RE-CONSIDERING CONTEMPORARY STATE CRIMINALITY: A THEORETICAL FRAMEWORK OF STATE CRIMES AGAINST DEMOCRACY (SCADs)

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Abstract

With an acknowledgement that state criminality extends beyond the actions of authoritarian regimes in feeble political systems, this paper calls for a re-consideration of political deviance under an inter-disciplinary framework which allows for a theorisation of State Crimes Against Democracy (SCADs). Formulated on the basis of the academic thought stemming from public administration, political science and criminology, the definition and (budding) theory of SCADs lays the case for a review of the critical criminological agenda to consider the harmful (and often criminal) actions and inactions of democratic governments in their efforts to undermine popular sovereignty. SCADs are constructed as crimes of omission or commission which encompass electoral manipulation and incapacitation, political unaccountability, and breaches of human, civil and political rights, and which often result in the destabilisation of the rule of law and economic development, the undermining of broader social norms, moral values and public trust in democratic institutions, and the promotion of various other types of criminality.

Keywords:

state crime, state crimes against democracy, critical criminology, theoretical criminology

INTRODUCTION

It has long been recognised that a decisive feature of the state is its monopoly on the means of (il)legitimate violence within any given territory (Monaghan and Prideaux, 2016). All states, be they liberal or autocratic, are not only able to secure legitimacy through a process of hegemony (Gramsci, 1971), whereby beliefs that support the *status quo* are instilled in the citizenry, so that they transcend as matters of consensus and common sense (Thorne and Kouzmin, 2013), but are also equipped for the use of force, and claim the "legitimate right to perform acts that if anyone else did them would constitute violence and extortion" (Green and Ward, 2004, p. 3). *In extremis*, one could also argue that, should depriving people unjustly of their property, land,

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way of life, or life itself be regarded as criminal, then political crimes lay at the formation of virtually any state, and thus the very existence of such socio-political structures can be regarded as a crime (against humanity) (Krimerman and Perry, 1986). Essential functions of the state, such as the military and taxation, may also be considered felonious under most definitions of political delinquency (Martin, 2000).

Over the centuries, the most horrific crimes – in terms of physical harm to human beings, abuses of human rights, political and civil liberties, and economic loss – have been committed by (albeit rarely attributed to) states (Friedrichs, 2000). Nevertheless, it is the state that is a leading force in the social construction of crime (Monaghan and Prideaux, 2016), owns the monopoly over the interpretation and enforcement of society's legal requirements and prohibitions (deHaven-Smith, 2013), and engages in the production of apocryphal knowledges whose core theories and research 'findings' validate the vision of social reality favoured by political-economic elites (Michalowski, Chambliss and Kramer, 2010). *De facto*, the mythos at the basis of any given political system inculcates a generous degree of civic trust in government representatives, with the general public being socialised to think that popular control of government and the rule of law are effectively secured by periodic competitive elections and institutional checks and balances *alone* (deHaven-Smith, 2011; Turk, 1982; Warren, 1999). Beyond the totalitarian state, democratic citizens are taught that elected representation restrains the corrupting influence of governmental power by pitting the powerful against one another and by periodically subjecting them to electoral evaluation; and that through selection and socialisation, the decision-making procedures and electoral mechanisms of representative government generally produce a class of officials who are largely honest, law-abiding and devoted to public service (deHaven-Smith, 2011).

When instances of political criminality in contemporary democracies are exposed, they are often officially labelled as unreasonable anti-government allegations, thus weakening popular vigilance against abuses of power, cover-ups and other genuine threats to democratic governance (deHaven-Smith and Witt, 2012). The subsequent tendency to think of democratic governments in conventional terms also infiltrates academia, where the vast majority of those who pursue the study of criminology and criminal justice professionally share a similar sense of indifference, discomfort, or outright hostility when presented with the notion of 'state crime' (Barak, 1990; 1991; Friedrichs, 1998a; Manwell, 2010; Tombs and Whyte, 2003; Turk, 1982).

Based on an acknowledgement that threats to the functioning and well-being of a state and its inhabitants often come from within the internal apparatus of the state *per se* – as represented by its governing institutions and elected political agents – rather than from external, pre-nominated, criminal groups and individuals, this paper draws upon an inter-disciplinary (re)consideration of issues of governance and security and lays a theoretical framework of State Crimes Against Democracy (SCADs). The author reasons that state actions which threaten the quality of democracy amount to state crimes, and contends that regardless of the contemporary academic trends and the pertinence of their claims to relevance, state criminality does not resume to a constrained category of particularly vicious actions committed in times of conflict, by those who happen to fit the standard imposed by the Cold War, where appropriate actors are certain pre-demonised states, and offences are not regarded as such unless they constitute abuses of human rights. Rather, state criminality (against democracy) is often disguised in longstanding processes and practices associated with governance, which are often – and perhaps, wrongly – understood and accepted as 'politics as usual'. In making a case for the consideration of SCADs,

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this paper will progress by first highlighting the traditional academic reluctance in addressing state criminality, along with an overview of the products of the scholastic inquiry to date, and then move towards a conceptualisation of the concerns inherent to contemporary democracies and a presentation of the theoretical model of crimes against democracy.

DIS-CONSIDERING STATE CRIMINALITY

Grounded in the critical discourse of power and knowledge, the author argues that the latter is only approved in any one society for as long as it is produced by those elite groups that have been sanctioned as proprietors of shared meanings and understandings, and who maintain their legitimacy by undermining alternative knowledges (Foucault, 1977; Foucault and Gordon, 1980; Freire, 1970; Kincheloe, 2005; Kincheloe and McLaren, 1994; 2005; Kincheloe, McLaren and Steinberg, 2011). Similarly, the language of policy and law-making, and the knowledge of crime do not simply reflect 'real' legal or policy issues and problems, but rather produce the issues with which policy and law-makers ought to deal with – and, implicitly, refute those that should not be dealt with (Weldes, 1998). The aforementioned translate in academia, where the study of state crime is not only largely rendered as negligible, but also fraught with both pragmatic and empirical hindrances (Friedrichs, 1998a; 1998b; Ross et al., 1999).

State crime is deemed to be neither an important, nor an appropriate focus for (under-)graduate education in criminology, and few of those who have pursued such topics appear to have received significant exposure or encouragement, much to the point where one could quite easily observe that "a focus on state crime cannot be recommended as a particularly efficient approach to academic and professional success" (Friedrichs, 1998a, pp. xiv-xv). Many scholars have publicly acknowledged being faced with diverse barriers when researching crimes of the powerful (see, for example, Barak, 1990; 1991; Friedrichs, 1998b; Ross, 1995a; 1998; Rothe and Kauzlarich, 2016), ranging from obstacles in securing funding from mainstream sources and obtaining ethical approval, to difficulties in getting material published, often because of the very resistance stemming from state agencies, and from various senior academics cooperating with the aforementioned institutions (Ross et al., 1999).

As with all other state institutions, contemporary educational systems reproduce the kakistocratic social order, and reinforce what Ross (2000, p. 17) refers to as the "pedagogy of the oppressed". Politics, international relations and criminology scholars are unlikely to be encouraged to address harmful actions that fall outside the narrow range of wrongdoings condemned by the state itself, and even less so when the wrongdoings are committed by the states themselves (Kramer, Michalowski and Chambliss, 2010; Michalowski, Chambliss and Kramer, 2010).

Predictably, the key texts with which new scholars are presented in their first year of their higher education studies in criminology are inevitably bound to reflect a curriculum aimed at designing successful graduates who will prove their societal worth by becoming police, prison and probation officers determined to reinforce the existing order of state control. The trend extends to the vast arena of criminological outputs, where the author observed that out of 158 peer-reviewed academic journals, only one is centred around disseminating research on state criminality alone, and some two others publish articles on the matter regularly (see Table 1 below). In Witt's (2010, p. 935) words, then young, promising scholars learn quickly what can and cannot be authored and submitted for publication... Sterilized intellectual inquiry and emascu-

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lated moral ingenuity thus sprawl across countless pages of academic screed, whose deals and hollow incantations parrot… torrents of fatuous and/or circular claims of truth and relevance.

Humanities and Social Sciences Journals	Total Number	Number of Journals Relevant to the Study of State Crime
Criminology	53	1
Human Rights	10	0
Political Science	204	0
Sociology	214	0
Multi-disciplinary	145	0
	626	1 (0.15%)

Table 1: Humanities and Social Sciences Journals

Unsurprisingly perhaps, the rate of theoretical progress is remarkably slow, as well as limited, within academia (Kauzlarich, Matthews and Miller, 2001). Whilst state crimes have come – with some delay – to the attention of criminology, political science, international relations and public administration scholars, the concept does not make up for a significant discipline topic in any academic field (Barak, 1990; 1991; Doig, 2011; Friedrichs, 1998a; 1998b; 2000; Hinson, 2013; Witt, 2010). Much of the literature carries the name of USA academics, disregards democratic states, is centered on either the re-analysis of a few popular examples of state crimes (Ross and Rothe, 2008), or on territories which could hardly be described as functioning states, where such crimes are the norm, rather than the exception, and blatantly ignores abuses of political rights (Hinson, 2013).

In the meantime, civil society members participating in Uibariu's (2017) study had observed that contemporary scholarly work is limited to engagement that is of an "esoteric and elitist" (Ruggiero, 2012, p. 157) kind, characterised by a use of language that reifies and reproduces dominant constructions of crime and justice; a constant failure to produce work which is pragmatically relevant to individuals and groups who are most harmed by state violence; and the use of approaches that limit the participation of extra-academic publics (see also Piché, 2015). Public criminology habitually fails its *raison d'être* by privileging interactions with the powerful in the foolish hope that the dissemination of knowledge to these audiences will somehow enhance the lives of those affected by state repression.

As of today, we appear to be presented with the constant reminder that, since its inception, the discipline of criminology has served as an extension of state power itself (Michalowski, Chambliss and Kramer, 2010), and that, undoubtedly, most criminological knowledge is, just like all state-approved knowledge, merely an artefact of power (Foucault, 1977). The *status quo* presents us with a powerful *quid pro quo*, strategically summarised by Witt (2010, p. 929) as a context whereby policy makers pretend not to act, academics pretend not to see or hear, except at some safe temporal distance with always clean hands. Moral transgressions in high public process are meanwhile neatly circumscribed as 'anomalies'… that prove the rule.

Much in accordance with Kramer (2016), the author contends that criminologists have a moral responsibility to act as public intellectuals by speaking in the 'prophetic voice' concerning state

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crimes and their victims, and act in the political arena in a systematic attempt to control and prevent such harms. State crime scholars should engage in sustained efforts to participate in "social and/or legal justice at individual, organizational, and/or policy levels, which goes beyond typical research, teaching, and service" (Belknap, 2015, p. 5; see also Carlen, 2011; Currie, 2007; Piché, 2015; Rock, 2014; Ruggiero, 2012), work with progressive movements in their efforts to challenge the endemic hegemonic cultures and change policies related to these harms, and deploy sustained efforts for the strengthening of formal international controls over state crimes (Kramer, 2016). It is crucial that public criminologists re-direct their efforts towards evaluating and reframing cultural images of the criminal, reconsidering rulemaking, and evaluating social interventions (Clear, 2010; Rock, 2014; Uggen and Inderbitzin, 2006) for the purposes of enabling authentic popular control of government, and impede and punish administrative abuses of power.

In the meantime, however, it is reasonable to argue that Barak's (1990, p.33) depiction of traditional criminological scholarship does not only endure some three decades later, but perhaps extends beyond the discipline of criminology, where the journey towards the development of a discipline of state criminality will not be accomplished without resistance from both inside and outside the boundaries of academic criminology… [and] there [still] are a number of disciplinary biases and… political obstacles to overcome.

In turn, the skewed power relationships between the higher education system and the administrative apparatus in any one state mean that academia often concedes its authority in creating knowledge to the government, in exchange for some sort of capital, be it (the promise of) research funding or recognition.

CONCEPTUALISING STATE CRIMINALITY

Nevertheless, a number of scholars have approached the study of state crime, whose conceptual work reference a vast array of 'appropriate' actors, victims, motives and forms of illegal conducts. It appears that the ambiguities and debates surrounding the concept of state crime merely manage to emphasise the social, political and cultural constructions of power archetypal to any one society on the one hand, and the degree of relative academic subjugation to authority on the other. All attempts to conceptualise state crime tend to oscillate between legalistic, humanistic and moralistic, and political and popular approaches (Friedrichs, 2000; Michalowski, 1985; 2010), much to the point where the resulting academic thought is unable to transcend its own disciplinary boundaries (Uibariu, 2017).

Not only is the term 'state crime' employed differently within the same discipline, as well as across various fields of study, but many scholars are correspondingly eager to interchangeably refer to the phenomenon as 'governmental crime' (see, for example, Friedrichs, 1998a; 1998b; 2000), 'political crime' (see, for example, Barak, 1990; 1991), 'state-political crime' (see, for example, Ross, 1995; 2000; 2003), and 'state-organisational deviance' (see, for example, Green and Ward, 2004). Whilst the vast majority of authors consider state crime to be committed variously by public officials, states or governments, there is no agreement as to where criminality takes place (from deviant state agencies and organisations to individual office-holders), why it takes places (from state interest to individual self-interest), what it involves (from breaches of human rights to corruption), the process through which it happens (from initiated to facilitated, from commission to omission), what its consequences ought to be (from a formal breach

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of criminal law to causing harm), or who are the 'appropriate' victims (Uibariu, 2017). 'State crime' is, thus, a concept fraught with difficulties on a number of bases.

It is crucial that one commences the conceptualisation of state crime by delineating the particularities of the 'appropriate' actors. The discipline must recognise that the use of the vaguely defined term 'state' implies a common motive across all state agencies and institutions, an implicit failure to recognise that the state rarely acts as a unitary force, and a considerable degree of ignorance towards the existence of multiple layers of responsibilities, roles and perspectives embedded within modern polities (Uibariu, 2017). States are geographically-delineated juridical abstractions, which, while possessing some sort of an international legal personality, are incapable of acting, and thus incapable of committing crimes (Dixon, Spehr and Burke, 2013; Friedrichs, 2000). An effective demarcation of state crimes requires, thus, an assessment of the range of actors that may, on the basis of their political status, act on their behalf, and who may act in ways which are consistent with abuses of power, and are in violation of either codified international law, customary international law, domestic law (Doig, 2011), or broader social and moral values (Friedrichs, 2000; Hillyard and Tombs, 2007; Matthews and Kauzlarich, 2007).

The implications of a generalised lack of consensus in defining state crime transcend academia, and deleteriously impact on the (possibility for) action of civil society groups against political criminality (Uibariu, 2017). In their attempts to use academic work as the basis for encouraging good democratic governance, practitioners have highlighted that the differential employment and theorising of the term 'state crime' across, as well as within, disciplines leads to a situation whereby relevant research outputs are difficult to identify, and – when successfully located – problematic to analyse (Uibariu, 2017). The added lack of cross-disciplinary research and strict adherence to the associated theoretical inclinations often result in an inevitable failure to acknowledge the complexity of the term, articulate the concept comprehensively, and respond to the full range of challenges posed by state crime (Uibariu, 2017). For the time being, regardless of the evidence of malpractice both at home and abroad, it is apparent that, with very few exceptions, academia turns a blind eye to the crimes committed by powerful states, for as long as (unsubstantiated) claims to sovereignty and (democratic) legitimacy are presented as categorical justifications.

CONCEPTUALISING DEMOCRACY: THE CASE FOR A CONSIDERATION OF SCADS

Whilst the foundations of what we commonly refer to as 'democracy' had been laid some twenty centuries ago, and subjected to public, political and philosophical debate for just as long, the vast body of knowledge accumulated throughout the past two thousand years merely suggests that all previous attempts to delineate, proscribe and endorse a democratic model of governance are bound to diverge from whatever utopic archetype may be regarded as preferable at any one point in time. Contemporary democracy can be conceptualised on three discrete linguistic spectrums as a *value,* a *form of governance*, and an *ensemble of institutions* operating within a geographically-delineated politically sovereign territory, as follows:

i.   As a value, democracy ought to be based upon human dignity, and foster social, political and economic equality, respect for human rights and the rule of law, and – some degree of – liberty (see Bell, 1997).

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ii.   As a form of governance, democracy entails a competitive multi-party system, where-by state representatives are elected in periodic, free and fair elections, with real con-sequences, and whereby those in power are responsible for the well-being of, and held accountable, by the citizenry (Bossaert and Demmke 2005; Bowman, Berman and West, 2001; Cooper 1991).

iii.   Ultimately, as an ensemble of institutions, democracy requires the existence of three separate entities: *the state*, defined as geographically delineated juridical abstraction, represented by the range of actors who, on the basis of their political status, have the legal authority to act on their behalf; *the civil society,* defined as the public space between the state, the market and the ordinary household, in which people can delib-erate and tackle action; and *the market,* or the economic realm whereby commercial dealings take place. Ideally, the aforementioned cooperate for, and operate within a socio-political order that is delineated by legal and moral norms which remain open to debate[1] (Cowell, Downe, and Morgan, 2011; Knight, 2007; Lewis 1991; Lewis and Gilman, 2005; Van Doeveren, 2011).

Democracies ought, in principle, to differentiate themselves from all other political regimes by allowing for individuals – acting alone or collectively – to re-configure their relationships with the state, express, militate for, and negotiate their interests, and control those in authority outside organised electoral processes. In turn, governments are expected to respond to pressures for change in a way that is congruent with the aforementioned democratic principles, and most likely to achieve the greatest good, for the greater number of people, by adjusting all realms of social life, including the market and the public sphere (see also Gutmann and Thompson, 1998; Schmit-ter and Karl, 1991). Whilst the epitome of the democracy legitimised by 'shared beliefs' which aims to achieve the 'public good' through politicians elected by majority rule may transcend as a matter of common sense, one must acknowledge that neither what is 'shared' and 'public', nor what is 'good' can be conceptualised in an objective manner. Shared beliefs are not set in stone, and their understanding as collective norms will fluctuate between social groups and classes, as well as over time (Altemeyer, 1996; Arblaster, 2002; Axtmann, 2007; Dahl, 1971; Giraudy, 2015; Kaplan, 2015; Lasswell, 1977; Roth, 2009; Schaar, 1981; Young, 2007; Zakaria, 1997). In turn, the degree to which both citizens and their representatives adhere to social norms and regulations will vary, as will their individual prioritisation of such principles (Gutmann and Thompson, 1998). Whilst citizens will (dis)agree on the substantive goals of political action, rulers will respond with varied degrees of commitment to people's preferences and will weight these differently in accor-dance with the origins of the group who has expressed them (Schmitter and Karl, 1991).

Conceptually, then, democracies are not necessarily more efficient administratively than other forms of government; they are unlikely to appear more orderly, consensual, stable, or govern-able than the autocracies they replace; and they may not immediately bring social or political peace and the end of ideology (Uibariu, 2017). Nevertheless, unlike authoritarian regimes, "democracies have the capacity to modify their rules and institutions consensually in response to changing circumstances" (Schmitter and Karl, 1991, p. 87), and thus may – conceptually still – stand a better chance of producing the aforementioned goods than autocracies do.

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[1]   And are amended when they no longer effectively serve the achievement of fundamental demo-cratic principles.

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Whilst established democracies are portrayed as having the most potential to impede political abuses of power, and provide a pathway towards achieving the 'common good' the *status quo* presents us with the twelfth consecutive year of qualitative decline in governmental transparency, responsiveness and accountability (Freedom House, 2018; see Figure 1), whereby the end of 2018 has witnessed some 71 countries suffering net regressions in political and civil rights as a result of political leaders' pursuits of individualistic concerns (Freedom House, 2019).
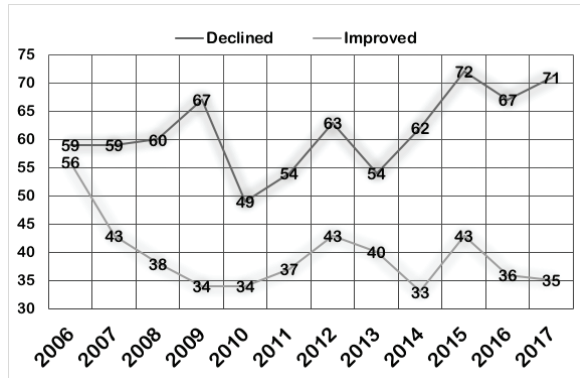

Figure 1: Democratic Liberties (adapted from Freedom House, 2018)

Hardly surprisingly, public trust and confidence in government are at an all-time low (Menzel, 2015), and so is citizen satisfaction with the fruits of democracy (see Figure 2 below). In the West, democratic governments' limitations in responding to their publics' economic and political concerns have brought about a situation whereby "large numbers of people now reject ritualistic elections that bring to power scarcely distinguishable political parties" (Ayers and Saad-Filho, 2015, p. 599) which continue to fail the citizenry and sacrifice the common good to powerful private interests. Fishkin's commentary appears to apply today, with voters continuing to exhibit a "clear sense of disconnection from the political process, suffering alienation, disengagement or complacency", whereby public officials are largely selected in the absence of informed political debate, "more or less the way we choose detergents" (Fishkin, 1991, p. 3).
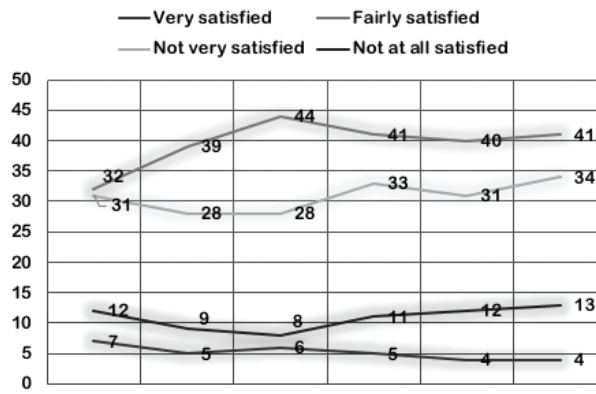

Figure 2: Public Satisfaction with Democracy in the EU and Turkey (adapted from GESIS, 2017)

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The *status quo* presents us with a curious contradiction, where Europeans subsequently – claim to – believe that engagement in participatory democracy is crucial, yet some 42% declare to have never attempted to influence political decision-making, and 34% have only gone as far as signing a petition (European Economic and Social Council, 2013). Whereas citizen disillusionment with the fruits of democracy is, undoubtedly, the result of political decision-making and action that is not only irrelevant for the common good, but habitually counterproductive and harmful, "the actions of the apathetic do not escape politics; they merely leave things as they are" (Held, 2006, p. 269). Democracy requires that enough members of society are committed to the project of popular sovereignty to hold those who would undermine it to account (Gowder, 2015), yet lacking the collective vow to the democratic ideal, individuals are bound to settle for whatever constellation of miseries they find themselves in (Turk, 1982).

In the context of a " culture of passivity, leading to an obedient and docile citizenry, is not consistent with the healthy" (Economist Intelligence Unit, 2016, p. 12), contemporary democratic governments do not only habitually ignore their duties of protecting and promoting democratic principles, but also undermine popular preferences in their struggle to integrate within a competitive global economy, whereby the interests of increasingly powerful state contractors are favoured over those of the wider community. The neoliberal economic model, which has been often imposed on the world with little democratic consent, has led to a further weakening of contemporary democracies. The consequence is a vision of an economically driven polity that privileges a (apolitical) political culture where the economic field of power becomes the placeholder of power and seeks to organize social, cultural, and political formations according to its imperatives (Vasquez-Arroyo, 2008, p. 129).

Neoliberalism casts both the political and social spheres as appropriately organised by a market rationality, and fittingly dominated by market concerns (Brown, 2006), whereby the state does not only facilitate the economy, but constructs itself in market terms, develops policies and promulgates a political culture whereby citizens are fashioned primarily – and at times, solely – as consumers whose moral autonomy is measured by their capacity for self-care (Chomsky, 2010; Crouch, 2004; Ghosh, 2012; Kulish, 2011). The new market democracy presents us with state agencies which are increasingly concerned with the integration within a global economy and the acquisition of global capital, in favour of the protection of citizens; with non-state actors which enact greater powers of discipline and governance on the other hand; and with citizens whose commitment and efforts are directed at the acquisitive self, rather than some ethical conception of the communal good (Guarneros-Meza and Geddes, 2010; McNevin, 2006).

Through devaluating political autonomy; transforming political problems into individual troubles with market solutions; producing the consumer-citizen; and desacralising the law to the point where it translates in a permanent state of exception, routine suspension and abrogation, the nation-state legitimises the neoliberal 'equal right to inequality' and strips itself of previous commitments to egalitarianism and universalism (Lemke, 2002; Wood, 1995) – both fundaments of political democracy. As a political rationality, neoliberalism is not only unreservedly incompatible with full political democracy (since the latter is based upon universal inclusion and equal rights, whilst capitalist market processes are predicated upon minority control of the means of production and class-based disparities of influence over the conditions of social reproduction (Dahl and Soss, 2014)), but has also inadvertently prepared the ground for anti-democratic practices (Ayers and Saad-Filho, 2015).

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Neoliberalism maintains class and elite power without necessarily exerting direct political power in the traditional ways that characterised prior modes of production (Vasquez-Arroyo, 2008) by extending a "cannibalism of liberal democracy already underway from other sources in the past half century" (Brown, 2006, p. 691), whereby democratic subjects are open to political tyranny precisely because they are absorbed in a province of choice and need-satisfaction that they mistake for freedom (Adorno, Frenkel-Brunswik and Levinson, 1950; Horkheimer and Adorno, 1972; Marcuse, 1964). The quotidian citizen is busy accepting private schools in response to the collapse of quality public education; anti-theft devices, private security firms, and gated states in response to the conception of the permanent underclass; and "finely differentiated and titrated pharmaceutical antidepressants as a response to lives of meaninglessness or despair amidst wealth and freedom" (Brown, 2006, p. 704). In turn, the elected are free to trample the essence of democratic culture by attacks on public debate, the obscuring of the rights of the 'peoples' in favour of those of 'individuals' and the refashioning of public spheres into institutions of policing and incarceration (see also Casanova, 1996; Giroux, 2008). In a context whereby the neoliberal market rationality is promoted and taught above all else, and new cultural standards and individualistic moralities are enforced upon a democratically paralysed population, the citizenry moves away from the shared commitment democracy requires.

Not only is much of the citizenry divested of any orientation toward what Arendt (1971, p. 440) defines as "a shared responsibility for the public world", but as the domain of the state is increasingly seized by private actors, people's ability to change the course of their lives through voting alone diminishes accordingly. And whilst neoliberal theory may assert that individuals can exercise choice through spending, one must acknowledge that some have more to spend than others, and very few have enough to make a difference (Monbiot, 2016). Even if done effectively, in the presence of receptive political actors, engagement in political processes does not grant a path towards political action, for the governments' capacity to respond appropriately to requests depends largely on their ability to negotiate the conditions for change with market actors who are rarely interested in conceding own interests for the sake of utilitarianism (Vasquez-Arroyo, 2008).

In a context whereby the governance system is neither representative, nor responsive to the requests of a disappointed citizenry, many have renounced political action, thus permitting governments to act largely unsupervised in their pursuit of capital and power, which often culminate in the abrogation of fundamental and political rights (Uibariu, 2017). Today's apathetic voter is neither concerned with the greater good, nor the regulation of authority. Instead, the political substance of the customary elector is unearthed in the citizen who loves and wants neither freedom nor equality, even of a liberal sort; the citizen who expects neither truth nor accountability in governance and state actions; the citizen who is not distressed by exorbitant concentrations of political and economic power, routine abrogations of the rule of law, or distinctly undemocratic formulations of national purpose at home and abroad (Brown, 2006, p. 692).

The newly re-discovered state monopoly over what is to be regarded as lawful action and over the means of 'legitimate' – or otherwise acceptable – violence (Monaghan and Prideaux, 2016) unlocks new realms towards the achievement of deviant state, governmental, and state-institutional goals which often amount to state crime.

Where all of democracy's fundamental principles have been eroded but for its institutions, private property rights, and the ritual of voting (Habermas, 1975), one is faced with the realisa-

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tion that the essence of such political systems may, in fact, rest in social processes, inter-relationships and the management of cultural associations (Institute for Democracy and Electoral Assistance, 2008). Nevertheless, as long as the interests of the privileged and powerful are the guiding commitment of … political factions, people who do not share these interests tend to stay home (Chomsky, 1996, p. 164).

A contemporary democracy – much like the Weberian-Schumpeterian procedural model of democracy (Schumpeter, 1976; Weber, 1972; 1978) – is neither "a kind of society nor a set of moral ends", but rather a "mechanism for choosing and authorising governments", whereby two or more self-chosen sets of politicians (élites), arrayed in political parties [compete] for the votes which will entitle them to rule until the next election (Macpherson, 1977, pp. 77-78).

De facto, it appears that few democratic systems have managed to preserve even the most basic characteristics of a democracy, and fewer seem to have sustained themselves effectively throughout the past decades (Arblaster, 2002; Kaplan, 2015). In the meantime, the general citizen apathy and lack of demand for accountability permits elected politicians, appointed public officials and state contractors to overstep the boundaries in which they are permitted – both by law and shared norms – to act, and allows them to use the thin line parting political negligence and administrative criminality as a jumping rope (Dixon, Spehr and Burke, 2013). It is precisely in this context of political decay that both scholars and practitioners ought to envisage the veiled perils of state-proclaimed democratic governance, and take active steps in both theorising and responding to elite abuses which threaten to – and do – undermine the human, civil and political rights of democratic citizens.

CONCEPTUALISING SCADs

The notion of SCADs has been coined by public administration scholars in an attempt to draw attention to all systematic efforts by political actors to "mislead or distract the electorate, discourage citizen participation, or in other ways undermine enlightened citizen choice" (deHaven-Smith, 2006, p. 333). SCADs encompass all "concerted actions or inactions by public officials that are intended to weaken or subvert popular control of their government" (deHaven-Smith, 2006, p. 333), as well as other attacks on the fundaments of democracy. Nevertheless, since democracy cannot be proscribed, SCADs ought to be assessed in accordance to the constitution or body of legislature of the polity which is the crime scene, international covenants – namely, the United Nations' International Covenant on Civil and Political Rights 1966 and International Covenant on Economic, Social and Cultural Rights 1966 – and by reference to the principles which form the basis of a democratic state as examined above.

An action is, thus, a crime against democracy by the state if it involves an act of commission or omission that breaches an obligation voluntarily adopted by the state to protect democratic principles, *only* when the act can be attributed to the conduct of individuals, organs of the state, or groups of persons having capacity to act on behalf of the state, granted the crime was not:

   i.   a pre-emptive-protective act, undertaken in the reasonable belief that an act harmful to the state and its citizens would occur

   ii.   a proportionate-responsive act, undertaken subsequent to an act that inflicted harm on the state…

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    iii.   an unavoidable act, which was beyond the control of action-takers...

    iv.   a necessary act, undertaken to safeguard the essential interest of the state and its citizens, provided the action-takers had not contributed to the situation in which the necessity for the action arose (Dixon, Spehr and Burke, 2013, p. 22).

The author's construction of SCADs – based on a shared conversation with civil society organisations – implies:

    i.   a state principal or a state agent, appointed or elected, who issues authoritative instructions in the name of the state, that constitute an abuse of power, or who tolerates, permits, and encourages unauthorised actions as defined below;

    ii.   an act of commission or omission, whereby the state (agent) either:

        a.   acts in a way which is congruent with an abuse of power, whereby individuals are systematically deprived of their rights;

        b.   fails to adhere to its primary responsibility to protect the physical security, material wealth, and life of its citizens; or in other ways attempts to re-allocate the aforementioned responsibilities to third parties.

It has been argued that, in order to avoid the unnecessary conceptual overlap between state crimes and SCADs in democratic states, where all crimes by the state may arguably be categorised as crimes against democracy – since all abuses of power obstruct democracy by definition – one should restrict the definition to politically-motivated action when considering the range of activities that amount to SCADs, and only take into account actions, inactions and practices which impede political liberty in a democracy (Uibariu, 2017). In this sense, the array of 'acceptable' SCADs encompasses electoral fraud, political unaccountability, lack of government transparency, media censorship, and other attempts to manipulate the electorate for the purposes of either preserving the political status quo, determining a political shift that would in some way be detrimental to the public interest, or simply causing a change in the power structure that is not desired by the electoral majority in a polity (Uibariu, 2017).

The author argues that systematic attempts by the state to reinforce and propagate social cultures which lead to the disempowerment of minorities on the political scene ought to be promoted to the category of SCADs (see Uibariu, 2017). Such practices are not only fundamentally incompatible with the principle of egalitarianism, but also impede appropriate representation for groups within society, thus limiting the scope of democracy. The array of processes associated with the model range from the adoption of neoliberal market principles, to the rising tide of populism characteristic to Western democracies post September 11, and its afferent practices of systematic exclusion, structural violence, and scapegoating directed at minority groups in any one society, largely based on their shared social and biological characteristics (Bleich, 2011; Council of Europe [CoE], 2013; European Court of Human Rights, 2015; Waldron, 2012). Today, the same governments which are actively drafting hate crime legislation are also increasingly attempting to criminalise migration (CoE, 2011), refusing to host asylum seekers and refugees (Pakes, 2013), and breaching fundamental human rights in the name of national security (Norchi, 2004), thus condemning populations beyond their borders to a life in poverty and violence (Beck, 2003; Brock, 2009; Miller, 2008; Nagel, 2005).

In the meantime, discriminatory state policies against 'potential terrorists' and 'Schröder's immigrants' – the ones who steal the jobs of 'proper' citizens, whilst simultaneously laz-

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ing around on state benefits – are justified by political rhetoric and the reiteration of *threats* posed by migration to the economic stability, physical safety, and cultural heritage (Human Rights Watch, 2016) of Western citizens. The divisive bearing of prejudice on communities does not only lead to an erosion of social trust among citizens, but also distracts the citizenry from the true causes of race, gender and class inequality, thus undermining their capacity to make *informed* democratic choices. In turn, divided communities fuelled by social distrust are considerably less likely to assemble as a whole, functional, and competent civil society, and cooperate for the purposes of achieving the common good, as defined by reference to democratic principles. Nor is a divided civil society likely to succeed in overseeing the actions of its political representatives, and demand accountability and redress when this fails to meet expectations.

Previous research undertaken by Uibariu (2017) shows that members of civil society associations frame state crimes as occurring when at least one of the offenders is a state principal (who has the legal authority to act in the name of the state), or an appointed or elected state agent who has the authority to issue instructions that constitute an abuse of power, or to tolerate, permit, or encourage the development of shared values that legitimise (un)authorised actions which amount to SCADs (see also Dixon, Spehr and Burke, 2013; Doig, 2011).

In light of the aforementioned, SCADs come to be defined as:

   i.   actions by state agents, as previously outlined, if they amount to:

       a.   efforts to manipulate the electorate;

       b.   attempts to undermine popular sovereignty;

       c.   a change in the political *status quo* that is, in some way, detrimental to the collective well-being; and

   ii.   inactions by the aforementioned actors, if the inaction threatens to leave unchanged a situation which results:

       a.   in a lack of governmental transparency;

       b.   in a social group's incapacity to effectively participate in democratic politics;

       c.   in the deterioration of principles characteristic of, and fundamental to a democracy – such as egalitarianism, universalism, and representation (Uibariu, 2017, pp. 84-85).

Nevertheless, one should not assume that the above imply an *individual* criminal responsibility. The centre of state criminality is the state, not the individual; and while the individual may come to commit the said crime, it is the combination of structural and organisational conditions with personal predilections, which generates these offences, rather than the individual's intrinsic conditions (Uibariu, 2017). Kauzlarich, Mullins and Matthews (2003) propose that one should recognise the dualistic nature of political institutions and acknowledge that albeit states can – and do – act in their self-interest, for the purposes of either expanding or preserving their influence and legitimacy, not all state crimes have their primary motivation within the polity itself. Crimes committed by the state are reflective of the ideological needs of an elite which creates and re-creates epistemologies meant explicitly to serve its interests, whilst also potentially addressing the specific needs of the state as an institution. Often, then, the benefits derived from the application of state power… advance specific group interests and

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harm others, rather than serving the public good that is the presumed basis of state legitimacy (Michalowski, Chambliss and Kramer, 2010, p. 3).

A SCAD constitutes an abuse of the coercive power of the state, and has consequences that diminish a democratic society, by:

    i.   curtailing the economic, political and social rights of its members

    ii.   inflicting harm on its members

    iii.   threatening the life and liberty of its members

    iv.   restricting the capacity of its members to hold their elected representatives and appointed public officials accountable for their decisions and actions

    v.   limiting the participation of its members in the political life of their democratic society (Dixon, Spehr and Burke, 2013, p. 22).

Based on a cross-reference between participants' categorisation of SCADs, and Kauzlarich, Mullins and Matthews' (2003) state crime continuum (depicted in Figure 3 below), the author provides a representation of crimes against democracy which can be, to some extent, used in advancing a typology of crimes against democracy, based on the deviance's requirements of state (in)action.
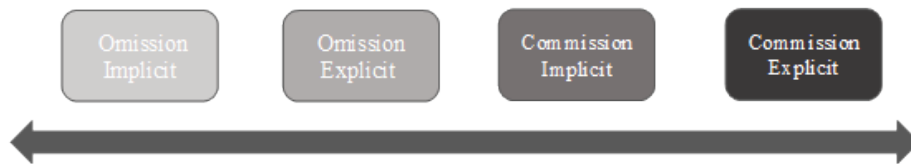
Figure 3: The State Crime Continuum (adapted from Kauzlarich, Mullins and Matthews, 2003)

SCADs can be classified on an omission-commission continuum in crimes of:

    i.   *implicit omission*, whereby the state fails to accomplish its duties in upholding the requirements of international treaties and moral norms;

    ii.   *explicit omission*, whereby the state disregards conditions which may prevent its citizens from being educated in the spirit of democratic practice, and from engaging in democratic processes;

    iii.   *implicit commission*, whereby the state intentionally omits to do something that it is required to do in order to ensure that citizens can effectively exercise democracy; for example, through voting in free, fair and periodic elections, with real consequences;

    iv.   *explicit commission*, whereby the state overtly undermines enlightened citizen choice by engaging in activities which constitute the abuse of popular sovereignty, as is the case of political assassinations.

Thus SCADs encompass all actions, omissions and implicit practices, which are conducted, undertaken, allowed or disregarded by state officials acting in the name of the nation, and which reproduce social realities which impede effective public representation and control of government (Uibariu, 2017). SCADs are politically and ideologically motivated breaches of assigned

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and implied trusts and duties of the government by organisational units of the state and by individual officials acting in the name of the state, as well as failures by states to act in relation to something that poses a threat to the citizenry; which generally lead to the production of other forms of criminality (Uibariu, 2017).
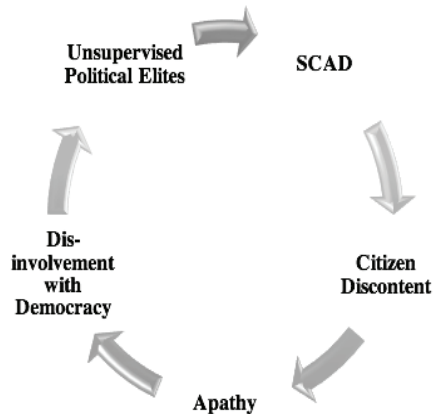

Figure 4: The Re-Victimisation Cycle

In the absence of a citizenry that is committed to the democratic project, unsupervised political elites are bound to perpetuate the vicious cycle of SCADs, whereby popular discontent with democracy translates in apathy and disengagement, and threatens to continue the process of re-victimisation (see Figure 4). In turn, authorities' lenient stance towards political criminality builds apathy towards democratic processes, which come to be seen as mere means of empowering various autocrats (Bowler, Brunell, Donovan and Granke, 2015; Bowman and Williams, 1997; Kostadinova, 2009). SCADs (in)directly impede the citizenry from making informed and meaningful democratic choices, thus curtailing their economic, political and social rights, inflicting harm on its members; threaten the life and liberty of a polity's members, restrict voters' capacity to hold their elected representatives and appointed public officials accountable for their decisions and actions; and otherwise limit citizens' ability to engage in the political life of their democratic society. Alienation with the regime is likely to further affect protest politics through fostering unconventional activism and support for anti-state extremist movements, and promote various other types of criminality (Norris, 1999).

CONCLUSIONS

There is, nonetheless, much left to research in the area of SCADs. Collectively, we know too little to assess the boundaries of our comprehension of such crimes, and so the gaps in knowledge remain bottomless for the time being. The author contends, however, that while *all* research on SCADs should be encouraged, scholars ought to be urged to approach the topic from a pragmatic perspective, that goes beyond raising awareness, whereby current societal needs are assessed, and responses to them are sought.

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It is apparent that the great political ecosystem of the state, comprising of more or less functional and successful institutions, and correspondingly more or less (dis)engaged citizens, reproduces the denial and normalisation concerning the archetype of state criminality characterised by the lazy assumption that if a government is not that of a previously identified (communist) dictator, then it must be (functionally) democratic. Nevertheless, since contemporary diplomatic events stand as proof that even the oldest of democracies engage in, and allow for processes which undermine basic democratic principles in the name of private political and economic interests, often at the expense of their citizens, it is crucial that criminology scholars commence to (re-)engage in the theorising of SCADs.

Firstly, then, an acknowledgement of SCADs necessarily implies and acknowledgement that individuals do not operate in a vacuum – rather, their actions, motivations and responses are situated within endemic cultures that foster and facilitate crimes of the powerful (Rothe and Kauzlarich, 2016), where the symbiosis between neoliberal market policies, the abstraction of the perpetrator – the 'state' – along with the dehumanisation of the concerning actors, where victims are dismissed as vague entities such as 'the public' or 'the consumer', lead to a situation whereby each of the aforementioned re-frames the other in a cyclical fashion (Uibariu, 2017). It is a shared responsibility, then, that individuals take active steps in deconstructing and demolishing the dialectical complexity surrounding state crime, which had previously led to slow, and often feeble, theoretical progress (Uibariu, 2017).

Secondly, one must also concede that no research would be able to assess (and address) SCADs effectively unless it is inter-disciplinary in nature, and mindful that types of SCADs are largely dependent on their 'crime scene'. In other words, research on SCADs must recognise that the interplay between history, culture, society and economy facilitates different types of crimes against democracy, in different regions of the world, and that research outputs are unlikely to be of any real use unless they refrain from following the academic tradition of long-shot generalisations and inadequate claims to knowledge.

Thirdly, civil society groups and academics must cooperate in contesting state power, and in 'opening doors' towards the blocking of imperial policies, the development of progressive alternatives, and the creation of structural changes in the capitalist political economy. It is, then, time that the criminologists who have failed to acknowledge state crime, do so; and that those who have already done so "invest time in translating their own research" (Uggen and Inderbitzin, 2010, p. 738) and in sharing their findings with the larger public, for the benefits of the wider community. As iterated by Bellah, Madsen, Sullivan, Swidler and Tipton (1985, pp. 303-304), [s]ocial science as a public philosophy is public not just in the sense that its findings are publicly available or useful to some group or institution outside the scholarly world. It is public in that is seeks to engage the public in dialogue. It also seeks to engage the "community of the competent", the specialists and the experts, in dialogue, but it does not seek to stay within the boundaries of the specialist community while studying the rest of society from outside.

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