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Crimes of the Powerful: A Global Perspective

Anamika Twyman-Ghoshal

The “crimes of the powerful” label unifies into one framework, on a more systematic level, research on organizational and institutional networks of power that harm and injure people. Although the term was originally coined by Frank Pearce in 1976, it has only recently entered mainstream discourse (Friedrichs, 2015). This framework is a product of a long history of broadening criminology beyond its narrow focus on street crime.

Sutherland (1940) introduced the concept of white-collar crime in his Presidential Address to the American Sociological Association. Sutherland challenged assumptions that crime is closely correlated with poverty because data failed to “include criminal behavior of persons not in the lower class” (Sutherland, 1940, p. 2), calling for white-collar crime to be brought within the scope of criminology. Nearly 50 years later, Chambliss (1988) broadened the scope of criminology again in his Presidential Address to the American Society of Criminology, this time to include state-organized crime, identifying that governments are also susceptible to engaging in deviant behavior. In 1990, Kramer and Michalowski (1990) noted that states can collaborate with corporations in what they termed state-corporate crime, that is, “illegal and socially injurious actions that occur when one or more institutions of political governance pursue a goal in direct cooperation with one or more institutions of economic production and distribution” (p. 4). More recently, Friedrichs added “crimes of globalization” as another area of criminological research that further explored the relationships between various nodes of power. Crimes of globalization builds on the idea of state-corporate crimes by adding a third actor, international financial institutions. Together, these powerful actors can engage in projects that create serious and foreseeable social harms (Friedrichs, 2015).

Despite these attempts to develop criminology to be more inclusive of various forms of deviance, to date many criminological theories contain implicit assumptions that crime, at its core, is a problem located among the poor. The resistance to broadening criminology beyond the crimes of the powerless rests on how we define crime.

Definition of Crime

The concept of crime is highly contested; however, much of mainstream criminology has relied on the legal definition of crime as the foundation for conducting research. The problem with using the legal definition of crime rests in the notion that crime has an inherent reality rather than being a social construct. Fundamentally, acts that are defined as crimes are dependent on the context within which they occur. It is the context, not the content of the act, that allows it to be interpreted as illicit or licit. The legal construction of behavior as criminal depends on those who create and administer the law, i.e., those in power. Criminologists, therefore, need to be cautious of using state definitions, which often exclude behaviors that are more likely to occur in locations of power. Such awareness allows criminologists to be true to their craft by including all forms of deviance in their purview.

A notable suggestion for a more inclusive definition has been a humanistic definition of crime that, instead of using national laws, uses violations of fundamental human rights and the resulting willful harm as a means of identifying crime (Schwendinger & Schwendinger, 1970). Another definition that has been built on the social harm approach includes any acts that cause willful harm to society that require state intervention and are similar to other forms of criminalized behaviors (Twyman-Ghoshal & Passas, 2015). The benefit of these inclusive definitions is that they incorporate various forms of deviance, ranging from oppressive social conditions to white-collar crimes and state-organized crimes without excluding street crimes. Moreover, these definitions incorporate legal concepts (such as the Universal Declaration of Human Rights and legal modes of criminalization) to avoid subjectivity. Criminology can remain relevant in a globalized world only if it incorporates all forms of deviance committed in the various social strata.

Definition of Power

Sutherland referred to white-collar crime as a “violation of delegated or implied trust” (1940, p. 3). He did not distinguish between those in power and those who were relatively powerless (Friedrichs, 2015). The emphasis in “crimes of the powerful” is on analyzing power more explicitly, not merely to include individuals in privileged positions but also to understand collective responsibility and the system within which it resides. Power refers to the (potential) exercise of control, relying on a combination of authority and trust that exists due to a perceived legitimacy. Similar to crime, power is socially constructed; “power exists only through social relationships and is historically and culturally specific” (Rothe & Kauzlarich,

2016, p. 4). The following section lists four key areas of the crimes of the powerful framework.

Types of Crimes of the Powerful

The crimes of the powerful framework includes cases where power is vested in individuals, organizations, or networks, where the exercise of this power causes large-scale willful social harms. Although these may be domestic, international, and transnational crimes, due to globalization and the symbiotic nature of powerful actors, cases are often global.

State Crimes

Chambliss's original formulation of state-organized crime included "acts defined by the law as criminal and committed by state officials in the pursuit of their job as representatives of the state" (1989, p.184). The 1998 Rome Statute of the International Criminal Court has established genocide, war crimes, crimes against humanity, and crimes of aggression as forms of state crime. However, state crime also includes acts that violate other international norms. Past research has identified examples such as nuclear warfare, drone strikes, and forced eviction. One such example is the forced eviction of the Chagossians.

Between 1967 and 1974, the United Kingdom systematically expelled the entire population of Chagossians from the island of Diego Garcia. The Chagos Archipelago was separated from colonial Mauritius in 1965 and renamed British Indian Ocean Territory (BIOT). This was done in fulfillment of a secret agreement between the UK and the USA that the island would be used as a US military facility. The decision to separate the islands from Mauritius contravened a United Nations (UN) General Assembly declaration that mandated colonial powers to maintain the national and territorial unity of a country. The agreement was concealed from the oversight of the US Congress, the UK Parliament, and the UN Trusteeship Council. In the agreement, the US required that the island of Diego Garcia be free of any local population prior to occupancy. In order to fulfill this requirement, the UK proceeded to evict all the islanders in a series of actions including compulsory land acquisition, refusal of the right of return to any islanders who left temporarily, restricting the visitation of supply ships, the extermination of all pets on the island, and then finally the forced eviction of the remaining islanders in 1971. All of this was done in violation of provisions in the UN Charter that required colonial powers to protect the permanent inhabitants of colonies.

(Twyman-Ghoshal & Passas, 2015)

Corporate Crimes

Sutherland's initial conception of white-collar crime was not nuanced enough to explore the varieties of behaviors that would be incorporated in the umbrella term of corporate crime or occupational crime. Within the crimes of the powerful framework, the focus has been particularly on corporate crime.

Corporate crimes are deviant acts committed for the benefit of organizations. These behaviors often occur without violating any criminal laws, particularly when corporations are active in multiple jurisdictions and are able to influence the legislation through lobbying or other forms of political influence. Much of the research on corporate crime has centered on the effect of granting personhood to corporations, the conglomeration of ownership, and the diffusion of corporate power globally (Rothe & Kauzlarich, 2016). Together these processes have created an enabling structure and a criminogenic organizational culture.

The externalities of corporate activity have been grouped into three types: corporations that create a product that is harmful *per se*; corporations that produce a desirable product but use a harmful production process, and corporation that are performing public functions for profit that have "predictably adverse consequences" (Passas, 2005, p. 776). The first category refers to corporations that create a product that is in itself a criminogenic commodity, such as arms or tobacco. Desirable product but harmful production process refers to companies that deliver a product or perform a service that in itself is necessary, but in the interest of maximizing profits the production process creates massive collateral damage. Examples include toxic waste disposal and intensive animal farming that cause large-scale environmental damage. Finally, privatized public functions refer to corporations that provide a service that presents a conflict of interest between the public needs and the motivation for profit. Example industries include private security, health care, and education.

State Corporate Crimes

State-corporate crimes are joint ventures between political and economic institutions that result in grave and predictable social harms. Two types of state roles are discerned in these schemes: state-facilitated and state-initiated

schemes (Rothe & Kauzlarich, 2016). State-initiated refers to an intentional and willful collaboration of government and business to engage in behaviors that are willfully harmful. This can be with direct or implicit control of the government. State-facilitated refers to instances where the government fails to regulate harmful corporate behavior due to a shared interest in the outcome of the deviant activity. Examples include the Challenger disaster (Kramer & Michalowski, 1990), Iraq war-profiteering (Rothe & Kauzlarich, 2016), and the Deepwater Horizon oil spill

In 2010, an explosion on the Deepwater Horizon oil rig killed 11 and injured a further 17 people. In addition, an estimated 4.9 million barrels of crude oil poured into the Gulf of Mexico. A US federal court concluded that the explosion was due to willful misconduct and a series of negligent decisions driven by the pursuit of profit by British Petroleum (BP) (petroleum prospect owner), Transocean (rig owner), and Halliburton (contractor). In the aftermath of the oil spill, state and corporate actors hid the extent of the environmental damage caused by the spill by censoring the statements given by clean-up workers, coercing surviving crew members, prohibiting other offshore rig crews from contacting family and friends, and controlling images and information released to the public by the US Coast Guard. In addition, to prevent visibility of the environmental damage, the US Environmental Protection Agency, together with the Coast Guard and BP, emptied 2 million gallons of toxic chemical dispersants into the Gulf. This was followed by the enforcement of a 65-foot restriction of access to media around the clean-up area by the US Coast Guard and a 3,000-foot fly-over restriction by the Federal Aviation Administration.

(Bradshaw, 2015).

Crimes of Globalization

Building on the state-corporate model, crimes of globalization examines the policies of key international financial institutions (such as the World Bank (WB) and the International Monetary Fund (IMF)) and their interaction with states and multinational corporations. The IMF and the WB have pursued a strategy of extensive global neoliberalization, which has resulted in a transfer of control from the public to the private sector. Both the IMF and the WB have used their key position in financing development projects to ensure that free-market policies are implemented in countries receiving loans. The approach does not suggest that other economic approaches (such as communism or feudalism) are not criminogenic; rather, it is an examination of the effects of the dominant economic model of our time. In their efforts to create a global, unfettered capitalist economy, there has been little regard for the mass victimization that these policies have caused, such as a WB-financed dam in Thailand (Friedrichs, 2015) and Structural Adjustment Programs (SAPs) in Somalia.

Today, Somalia is known internationally for its protracted civil conflict dating back to 1991, when the country's president Siad Barre was ousted. The precursors to the conflict date back to repeated economic restructuring, gross human rights violations, and extended suffering of the Somali people. In the late 1970s, after the failed Ogaden war, Barre shifted allegiance from the USSR to the USA. The USA was interested in Somalia's strategic location for its military bases and the possibility of oil exploration in the Ogaden region. The USA supported the regime's military growth (resulting in lucrative contracts with US arms suppliers) while turning a blind eye to Barre's domestic human rights violations. Simultaneously, development loans that were granted to Somalia by the IMF and WB were attached to SAPs. The SAPs required strict austerity measures, reductions in public spending, tax reform, privatization, and deregulation. The implementation of SAPs in Somalia included cutting government spending on health and education, shrinking the public sector, reducing pay for civil servants, opening the market to foreign direct investment, and selling off food and grain reserves as cash crop exports to service the national debt (the reserves had been collected and stored to cope with future droughts). As a result of these policies, in 1991-1992 Somalia suffered its first famine. Somalia's primary export, livestock, was also affected by SAPs. As publically provided veterinary services and water supplies were privatized, rangeland conservation spending was cut, and drought animal feed was sold, the livelihood of pastoralists was destroyed. The agricultural sector, which relied on trade with pastoralists, was also impacted and was then worsened when international food aid (that came from subsidized farming in developed nations) provided cheaper grain alternatives.

(Twyman-Ghoshal, 2012).

Summary

This chapter traced the development of criminology away from its traditional and narrow focus on street crime and introduced the area of research known as "crimes of the powerful." The broadening of criminology has relied on abandoning the legalistic definition of crime for one that uses human rights and willful social harms as a benchmark.

The crimes of the powerful framework explores the symbiotic relationship of those in power, recognizing that power is a product of history and culture. Four key areas include:

- state crimes, which include behaviors captured by the Rome Statute as well as other human rights violations

- corporate crimes, which probe the harmful acts of corporate actors
- state-corporate crimes, which include collaborative ventures between the public and private sector that produces large-scale suffering and impoverishment
- crimes of globalization, which analyze the international policies of international financial institutions that cause victimization of large segments of the population that they are meant to serve.

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