats face opposition.“	In the combat against tax havens, they are violently attacked.
Protection / victim Hiding / finding	Revenue is lost or hidden and should be sought. Use of occupied vocabulary:tax haven, shell company, harbor cash, evasion.	Offshore private banking has suffered, tax shelters are dead, banks would be hit, the UBS was forced. Revenue is lost or hidden and tax evaders expect criminal prosecution if exposed to authorities.
Game	Those who evade taxes brake the game rules.	Some offshore actors gave up the game, other banks play the rules. There is a poker with high stakes organised by the IRS which makes account holders play (against their will).

→ Rules are made and can be changed.

Key narratives in chosen US Newspaper Articles

- 1) Tax havens / offshore economy have been violently attacked. They have lost the game and should adapt.
- 2) Once pressure is tight assets will go (implicitly: and come back once regulation is loosened).
- 3) Tax havens should be cracked down in the interest of the nation. There are internal opponents (Republicans).

All discourses: Tax havens are abroad.



3. Conclusions / Hypotheses

- In comparison to other fields, there is a significant number of metaphors of war and violence. (→ relevance?)
- In all cases except the USA (US-tax havens are not discussed), the interests of the defenders of the banking secrecy or offshore economy are presented as national interests („our banking secrecy“).
- Statements in middle-left newspapers thematize internal struggles between defenders and opponents, respectively they do not only use national categories but point to different social groups or classes.

3. Conclusions / Hypotheses

- As Lakoff and Wehling suggest, opponents of Offshore Economy use metaphors which transport meanings of the defenders (e.g. tax haven, tax shelter, tax evasion, Off-shore, tax break, shell company, trusts).
- Lately opponents were more successful in introducing metaphors which correlate with the sense of their meaning (e.g. shadow banking (2007), secrecy jurisdiction).

3. Conclusions / Hypotheses

- There might be a strong resistance against reforms because
 - a) measures against secrecy jurisdictions are seen as imposed in some discourses.
 - b) the assumption offshore economy is in the national interest is seldomly justified but taken as granted.