

Neoliberalism, Social Harm and The Financial Crisis

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Abstract

This research analysis set out to examine and explore the relationship between neoliberalism and social harm theory in the US and the UK, to see if the effects of neoliberalism can be described as social harms. This exploration included the definition of the perceived notion of crime and how certain harms are not valued under criminal law. It used previous literature to assess and discover the impacts neoliberalism (as a form of capitalism) has on society (in terms of its political ideologies). Whilst also developing an understanding of the argument from critical criminologists who suggest a move to the social harm approach would be beneficial. The interest in this research was born out of the 2008 financial crisis, its causes and the responses to it. From this analysis it can be seen that there is a strong link between neoliberalism and the production of social harms. It was concluded that further research is required to push forward the need for these social harms to be recognised as unlawful.

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Introduction

This dissertation concerns the idea that neoliberal political ideologies can be fundamentally linked to social harm theory, in terms of their consequences and outcomes, the research question this analysis centres on is, ‘Can social harm theory be applied to the consequences of neoliberalism’s political ideologies?’ Since the late 1970’s the incorporation of the neoliberal ideology has become ever more apparent in western society, it could almost be described as being imminent. Throughout the past 40 or so years neoliberalism has dominated the governments, housing, technology and financial sector and has impacted on society in destructive ways. The contemporary peak of neoliberalism arises in terms of the 2008 financial crisis and lingering state of recession in its aftermath.

Neoliberalism defined by Harvey (2005) is a model of capitalism which focuses on the economy and its deregulation to enable a free market based economic system. Hillyard and Tombs (2004) see neoliberalism as a harm generating form of capitalism which they believe makes a powerful argument for, the state needing to be held responsible for systematically producing harms.

Both of the concepts, neoliberalism and social harm, are interestingly linked and produce a captivating claim relating to the idea that neoliberalism is principally a harmful ideology, responsible for a range of social harms present in today’s society. The idea that some of these harms are ‘criminal’ is another important question that needs to be looked at and discussed, which will be done in the form of financial crime.

This dissertation is a conceptual account which will use and investigate information gained from existing literature. It will generally focus on literature from both the UK and the US. The overall structure of this dissertation will form four chapters beginning with this introductory chapter and ending in a conclusion. The dissertation will aim to look at the term neoliberalism and how its ideological structure focuses on creating potential financial gain to the richest members of society whilst in the meantime financially crippling the rest. Within the first chapter (“What is neoliberalism?”) it will encompass the way in which the UK political governments in power over the past 4 decades have helped the process and what the consequences of this have meant. Leading from this a discussion of social harm will be included in the second chapter (“What is social harm theory (crime vs. social harm)?”) which will compare the terms ‘crime’ and ‘social harm’ and argue how within critical criminology a shift to social harm theory is a desirable step of moving away from the narrow perspective of crime. It will comprehend, within the third chapter (“Neoliberalism and social harm applied to financial crisis / financial crime”), the 2008 financial crisis and the string of events leading up to this; including subprime mortgages and also the effects that neoliberalism has had on the likes of conventional crime, unemployment and cuts to the public service sector. Broadening the two concepts comes at the latter part of this dissertation (“Broadening the concept of ‘social harm’ and a discussion into whether ‘neoliberalism’ creates harms”) and aims to focus more on the current state of neoliberalism and the arguments for the use of social harm theory, looking more towards the harms produced and the reactions of the governments after the crisis occurred.

The objectives of this piece of research will be to, further provide an argument to back the ideas that neoliberalism is a major cause of social harm within society, using examples of the financial crisis and how it has impacted on society and created a lasting and lingering impact on the economy.

This dissertation is of political significance due to the current economic climate and overall international era of recession, it becomes culturally relevant also as it affects every aspect of society and every member of the public. This subject is of a contemporary nature which regularly dominates the news and the majority of the other forms of mass media as politically it remains a current issue. Social harm theory is of high academic interest at the moment. The aims of social harm theory are to shift away from the restricted definition of crime within the criminal justice system through the field of critical criminology. The basic ideas of social harm according to Paddy Hillyard and Steve Tombs (2004) are to move beyond the restricted criminological view that harms should be defined by whether or not they constitute a crime and to place more attention on all different types of harms which are experienced by people during the course of their lives.

What is neoliberalism?

Neoliberalism according to David Harvey is a “theory of political economic practices proposing that human well-being can best be advanced by the maximization of entrepreneurial freedoms within an institutional framework characterized by private property rights, individual liberty, unencumbered markets, and free trade” (2005:2). The concept of neoliberalism in western societies is associated with the Thatcher government in the UK and the Reagan government in the US which came to power in the late 1970s – early 1980s thus introducing neoliberalism as a key economic doctrine within capitalism (Harvey, 2005).

After the Second World War and the economic crisis known as ‘The Great Depression’, Harvey explains how it was clear that to avoid society taking a backwards turn towards capitalism and being under threat... there needed to be an equal balance of the market, state and democratic institutions to ensure peace and stability (2005). This change was shown with what Harvey calls “political economic organisation (or embedded liberalism)” and involved market and corporate actions being controlled and maintained by a regulatory environment (2005:11). However Harvey shows that these things combined led to a neoliberal shift in policy; the lack of progression within the markets and their stunted development by the late 1960’s created the presence of a general sense of stagflation – the control was slipping away from the ruling classes and economic elites, ensuring that firstly they had to protect themselves which consequently ruined the chances of more regulation and state power and instead led to privatization and power for the rich so increasing social inequality whilst enabling the class divide to grow wider (2005).

Duménil and Lévy (2002) explain the transition to neoliberalism through discussing the lower rates of accumulation during the 1970s structural crisis; they talk about how the new direction of capitalism was curved towards the construction of neoliberalism in the 1980s. They discuss how this concept was expanded through the implementation of the ideas brought about in the 1970s, including the disaggregation of capital controls through the persistence to combat inflation by any means (2002). The inflationary crisis of the 1970s, the rising costs of goods and services alongside the decreasing value of money, meant that the ruling classes had to act to better their control over the economy and society through dominating the means of production in the US therefore, continuing to maintain their state of power and influence (2002). Duménil and Lévy (2002) argue that the rise of neoliberalism was manifested in the large flows of interest and the payments from corporations, if a profit was made, (known as dividends) to the wealthiest people in society, they state that the income and wealth of the ruling classes dominated the general prosperity of growth and employment. The end of World

War Two saw the introduction of the Bretton Woods Order which saw income and finance being channelled towards non-financial corporations which meant large state intervention, targeted capital allocation and favoured growth through the likes of industrial policy. Duménil and Lévy show that the importance of these frameworks can only be seen through their destruction, which accordingly occurred in the 1970s through the neoliberal turn (2002).

Harvey (2005) explains that the US and UK governments since 1979 had used deregulation as a solution to the stagflation issue; (which involved slow growth and high levels of unemployment) in the UK Thatcher attacked all forms of society generating less welfare state assurance and privatizing social housing, whilst cutting taxes for the rich. This could be viewed as stealing from the poor to benefit the rich. The US followed in 1980 with Reagan's election which subsequently saw him take advice from the Chairman of The Federal Reserve (Volcker) and continue with the deregulation of the financial sector.

Duménil and Lévy (2002) illustrate how neoliberalism has benefited the upper classes through profits being significantly distributed through interest payments and dividends to the richest members of society whilst the rise in interest rates caused households in debt and the state to have to make large payments. This increase in interest rates occurred in the US in 1979 through the Federal Reserve as part of their determination to use any means to end inflation which followed the removal of controls in 1974. Britain followed these ideas by equalling the decisions made in the USA, along with other countries, meaning the rise of deregulation was seen across the globe; combined with the growing importance of the power accumulated by multinational corporations. The term 'neoliberal globalisation' is what Foster Bellamy and Magdoff believe to be "the most recent manifestation of imperialism" in which large corporations use governments, namely in the US, "to make it easier to exploit the worlds resources and people" (2009:41).

Having looked at the transition from post war capitalism to the introduction of the neoliberal political ideologies visible since the 1970s, it is important to link the issue of criminality and create a relationship between these changes to the study of criminology in that era. Hall, Winlow and Ancrum look at the upsurge in crime between the late 1960s to the late 1990s and link it to the "increasing dominance of neoliberal political economy" (2008:2). They show how society was made to believe that the free market would rid them from economic stagnation and increase the opportunity for individuals to gain personal prosperity however, through the ways that have already previously been discussed; (deregulation and the neoliberal policy shift) deindustrialisation caused an increase in what was later known as the underclass, this included the escalation of low paid service sector workers at the hands of the declining industries and lead to the rise of the classification of people becoming long term unemployed (2008). The 1980s saw the neoliberal shift and the Thatcher government in the UK push forward this real idea of deindustrialisation and through the shutting down of traditional labour markets; the focus on introducing the glamorous idea of new technologies saw the disappearance of industries become imminent, leaving previous industry sector employees to have part time, low wage, mind numbing jobs to look forward to within this new service economy (Hall, Winlow and Ancrum, 2008). The new service sector was focused on consumerism and new technologies, (selling innovative and new goods at the lowest possible prices. With the high unemployment rate being influenced by the lack of some of the previous labour workers being able to adapt to this new plan and this increased the likelihood of their participation in criminal activity; a huge shift towards profit and private businesses was also clear (Hall, Winlow and Ancrum, 2008).

Hall, Winlow and Ancrum tell us that neoliberal supporters saw this as “creative destruction” (2008:4) Ensuring that the lower end of society believed they would benefit from this in the long term and encouraging them to buy into the notion of consumer culture and buying cheap goods made at low costs across the globe. Reiner (2007a) argues that the increase in consumer culture, mixed with increasing inequality and social exclusion would constitute a cultural change which aggravated crime. Reiner also states that “unemployment increases the pressures and incentives motivating crime” (2007a:97), which contradicts Margaret Thatcher’s view that unemployment doesn’t have any link to poverty.

It also illustrates the importance of an era in which Margaret Thatcher’s conservative ideologies placed blame on the previous Labour government’s policies in terms of the rising crime and disorder rates.

These conservative ideas were shown through Thatcher stating that she would place a significant emphasis on law and order and steer society toward a punishment based punitively centred system (Reiner, 2007a). However, as we have seen, this neoliberal government had a destructive effect causing the creation of other forms of criminality within society.

Reiman (1979) points out that the majority of people in prisons are from the poorest sectors of society and suffer through being at a socioeconomic disadvantage to the wealthier members; through the decisions made in relation to the type of offence committed, the preconceived economic notion of the unfavourable poor comes in to play when understanding the impact of socioeconomic status on criminality. Jefferson and Shapland (1994) look at the criminological research throughout the 1980s and argue that it was steered in the direction of becoming less critical whilst instead concentrating on the ways to make it become fitting with the policies of the time. Jefferson and Shapland (1994) also express the irony in the way that commercial fraud, on a large scale, even though it creates more harmful, lasting consequences in an economic sense, received significantly less research focus than that of standard theft or burglary... and further irony revealed that in the 1980s the opportunities for fraud without question was amplified as a result of the growing financial sector and deregulation.

The rise of neoliberalism paved the way for the increase in white collar crime, or crimes of the powerful, which include financial crime. Williams (2008) stresses that the study of criminology generally had focused on street crime and interpersonal violence whilst neglecting the depictions of white collar and corporate crimes within the context surrounding financial crime and misconduct, which had been underrepresented when looking at this area of study. The deregulation of the financial sector enabled ‘risk taking’ to become more and more common for corporations and businesses to enable them to be able to participate in and get away with for example: making dubious decisions. Neoliberalism has been the key factor in making this possible. With the US collapse of Enron in 2001 it is clear that the build-up and eventual downfall of the company occurred because there was a lack of regulation in place to prevent the risk taking. This led to inherently disastrous consequences due to the decisions that had been made. The downfall of Enron occurred in December 2001 and was a huge case of financial criminality and corporate fraud; it resulted in 34 prosecutions, involving the convictions of the Chairman, Kenneth Lay and the CEO Jeffrey Skilling (McBarnet, 2006). Enron was able to take advantage of the lack of regulatory bodies in place and managed to partake in a complex non accounting agenda, whilst making bad decisions. This resulted in the creation of profit forecasts which were overwhelmingly optimistic and eventually led to the crashing down of the corporation, resulting in the shareholders being misled and subsequently resulting with the occurrence of enormous losses (McBarnet, 2006).

Harvey (2005) illustrates how deregulation has led to the financial system becoming a prominent source of redistributive activity via fraud, thievery and predation whilst also enabling Ponzi schemes and the manipulation of credit and stock.

This chapter has focused on the formation of neoliberalism demonstrating how the ideas of class and power influenced this shift combined with the responses through right wing governments with their ideas of free markets along with less regulation led to the successes of Margaret Thatcher and Ronald Reagans in their elections. This consequently paved the way for the destruction of society as it was, turning it into a corporate led society which revolved around finance and the increased emphasis of individualism.

The ideas looked at within this chapter will be expanded upon throughout this piece of research, looking at the effects neoliberalism has had and the responses right through to the theory of social harm .Also, how the social harms which have occurred in the wake of the most recent financial crisis, may well have criminal elements which need to be addressed. Hillyard and Tombs (2004) see the ‘neoliberal economic paradigm’ as essentially being harmful, wrecking lives and generating harm on a wide scale; which they believe shows that the state is responsible for systematically producing harms. The ideas of Hillyard and Tombs will be looked at in more depth asking what the differences between crime and social harm are. Along with the financial sector in the US and the economic boom which led to the subprime mortgage crisis will be looked at in detail as a case study, which will illustrate how the effects of neoliberalism can cause great social harm.

What is social harm theory (Crime vs. Social harm)?

Crime is said to have no ontological reality, meaning the way crime is socially constructed is what we, as members of society overlook. By becoming familiarised with the depictions of crime and criminals it becomes noticeable that what most individuals recognise is a narrow view of crime, therefore crime becomes “a myth of everyday life” (Hillyard and Tombs, 2004:11).

On the other hand, criminal law suggests that crime is understood to be: when the norms formally established, in the form of laws, are disregarded and lead to groups or individuals becoming guilty by committing an offence that is criminal (Lacey and Zedner, 2012).

The notion of social harm within criminology aims to take into account social harms throughout the whole spectrum of society rather than just the ones recognised by the criminal law (Pantazis and Pemberton, 2009). Hillyard and Tombs (2004) are of the belief that crime doesn’t take into account many social harms, including; cultural safety, financial, emotional, psychological and sexual. In relation to financial and economic harms for instance, ‘crimes of the powerful’, they argue that activities of the state are ignored with much more emphasis being placed on street crimes (crimes of the poor). This can be seen as a result of an individualistic focus at the hands of the criminal justice system, in turn steering the attention towards the individual and away from the harmful events that cause social deprivation, poverty and constant growing inequalities between the rich and the poor (Hillyard and Tombs, 2004).

Becker illustrates the importance, within modern society, of the concept ‘power’ within the sphere of the legal system. This is done by making the point that; imposing rules is a job done by the powerful, where their interests are the most dominant, which pushes aside the concerns of less fortunate individuals (1963 cited in Scraton, 2007).

Crimes of the powerful and white collar criminality involves the breaking of laws by powerful members of society or corporations and businesses, where rates of prosecution can be a lot lower than those of other forms of crime. This can be argued to be a result of class bias and the conviction rates can be influenced by the guilty party's social position (Sutherland, cited in Whyte, 2009).

Box (2004) has previously identified that the political focus towards street crimes and the notion of the 'fear of crime', may merely be *a* crime problem as opposed to *the* crime problem. This argument enables us to look further into the overlooked areas which could be more damaging to society. The idea of "under-emphasized crimes" when closely looked at, in comparison to those committed by the stereotypical offender, have offered insight into what the criminal justice system misses (Box, 2004:3). In which the concept of law enforcement has an ulterior motive to "conceal crimes of the powerful against the powerless, but to reveal and exaggerate crimes of the powerless against *everyone*" (Box, 2004:5).

In other words this demonstrates how crime is disregarding serious harms which result in the disadvantage of the many. However, the problem then arises when understanding how the activities produced by corporations can be treated within the field of criminology (Hillyard and Tombs, 2004). This in turn would need to encompass the justifiable reasoning for the treatment of corporate and other such transgressions, by the criminal justice system.

A narrow definition of crime entails the mens rea or intent (guilty mind), leads to it becoming criminalised, consequently resulting in punishment or suffering (Hillyard and Tombs, 2004). Christie argues that infliction and imposition of punishment is in fact 'pain delivery', and that processes undertaken by the Criminal Justice System cause this (1986 cited in Hillyard and Tombs, 2004). It can also be argued that the infliction of pain via the state can result in the production of more harm into society for the individual, for example; social ostracism, job loss, homelessness and so on (Hillyard and Tombs, 2004). This then can illustrate the subtlety in which crime is essentially a way of maintaining power relations (Hillyard and Tombs, 2004).

On the other hand the social harm approach would include harms that occur in a financial and economic sense, such as; poverty and property loss as well as the physical harms that already come under the crime umbrella (Hillyard and Tombs, 2004). It is then argued that this category can be a problematic one, which is due to society being based around and operating principally through: the loss of finance, leading to the criminal justice system being responsible for the exacerbation of social and economic inequalities (Hillyard and Tombs, 2004).

Hall argues that the central criminological question remains, "why individuals or corporate bodies are willing to risk the infliction of harm on others in order to further their own instrumental or expressive interests?" (2012:1).

Hall also raises the issue that in the UK and US the likes of illegal markets alongside other forms of global offence are features of 'socio economic activity' that occur in a 'socially divided and politico-economically insecure world', in which citizens are growing even more susceptible to the disadvantaged consumer culture (2012:2).

There is a clear accepted view which places emphasis on the powerful and how it is within their authority to safeguard themselves and their harmful actions from legal powers being presented upon to them (Hall, 2012). However, there is a universalistic argument which depends heavily on a comprehensive agreement of what the concept 'harm' should entail

therefore, which harmful actions to human beings or their environment should be criminalised (Hall, 2012: 5). Current legal systems have heavily biased categories of harm, so to move to a socially reconfigured universal conception of harms is politically difficult (Hall, 2012). The concept of harm is defined by Hall under the political model of conservatism as being, “straightforward and consists of actions or signs that offend the individual’s person and property, in which the values of social order are led by the ‘elite’ within society” (2012:6).

Critical criminology, in terms of developing the social harm perspective further, is of interest to criminologists as a way to escape the ‘conceptual straitjacket’, imposed by the current notion of crime (Pemberton, 2008). This could be done by the analysis being shifted towards the social harms produced by patterns of inequality present in advanced capitalism, away from the social construction of crime (Pemberton, 2008). This would enable crime to be dealt with as if it was a form of social control aimed against one class by another, in short illustrating how laws are imposed upon the relatively powerless many by the powerful few (Pemberton, 2008).

Yar (2012) talks about the development of critical criminology into a social harm perspective. This process undertakes the view that social justice as a concept should be a vital focus gained through the drift away from the narrow analytical category of crime (Yar, 2012). This drift would base itself centrally around the harms that occur through the dominating practices of society, the culture within it, the economy, and technology (Yar, 2012). Social problems are able to be explained through the social harm perspective, which is why critical criminologists discuss the ‘rejection of crime’ as being better suited to define these social problems (Yar, 2012).

The category of ‘rights’ within the theory of recognition has the closest link to the concept of social harms (Yar, 2012). This category argues for the right to ‘dignity and moral equality’ of the individual, when a person’s rights are subject to refusal of recognition (Yar, 2012). This term is known as ‘disrespect’; which explains that social harms in the context of their ontological reality becoming parallel to the idea of disrespect (Yar, 2012). Therefore as Yar states, “recognition can thus perform the analytical work of describing and classifying social harms... according to the specific needs that they refuse” (2012:60).

If crime is defined as a set of rules, with sanctions that correspond to them which are, in a sense institutionalised through the process of law making, then critical criminological theorists believe that this crime can be described as a form of social control (Yar, 2012). This social control can then go on to be described as punishing and prohibiting selective behaviours that are seen to be a threat by powerful interest groups whilst the harmful acts committed on behalf of or by the powerful are viewed as un-punishable and un-prohibited (Yar 2012). For example, the likes of economic exploitation and the events that led up to the recent financial crisis (Yar, 2012). To evaluate this would suggest that the law cannot be fully trusted as being morally accurate in the way it is constructed within society. With the law makers and powerful social elite being technically in control and command, it causes the majority to be oppressed by the force of the state (Yar, 2012).

Michalowski and Kramer (2007) use the term ‘state corporate crimes’ in relation to the USA to refer to the serious harms which occur as a result of the interactions between political and economic organisations. This was believed to be a term that would develop a further understanding of the *deviance* that happens between private businesses corporations and the state (Michalowski and Kramer, 2007). They express a strong belief that the mutual

relationship between political and economic practices is in need of criminological investigation to account for the amount and occurrence of misconduct (Michalowski and Kramer, 2007). This is made known in the way that a regulatory law is broken as a consequence of these misconducts occurring; however, this does not result in criminal sanctions being applied (Michalowski and Kramer, 2007). The point to be made here is that the regulatory laws which are not criminal offences can only be broken by corporations and governments (Michalowski and Kramer, 2007). Showing how their status of power is only of benefit to them if they don't protect society from the harms that they create. Therefore a system was designed and introduced by these political and economic elites with the intention to control (regulate) their actions however, ends up being a system protecting their interests (Michalowski and Kramer, 2007). The perception of regulatory violations is that they are *crimes* which are less serious than *real crime* (street crime), however, when measured the production of harms from the former to a much higher amount (in terms of economic and physical damage) than the latter (Michalowski and Kramer, 2007).

The study of criminology in itself is focused on crimes committed by an individual resulting in harm to another individual, from this; the individual will fear the harm in relation to their physical or material safety (Michalowski and Kramer, 2007).

Criminal systems of oppression: capitalism, communism, fascism (also guilty of giving some the ability to dominate others) are understood specifically when political and economic interests have intersected in ways that produce an explicit set of demonstrable harms (Michalowski and Kramer, 2007). Society's fear of crime centres more on the likes of street crime being personally committed against them even though a huge, wider range of widespread harms occur due to governmental and corporate deviance (Michalowski and Kramer, 2007). This can be summed up using the example that "relatively few people will be the victims of robbery or burglary, but nearly everyone in the United States will suffer financial loss due to malfeasance in high places" (Shover, Fox and Mills, 2001 cited in Michalowski and Kramer, 2007:205).

Neoliberalism and social harm applied to financial crime / financial crisis

The roots of the 2008 financial crisis stem from an economic history associated with neoliberalism and the introduction of the free market, Andrew Gamble (2009) shows how this form of capitalism has led to the current recession. Gamble (2009) believes the build-up to the crisis started in the 1980s which saw 'the adoption of neoliberal ideas across the whole field of public policy and reorganization of the state'. With the Thatcher/Reagan governments in the UK and US there was a new financial model (neoliberalism) which used the privatization of public services and the deregulation of the financial sector to stimulate the economy (Gamble, 2009). This in turn gave the financial sector the power to control the growth of economies, therefore the new economy was without any restrictions meaning that the people in charge were free to make risky decisions and take part in risky lending for short term personal gain. Gamble argues that "once the financial growth model got into its stride, it spewed out bubbles", this concept of bubbles being one that John Maynard Keynes described as being serious "when enterprise becomes the bubble on a whirlpool of speculation" (1973:159 cited in Gamble, 2009). King, Kitson, Konzleemann and Wilkinson (2012) argue that the 1970s and 1980s involved a withdrawal from the welfare state towards its

replacement through extensive privatisation. Friedman's idea argues that the rise of neoliberalism during the 1970s and the focus of economic theory and policy shifted to the monetary causes of inflation, efficiency and welfare benefits associated with free markets (1977 cited in King, Kitson, Konzlemann and Wilkinson, 2012). This resulted in a return to the idea that; "rather than being a systemic problem, the responsibility for unemployment and poverty lies with the jobless and the poor" (King, Kitson, Konzlemann and Wilkinson, 2012). This change illustrates how the neoliberal ideology essentially is aimed at societies richest and the acts that they have engaged in which have led to and caused the economic situation we are in today.

The financial crisis of 2008 involved the subprime mortgage crash, commonly known as the housing bubble which encompassed the selling of mortgages to the poorest members of society in the US (Ferguson, 2012). Foster Bellamy and Magdoff see the housing bubble as involving the subjection to predatory lending to families of low income in the form of subprime mortgages, car and payday loans (2009). These individuals were essentially tricked into believing they would be able to pay back these loans whilst the lenders in fact were profiting from them (Ferguson, 2012). Gamble (2009) shows how Bear Sterns (the US investment bank) created the first 'securitization of Community Reinvestment Act loans', which was guaranteed by US mortgage lender Freddie Mac and then given a triple A credit rating (in essence meaning it posed no risk). However, the main problem would be that the type of people who were given access to these loans, were never going to be able to keep up with their repayments (Gamble, 2009).

Ferguson (2012) sees the financial sector, for instance banking, as being essentially a criminal enterprise. Suggesting that it is responsible for deliberately concealing certain financial transactions which have helped to aid terrorism, assisted in financial fraud on a massive scale and without doubt meant that the bubble and subsequent crisis has been severely worsened (Ferguson, 2012). When looking at what has been written about the financial crisis and its roots, an obvious assumption is that it has been a long time coming; this is evidenced through the declining punishment of criminal activity within the financial sector even though this criminal activity is in fact on the rise (Ferguson, 2012). The increasing tolerance of financial criminality can be attributed to the 1980's era of deregulation in which finance ended up being more fraudulent and unethical than ever before, so the financial crisis and housing bubble have stemmed from this to become the cherry on top of the cake or end result of the criminal side of finance (Ferguson, 2012). The lack of convictions and the decreasing conviction rates have meant that the goings on inside the financial sector became culturally accepted leaving deterrence unnoticeable as the bankers became no longer fearful of the consequences (Ferguson, 2012). However, in relation to the lack of financial crimes made visible and there prosecution rates being slack since the 1970's/1980s, Pearce mentions how these illegalities occur due to the fact they are "errors of good corporate citizens and the damaging effects are inevitable costs of progress" (cited in Pontell and Geis, 2007).

Before the financial crisis occurred the increasing internet bubble throughout the 1990s had coincided with further deregulation and the ever increasing power associated with money within politics, enabling bankers to make money by improper means in the run up to the financial crash (Ferguson, 2012). In relation to the idea of financial crime the US governments have not addressed the issue. However, it is argued that the criminal sanctions one would assume should be implied on the financial executives, top bankers, CEOs and so on have not been; the reason being simply because deregulation has allowed these harmful

actions to become legal, so the government lack the power to impose punishments (Ferguson, 2012).

Ferguson compiles a list of crimes that could be prosecuted as recognised offences including: securities fraud, accounting fraud, honest service violations, bribery, perjury and making false statements to US federal investigators, personal conduct offences and so on (2012).

The new economy relates to the internet and technology bubble that climaxed with the Enron collapse of 2000. Discussing the idea that the new economy made way for criminogenic market structures this is what white collar crime theorists have come to acknowledge as being prominent during the 1970s and 1980s, here certain markets paved the way for more instances and motivational factors in which white collar crime can exist (Tillman and Indergaard, cited in, Pontell and Geis, 2007). Financial frauds that have occurred in the 1990s have made it clear that through financialisation and deregulation white collar crime has changed. The analysis of financial fraud in this era has revealed how it can be seen that stock broker's actions amounted to their own personal gain and that exploitation is apparent in terms of stock and the manipulation of its value (Tillman and Indergaard, cited in, Pontell and Geis, 2007).

Previous to the 2008 financial crisis there have been incidents in its run up which were also damaging to the stability of the economy. These have included the US the stock market crash 1987, savings and loan crisis of the late 1980s to the early 1990s, the dot com crash of 2000 (the new economy; alongside the Japanese financial crisis and the Asian financial crisis of 1997-1998 (Foster Bellamy and Magdoff). The system of capitalism in its form of neoliberalism is a dangerous form of capitalism and proven to be an extremely damaging to the world. Applying Hyman Minsky's views shows how the system in which we live under is now even more so at risk: "capitalism is a flawed system that, if its development is not constrained, it will lead to periodic deep depression and the perpetuation of poverty" (Minsky, cited in Foster Bellamy and Magdoff, 2009).

Kotz (2008) argues that the financial crisis should be seen as a systematic crisis in which its occurrence can be attributed to the consequences of capitalism in its neoliberal form. The neoliberal practice of capitalism aimed to work towards higher profits via risk taking, in terms of the housing bubble in the US; the financial institutions made mass amounts of money through risky mortgage selling and other such related transactions (Kotz, 2008). This in turn led to the collapse of the US economy and its financial institutions. Kotz (2008) also illustrates that under the neoliberal capitalist economy; employers (capitalists) exploit their labourers in order to make a profit. Problems however, arise from this when the economy is linked to the spending of consumers when the consumer or the labourer is restricted because of their income. This leads to stagnation which then leads to spending cuts and the burden from the capitalist perspective of tax cuts on the rich and businesses (Kotz, 2008).

The housing bubble was a major part of the financial crisis, and this bubble was surrounded by the selling of subprime mortgages. The idea of subprime mortgages is to sell a loan to someone who isn't in the best financial position to pay it back, once the selling of subprime mortgages had started, these high risk forms of lending then were disguised through there high interest rates and fees (Ferguson, 2012). The process of risky lending is categorised as securitization, through this process came mortgage backed securities, these securities came from unregulated mortgage banks as well as some bigger commercial banks (Ferguson, 2012). These included, J.P. Morgan Chase and Citigroup; these banks bought the mortgages packaged them into mortgage backed securities and collateralized debt obligations which

were then rated from *compliant* credit rating agencies, generally of an undeserved triple AAA score, then insured by the likes of AIGs credit default swaps (a form of debt security) and sold on (to create a profit) to insurance companies, foreign banks and sometimes to a number of the banks that had created them in the first place (Ferguson, 2012). This was essentially a fraudulent, but legal in the deregulated financial sector, Ponzi scheme (Ferguson, 2012). The start of the climax of the financial crisis occurred in late 2007 with the bankruptcy of Northern Rock (UK), when running out of money to fund mortgages, this then turned into a nationalised bank in 2008 (Kingsley, 2012). This quickly led to US investment bank Bear Stearns being bailed out by JPMorgan Chase, then to the latter part of 2008 in which the government had to bail out mortgage banks in the US; Fannie Mae and Freddie Mac (Kingsley, 2012). Shortly after, the US bank Lehman Brothers filed for bankruptcy, also creating a major panic and fear of impending financial doom. Meanwhile in the UK the government had to bail out the Royal Bank of Scotland, Lloyds TSB and HBOS (Kingsley, 2012). These events mark the beginnings of a constant state of economic turmoil in both the UK and the US, for which nobody has yet paid the price apart from its victims.

Weak governance is argued as a major cause of the financial crisis (Kirkpatrick, 2009). Safeguards against risks were not present (or were manipulated/ignored) causing this kind of economic meltdown, the management of risk was unapparent meaning that the bank's board members and management were not fulfilling their duty of care by overseeing and working towards the prevention of risk but enabling and causing risks to become a regular occurrence (Kirkpatrick, 2009).

Social harm is highly applicable to the aftermath of the financial crisis. The vast amount of consequences that have happened as a result vary from affecting the individual to the whole of society, to name a few; poverty, home foreclosure, unemployment and anybody who owned stock (had shares) in a bank that went bust, lost it all (Ferguson, 2012). Harsh cuts have happened to child care, education, and other social welfare services, in the UK, homes are kept out of the banks possession because of the *friendlier* laws however, in the US a huge number of homes are in the process of repossession (Ferguson, 2012). This has all also led to the Eurozone crisis which, as it currently stands, has played out into the recent Cyprus financial crisis. That as it is unravelling could create further destruction to the global economy, with untrusting depositors withdrawing their money from the Cypriot banks in turn leaving the banks in financial loss so we begin to see another nation in turmoil.

Broadening the concept of 'social harm' and a discussion into whether 'neoliberalism' creates harms

The New Labour government in the UK continued to follow the neoliberal trend through under emphasising the harms and wrongdoing of the least socially excluded members within our society, which include the powerful corporations and dominant organisations that consist of high status offenders (Tombs and Hillyard, 2004). This is coined under the term already established: White Collar/Corporate Crime, the concept in itself suggests how unable this society is to trail the most powerful under the criminal justice system (Tombs and Hillyard, 2004). These problems of living under the neoliberal form of capitalism are apparent also within the US, where foreign ownership of the American assets is rife leaving us to believe that neoliberalism is a fundamentally flawed and failing political ideology (also true of the UK) (Tombs and Hillyard, 2004). This can also be backed up through the evident growing gap between the rich and poor, which coincides with a growth in the employment of women which only amounts to a way of maintaining a standard of living which isn't an extremely

comfortable one anyway (Hillyard and Tombs, 2004). This information shows how the US and UK are relevant examples in demonstrating how the state/corporate networks produce major harms which affect the lives of most of societies populations (Hillyard and Tombs, 2004).

Looking back Marx states that harm is an essential and necessary part of the system, nowadays in society the state is compliant to the process in which capitalism produces harms whilst maintaining the production of its own harms (Hillyard and Tombs, 2004). Within a neoliberal context as a version of capitalism it is seen to be fundamentally more harmful than others and the governments ruling under this framework are generally reluctant when it comes to preventing the harms that are being allowed to occur (Hillyard and Tombs, 2004). The most aggressive harms that come out of the neoliberal area of capitalism appear out of market based economies, this coincides with government decisions which allow the immoral redistribution of wealth from the poor to the rich, this similarly links to the other harms which are a subject of the booming profit demand based environment (Hillyard and Tombs, 2004). These profits subsequently arise in the short term through the likes of cutting salaries to the equivalent of the minimum wage. This can all be related back to the direct and indirect harms of the neoliberal environment which in the plain sense, force populations to live at (or below) the subsistence or 'minimum' level (Hillyard and Tombs, 2004). Whilst indirectly contributing to the harms such as illiteracy, crime and poor health; neoliberals believe that in terms of poverty its economic system works with the goal of enabling a trickle-down theory making an eventual reduction to poverty (*this is not yet apparent*) (Hillyard and Tombs, 2004). When thinking about criminal behaviour it is a typical response to relate neoliberal roots to deprivation, a lack of material belongings and a lack of income, but as we know these to be harms produced by neoliberalism could it be the case that neoliberalism and what it amounts to is a cause in itself of criminal behaviour? (Hillyard and Tombs, 2004).

Dividing neoliberalism into economic, ethical and social/political sections provides a way to break down the effects it causes and gain more of an insight into their relation to the production of harm (Reiner, 2007b). In an economic sense when a competitive market is left to itself it becomes dominated by monopolies resulting in an increase in wealth and income inequality as the *winners* begin to multiply their advantages (Reiner, 2007b). When it comes to resource allocation is it massively reflected by the rich person's consumer power in which private wealth dominates public need. The idea of a market economy as well as systems being susceptible to recurring instabilities spawns the type of culture which accommodates; egoism, irresponsibility and an uncertain staff turnover (Reiner, 2007b). This leads the people working in such an environment to become self-centred and therefore more likely to take part in risky behaviour for personal gain (Reiner, 2007b). Shifting away from inside the market and culture that accompanies it there are, as already mentioned, social and political inequalities and harms which can as well be applied to neoliberalism.

The notion of crime is generally and theoretically accounted for and explained using a selection of categories/classifications these include, the labelling of a crime, an opportunity to commit the crime, lack of social controls preventing the crime, a motive for the crime and the means enabling the crime (Reiner, 2007b). There becomes a relation between these groupings and neoliberalism as a crime producing entity, labelling can be attributed to the increasing development of a consumer culture which leads to 'phenomena's' of crime (Reiner, 2007b). The view of attainment comes into it in the form of motive where in a materialistic culture people forget about legitimacy when it comes to pursuing goals (Reiner, 2007b). Alongside comes an increase in technology through globalisation which heightens the means and the idea of desirable objects which can be applied to the opportunity (Reiner, 2007b). Controls

also become lax when public sector work, (for example: the police) drops in neoliberal times whilst consumerism takes over allowing for individuals to acquire things in unlawful ways (for example: seen in the 2011 riots) (Reiner, 2007b).

The market generally is a destructive area that houses, private sector firms which often commit immoral acts. On the other hand when being critical of the market there is always the comeback which states that people still buy into things even when they know about the goings on, so what is the problem? (Crouch, 2011). This is one thing within the market and private sectors, but under the neoliberal cloud this sense of immoral behaviour spreads into all institutions and aspects of life becoming poisonous throughout society (Crouch, 2011).

Burdis and Tombs (2012) when discussing the theory of white collar and corporate crime argue that the current crisis makes way for its development, through stating that this kind of offending has been reproduced and strengthened.

They also draw attention to how in the UK since the financial crisis there has been no comprehensive effort to apply regulations back to the financial sector and no systematic investigation into suspected criminal actions which can be attributed to the events running up to the crash (Burdis and Tombs, 2012). Meaning that the Financial Services Authority and the Serious Fraud office have not held anyone to blame, as well as this the lack of criminological analysis of these events is sparse and it would seem there is a dwindling likelihood that criminal activity will become documented in this case (Burdis and Tombs, 2012).

The financial crisis in the UK led to the government bailout of the banks, which was paid for and with tax payers money, this way of subsidising the banks is argued by Burdis and Tombs as basically socialising the actions of the individuals who have played a part in “long term, systematic private greed and possible illegality” (2012:278). This action of the Labour government contradicts their view that corporate responsibility and morality within business are important, even as far as for Gordon Brown to imply his belief that “Markets need morals” (2008 cited in 2012:278).

The neoliberal ideological foundations which structure the economy have ironically gained strength from the financial crisis, the contradiction occurs by the way private capital has been used as a basis for being the best possible response to the crisis even though it was the first and foremost its cause (Burdis and Tombs, 2012).

Throughout the aftermath of the crisis the private sector has been viewed as the only way for economic recovery to succeed, which meant regulation of the financial sector was non apparent because it is seen as a costly last resort (Burdis and Tombs, 2012). This overwhelmingly demonstrates the control and influence of the neoliberal era, which views the corporation (private sector) as the major form of success in terms of the economy, however, as we know, corporations are more so a danger to the economy and essentially caused the crisis in the first place (Burdis and Tombs, 2012).

Considering the current state of the economy the actions of the government have been pulled up on by George Monbiot, who exposes what, is noted as a massive redistribution of wealth from the poor to the rich in the form of tax cuts (2011). The implications of this mean that corporations that operate in different countries will not pay tax on the money made there and the rate of corporation tax in general will be reduced (Monbiot, 2011). This has been seen in recent months through the likes of Starbucks, Google and Amazon, who have all been named and shamed for corporation tax avoidance (Syal and Wintour, 2012). Consequently, creating a massive incentive for corporations to move into countries where corporation tax is minimal

therefore leading to the loss of UK/US jobs. This plays to the major importance of how the influence of the private sector is destroying the society we live in, in which Monbiot argues that the lack of capital regulation becomes rather than “a perversion of the system... the system” (2011).

There is now an essence of dominance from the private sector over the public sector; this comes from Burdis and Tombs who apply a “moral status to business and capital in general”, as the investment within the private sector becomes a more popularly common entity the misconduct occurring becomes exposed (287:2012). So, in the political sphere when regulation is not a priority and the ever-present claims which argue corporate social responsibility (CSR) is the answer, what is actually happening is that greater risks are being created through the lack of proper regulations and criminality (motivations and activity) become commonplace (Burdis and Tombs, 2012).

The corporations and firms are growing in their ability to become influential within politics and through lobbying and as such use their vast amounts of money to buy into the government and become an important part of the economy. As the private sector becomes financially better off the power of their influence increases; within the UK and US firms invest in election campaigns, setting out views of what their investment will enable them to do in terms of power within governments (Crouch, 2011). This idea is linked back to CSR which generally entails a firm’s volunteered obligation to the community, workers and customers. However, it is an area in which corporations can gain trust from consumers, influence on politics and finally a way they can gain freedom to “pursue private ends at the expense of the shareholders” (Crouch, 2012:141).

The aftermath of neoliberalism has left the blame being placed on the public sector, the bonuses of bankers being left at extremely high rates and massive cuts to the public service sector are resulting in massive job losses, all because of the influence of the powerful (Crouch, 2011).

Pemberton argues that social harm is better dealt with in the shift away from criminology and towards social policy instead (2007). Believing social policy is a more beneficial discipline which; focuses on the welfare state, is deemed better-appointed for dealing with economic harms such as unemployment and other such ones which occur in a socio-economic context (Pemberton, 2007). The idea of social harm therefore argues that in the case of neoliberal capitalism consequences of corporate actions have caused significant economic loss and if made noticeable could challenge the general focus on crimes of the powerless towards the crimes of the powerful (Pemberton, 2007). However, as a solution Lasslett argues that this could become problematic when being introduced to a bourgeoisie society and criminal justice system where the powerful manipulate the laws and are responsible for what policies are in place (2010). This suggests that before a shift away from criminology and social harms, the neoliberal capitalist model needs to be radically changed (Lasslett, 2010). It is generally a beneficial movement towards developing a socially better understanding of how governments and corporations influence the notion of crimes of the powerful, but only by enabling a basic knowledge to be put across (Lasslett, 2010).

Conclusion

This dissertation has investigated the theory of social harm and the way that it can be linked to neoliberalism. By setting out to suggest that neoliberalism does cause social harms it has looked at different aspects of this specific political model, including; its influence on society in general, deregulation of the financial sector, privatisation, moral implications of the neoliberal era and the effects that the financial crisis has had and is continuing to have. We have seen from Harvey's definition of neoliberalism that it is a "theory of political economic practices proposing that human well-being can best be advanced by the maximization of entrepreneurial freedoms within an institutional framework characterized by private property rights, individual liberty, unencumbered markets, and free trade" (2005:2). However, from this we can begin to see that these intentions are only in 'theory'. Since the establishment of neoliberalism into society, born from the Thatcher and Reagan governments in the UK and US of the 1970's and 1980's, the reality of this system has done almost the opposite of promoting human well-being. Throughout the past 40 or so years, various cracks have appeared within this form of capitalism, with the rise of privatisation, deregulation, deindustrialisation there became a sense of paving a way for white collar, corporate and financial crime (Williams, 2008). Through the decrease of regulatory controls risk taking became heightened and we start to see what caused the road to destruction for society. The introduction of the era of technology can be recognised as helping along what was known as the 'dot com bubble' which consequently saw the collapse of Enron and then caused shareholders to suffer massive losses (McBarnet, 2006). The relevance of social harm theory then starts to become a more obvious issue to focus on within the criminal justice system. The notion of social harm seeks to address the issues which are seen as affecting the whole spectrum of society instead of the ones just recognised under criminal law (Pantazis and Pemberton, 2009). Through critical criminology a shift away from the narrow definition of crime is said to be needed to make sure other societal harms are not overlooked, the harms that have been focused upon here are that of the financial sense which come under the umbrella of 'crimes of the powerful' (Hillyard and Tombs, 2004). In terms of crime and the criminal justice system financial crimes are often made out to be a lesser priority, where the main focus lies with crimes of the poor, so street crimes and such like (Hillyard and Tombs, 2004). The operative word that relates back time and time again is 'power', the idea of power generates an understanding that the economically more powerful an individual may be, the bigger the influence this individual will have upon society, proving domination by the powerful (Becker, 1963 cited in Scraton, 2007). It is noticeable that neoliberal ideology is aimed at the powerful and enabling the actions of powerful people, may it be in governments or corporations, to pursue actions that have harmful consequences. These, argued by Hillyard and Tombs appear within the neoliberal area of capitalism and allow the immoral redistribution of wealth from the poor to the rich through market based economies (2004). This leads to the question of neoliberalism being a cause of criminal behaviour in itself, if neoliberalism produces inequality, deprivation, poverty and other such financial related problems, the crimes committed by the poor act as a response to this and can be seen as an essential survival technique because of the political environment. Specifically the financial crisis of 2008 shows how the risky actions, immoral activities and in some cases unlawful behaviour can result in widespread social harm to members of society (Ferguson, 2012). Unemployment, loss of homes, cuts to public service sectors, losses to shareholders have all come out of the deep recession the crisis caused, these definitely fit into the social harm category and the results, unlike street crime and other recognised 'crimes' have not resulted

in prosecutions and criminal sanctions (Burdis and Tombs, 2012). In terms of criminological analysis Burdis and Tombs recognise also that there is a severe lack of it (2012). However, it is still apparent that there is a lot of criminality occurring within the financial sector but the consequences for the economy can be viewed as social harms. To top this off the reactions have been to simply continue with the way things have been going, to continue removing regulations, chucking about such concepts of 'corporate social responsibility' as a way of improvement (Pemberton, 2009 and Crouch, 2011).

April of this year saw a new business plan and risk outlook for 2013/14, published by The Financial Services Authority (FSA) for the Financial Conduct Authority (FCA) (2013). This report focuses its main goals on regulating firms with a promise to "tackle market abuse through taking further enforcement to deter future misconduct" (FSA, 2013). This comes along with an assurance to "ensure that firm's strategies are aligned with producing appropriate outcomes for consumers" (FSA, 2013). This is all well said, but we have to be aware that as it has been previously shown, there is a tendency within the financial sector to fabricate the truth when it comes to fulfilling responsibility for the greater good. This can be seen through an online survey of 500 senior individuals within the financial sector from the US and the UK, constructed by Labaton Sucharow law firm, in which it was found that 25% of UK respondents "believed that the rules may have to be broken in order to be successful" whilst 22% US respondents admitted to partaking in wrongdoing (2012:2).

With tax cuts for the wealthy (Monbiot, 2011) and benefit cuts for the poor this whole genre of capitalism is failing the majority of society and enabling an increase in greed for the minority. Shaxson reminds us that the system of finance is more inescapable and for a noticeable change "reform must be based on a thorough grasp of the new, globalised reality" and expresses importance in understanding the offshore tax scheme (2011). This research has only briefly covered this concept. Currently we are witnessing the Cyprus financial crisis another product of neoliberalism which threatens the global economy even further, as well as the people of Cyprus. Constantly we hear of the recession, the cuts, the bankers, the tax rates yet things are not being resolved. The introduction of the social harm perspective identifies the connection between social harm, crime and neoliberalism. It seeks, through critical criminology to raise this issue and develop it further allowing information to be known throughout society, giving individuals proper knowledge of the society we live in. Pemberton (2007) believes that through the development of social harm theory the consequences of neoliberalism's political ideologies will be made clear to people on a wider scale and allow a noticeable shift, because of the destructive actions of corporations, away from the crimes of the poor and towards the crimes of the powerful. This dissertation has highlighted many issues that need to be developed and looked at in further detail. The progress of social harm theory is a process which, if expanded upon could be useful in the criminal prosecution of powerful people within the financial sector. The more work around this area would benefit society if it created a change in the way society is governed and who has a greater influence on its policies and regulations.

Overall it can be concluded that social harm theory can be applied to the consequences of neoliberalism's political ideologies. Conventional crime and its punishments are not comparable to the social harms created by the financial sector. To address this issue the understanding of 'what is criminal?' needs to be reanalysed. The proposal for changing the culture which exists amongst individuals working within corporations and financial institutions also needs to be pushed forward. Without some sort of punishment for behaviours intentionally leading to social harm, how can it be possible to see a change in corporate culture and the nature of capitalism? There needs to be a clear deterrent to prevent the current

way of behaviour continuing. If the 'profit motive' can be regarded as intent to cause harm then this intent should be sufficient enough on its own to warrant more research into social harm theory as a way forward in criminological research. Increased regulation and the separation of retail banking from risky (investment) banking would encourage the real economy and productive investment. Transparency is needed within investment banking and the split may well help the regulators to keep better control and make it easier to monitor. Currently, even though it knowingly allows the outcome of harm to society, the government's adoption of this form of capitalism creates the impression that it also possesses intent to harm.

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