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Crimes of Globalization: Health Care, HIV and the Poverty of Neoliberalism in Sub-Saharan Africa[*]

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ABSTRACT

This paper contributes to the growing body of literature on crimes of globalization. Following a broader conceptualization of crime which goes beyond the proscriptions of the criminal law, it argues that the dynamics of market economics has criminogenic (social harm) effects, especially in economically-challenged regions like the sub-Saharan Africa. The paper challenges the hegemony of law in the criminalization process by locating social harm at the epicentre of criminological inquiry.

Keywords: Crimes of globalization, neoliberalism, heterodox criminology, social harm, sub-Saharan Africa

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Introduction

Studies in "crimes of globalization" are part of the growing heterodoxies of contemporary criminology (see, Friedrichs, 2007; Friedrichs and Friedrichs, 2002; Rothe et al 2006; Wright and Muzzatti, 2007). Driven by the epistemological framework of critical criminology, these studies are rooted on the argument that many of the policies of the Bretton Woods institutions (and the World Trade Organization) cause enormous harm to people in different parts of the world and that these harms could be classified as crime "whether or not specific violations of international or state law are involved" (Friedrichs and Friedrichs, 2002: 16). This position follows the suggestion by scholars who believe that the violation of laws should not constitute the nucleus of criminological inquiry (see, Ezeonu, 2007; Kauzlarich and Friedrichs, 2003; Friedrichs and Friedrichs, 2002; Barak, 1991).

Sociological criminology often treats the powers of the state to criminalize behaviours as sacrosanct. Thus, criminologists of this school and criminal justice bureaucrats have exerted scholarly and policy energies on studying and trying to address the commission of those acts criminalized by the state, and the omission of those obligations demanded by it through its criminal law. A corollary of this legalistic definition of crime is that offences such as murder, rape, burglary, assault, and the likes as well as the lawless individuals who commit these offences often come to mind when most people think about crime. However, the increasing heterodoxies of the contemporary criminological literature challenge the orthodox meta-narratives which tie criminal behaviours strictly to the letters of a state's domestic criminal law or the legislative activities of the state (Ezeonu, 2007). One of the nascent areas of these heterodoxies emerged under the canopy of "crimes of globalization".

Although crimes of the state and corporations have largely been studied over the years (Sutherland, 1940, 1961; Barak, 1991; Friedrichs, 1998; Reiman, 1996), crimes committed under the direction, instigation, and/or supervision of international financial institutions such as the IMF, the World Bank and the WTO are often discussed largely as economic policy failures (Ezeonu, 2000, 2003; Ezeonu and Okolie, 2001) even though they sometimes result in the loss of millions of lives and cause physical and psychological harm. Borrowing Galtung's (1969) and Farmer's (2004) concept of "structural violence", this paper contributes to the growing body of literature which treats the devastating social harms caused by particular forms of domestic and global capitalist arrangements as criminal. Although the works of Galtung (1969) and Farmer (2004) are relatively unknown in criminological literature, an emerging heterodoxy in the discipline evokes their argument and calls for the broadening of the criminological imagination to include economic-driven social harms (Kauzlarich and Friedrichs, 2003; Friedrichs and Friedrichs, 2002; Hillyard and Tombs, 2004; Tombs and Hillyard, 2004). This paper looks at how neoliberal policies contribute to the crises of poverty, health care provisions and the HIV/AIDS pandemic in sub-Saharan Africa.

The paper is divided into three principal sections. The first section discusses neoliberalism as the bedrock of the contemporary global economic practice, while the second section challenges the hegemony of the criminal law in defining criminal behaviours and suggests an elastic definition of crime that incorporates issues of social harm and justice. The third section reviews the operation of neoliberal economic policies in sub-Saharan Africa and argues that the complicities of these policies in the victimisation of vulnerable population, especially the poor, bring the policies and the institutions that enforce them within the interrogative lens of critical criminology.

Neoliberalism and the Age of Globalization

Since the Europeans set out to "discover", conquer and dominate the world some 500 years ago, capitalism has brought ideas, capital, labour and other resources across nations and cultures together. So, what is today known as globalization is not entirely new (Peet, 2003). However, "the intensification" of this global social relations (Giddens, 1990: 64) and the "overwhelming sense of *compression* of our spatial and temporal worlds" (Harvey, 1989: 240) seem to create "a new sense of globalism" (Peet, 2003: 1). Although there are competing definitions of the concept of globalization, I focus on its economic or market form – i.e., the imposition of neoliberal economic policies and priorities on the world principally through the organizational frameworks and activities of the economic tripod: the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (otherwise known as the World Bank), and the General Agreement on Tariffs and Trade, GATT (and its successor institution, the World Trade Organization). Thus, this paper is couched on the contextualization of globalization "in terms of world trade, capital flows, FDI[1], integration of national economies, the expansion of multinational and transnational corporations or the expansion of capitalism" (Smith, 2003: xviii). The tool for achieving these objectives is the economic policy known as neoliberalism.

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[1] FDI is an acronym for Foreign Direct Investment

This policy is aimed at breaking down political borders on behalf of the market, pulling back the state from economic activities and creating the enabling environment for the forces of the market to regulate economic activities.

Neoliberalism is predicated on the belief that economic behaviour, across time and space, follows the strictures of economic rationality (Marshall, 1996; Ezeonu, 2000, 2003; Ezeonu and Okolie, 2001). It is a modern version of Adam Smith's classical economics. Adam Smith and the 19th century classical economists believed that economic growth could only be stimulated and sustained if private individuals were allowed to pursue their self-interests unhindered by the state. In his highly-acclaimed book, *The Wealth of Nations*, Smith (1937) suggested that left on its own, capitalism would operate on a rationality which makes possible the transformation of individual selfish interests into public virtue. "Virtue" in this context is "interpreted as an efficiently organized, growing economy capable of providing benefits for everyone" (Peet, 2003: 4).

However, the claims of classical economists were weakened by the economic devastations of the post-World War I period which resulted in the Great Depression. The social chaos created by this global economic depression exposed the weakness of the type of untrammelled capitalism advocated by Adam Smith and created the background for the emergence of a social economics known as Keynesianism. Unlike classical economics which emphasized economic growth and the creation of private wealth with the belief that it would improve public good, Keynesianism focused on human welfare and argued for the intervention of the state in economic activities in order to achieve this objective. The Keynesian economics stressed the crucial role of the state as a moderating institution in economic development, especially through its investments in public infrastructure and the development of human capital. However, pro-market economists and political leaders have since undermined the social economics of Keynesianism and revived the classical economic thinking which is now repackaged as neoliberalism.

The emergence of neoliberal economic thinking was particularly aided by the growth in influence of market-friendly economists such as Milton Friedman and Friedrich von Hayek, and the assumption of office of such pro-market politicians as Margaret Thatcher in the United Kingdom and Ronald Reagan in the United States. As an undergraduate at Oxford, Margaret Thatcher had read and been influenced by the economic ideas of Friedrich von Hayek. Similarly, Ronald Reagan was a strong believer in market economics and in an address to the World Bank in 1983, he had claimed that the "belief in the magic of the marketplace" was the most common factor among "all societies that achieved the most spectacular, broad-based economic progress in the shortest possible time" (Peet, 2003: 13). With the degree of political and economic power commanded by these two politicians in the late 1970s and the 1980s and the influence of their countries over the Bretton Woods institutions, the globalization of neoliberal policies became almost inevitable. This was greatly aided by the liberal reforms of the Soviet politics under Mikhail Gorbachev and the eventual collapse of the country.

Neoliberal economists believe that underdevelopment in poor countries is a factor of poor resource allocation due to unnecessary state intervention in economic activities and improper pricing policies. They claim that for a country to stimulate economic efficiency and growth, it has to encourage free market competition, privatise state-owned enterprises, promote free trade and export expansion, welcome foreign capital investments, and eliminate several government regulations and price distortions in factor, product, and financial markets. They posit that the straight and narrow path to economic efficiency and growth is, in fact, to dismantle the benevolent and interventionist roles of the state (see, Todaro, 1997; Ezeonu, 2000, 2003).

Crimes of Globalization: Challenging the Hegemony of the Criminal Law

The nascent area of criminology broadly described as the "crimes of globalization" developed from the belief by some critical criminologists that a scholarly focus on social harm is crucial in broadening the frontiers of criminological inquiry (Friedrichs and Friedrichs, 2002; Friedrichs, 2007; Wright and Muzzati, 2007). A major trend in traditional criminological literature is the contextualization of crime in terms of the violation of a country's criminal law. Such a violation may involve the commission of an act prohibited by the criminal code of a state or a failure to perform an obligation demanded by the criminal code. In other words, for an act or an omission to be a crime, its definition and punishment must be clearly stated in the criminal code. Even the much-celebrated introduction of white-collar crime to the criminological literature by Sutherland (1961) was hinged on "violations of law by persons in the upper socio-economic class" in the course of performing their occupational duties (Sutherland, 1961: 9). Such laws mentioned by Sutherland include "laws regarding restraint of trade, misrepresentation in advertising, infringement of patents and analogous rights…unfair labour practices" as well as "those relating to rebates or adulteration of food and drugs" (Sutherland, 1961: 29-30). So, although

Sutherland expanded the scope of criminological inquiry beyond the traditional focus on street crimes and criminals, and brought attention to the illegal activities of powerful individuals pursuing organizational goals, his analysis was equally hinged on legalistic framework.

Over the years, the legal definition of crime has featured prominently in the literature of traditional sociological criminology. However, one issue commonly neglected by traditional criminologists and policy makers is that most laws (including criminal laws) are political instruments embodying the values of the dominant class, race, gender, and other social groups in society. Despite the celebration of laws as equalitarian instruments enacted for the benefits of all members of society, history has shown that laws have sometimes served as instruments of repression, exclusion and domination, and that some legislations prohibiting or legalising certain behaviours may sometimes be intended to serve the interests of particular groups or to undermine other groups. This truism is exemplified in the Jim Crow laws of the United States, the Nazi laws of Hitler's Germany, the apartheid laws of South Africa, the laws of colonial and military occupations and the androcentric laws of most states. For instance, Hitler's Germany used a set of state laws to galvanize the people to commit some of the most-publicized crimes of the 20th Century and the Jim Crow segregationist social structure in the United States and the atrocities of apartheid in South Africa were encouraged and defended through state laws. Even in today's criminological literature, homicide scholarship substantially fails to acknowledge the criminality of murderers in the United States who lynched many African Americans for violating the Jim Crow laws or for challenging the social psychology of the American racial hierarchy of the pre-1970s. As Quinney (1978: 40) puts it, "the role of law in society is vastly different from what we have been led to believe in our mythology".

In their scholarly focus on the behaviours prohibited or demanded by the criminal code, some traditional criminologists often ignore, underemphasize or trivialize the role of power relations in the emergence of laws and the definitions of crime. However, their fundamental assumptions and scholarships are increasingly challenged by critical criminologists who reject the hegemony of the criminal code as the sole parameter for determining criminal behaviours and emphasize issues of power and social inequality in the criminalization and criminal justice processes (Schwartz and Hatty, 2003;

Lynch and Groves, 1989; Kauzlarich and Friedrichs, 2003).[2] Other scholars (see, Hillyard and Tombs, 2004; Tombs and Hillyard, 2004) have even called for the disbandment of academic criminology and the establishment of a new discipline around the broader problem of "social harm" as one way of addressing the limitations of traditional criminology.

Tombs and Hillyard (2004: 44) observe that the neoliberal market dynamics produce perhaps "the most extensive and far-reaching harms", a fact which traditional criminology has, over the years, failed to address. However, criminologists of globalization have since the early 2000 focused attention on social harms emanating from the global domination of market forces. For instance, Friedrichs and Friedrichs (2002: 16) hinged their study on the understanding that,

> *If the policies and practices of an international institution such as the World Bank result in avoidable, unnecessary harm to an identifiable population…then crime in a meaningful sense has occurred, whether or not specific violations of international or state law are involved.*

This argument is in line with those espoused by theorists of "structural violence" (Galtung, 1969; Farmer, 2004) whose works are relatively unknown in criminology. These scholars contextualize structural violence as insidious ways in which a particular social structure decimates vulnerable populations by systematically denying them access to the most basic human needs. Arguing that "the arrangements are *structural* because they are embedded in the political and economic organization of our social world", Farmer and his colleagues argue that this inequitable social structure puts the poor in harms' way by constraining their agency in trying to survive the limitations imposed by the social structure (Farmer, 2004; Farmer et al, 2006: 1686). He uses this theory to explain the epidemiology of HIV and tuberculosis in Haiti, and names other fatal effects of the violence as death, injury, illness, subjugation, and stigmatization, among others (see, Farmer 2004).

The critical criminology literature has since expanded to accommodate this line of thinking (see, Rothe et al, 2004; Wright and Muzzatti, 2007; Friedrichs, 2007). So, it has become acceptable among a growing number of criminologists that neoliberalism could have criminogenic effects. Friedrichs

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2 One critical deficiency of the legal definition of crime is that an atrocious behaviour cannot be called a crime unless it is expressly prohibited by the state. Yet many of such behaviours are very rarely outlawed

(2007: 149), therefore, conceptualizes crimes of globalization as harmful "consequences of policy decisions of high-level officials of major financial institutions and government agencies who are attempting to realize positive outcomes (or avoid losses)" in the advancement of a global market-based economy. He argues that, "although *it is not typically their specific intent to cause harm*, their policy decisions can have devastating financial and human consequences for large numbers of especially vulnerable people" (Friedrichs, 2007: 149, emphasis mine). This definition deviates radically from the purely legalistic conception of crime, because apart from focusing on the problem of social harm (a deviation first introduced by Sutherland, 1940), it gives little weight to criminal intent (*mens rea*) as an intrinsic quality of a criminal behaviour. Crimes of globalization, therefore, do not necessarily require a violation of a law or the establishment of an offender's guilty mind. In this sense, criminologists of globalization have moved criminological discourse increasingly away from law and legalism in pursuit of the objective problems of market-generated social harms and injustice. Crimes of globalization are, therefore, contextualized as the harmful consequences to vulnerable populations of the economic policies of the international financial institutions such as the IMF, World Bank, and the WTO. These consequences often result from massive deregulation of economic activities and the withdrawal of states from participating actively in such activities (*see the formula below*):

$$C_g = \sum(c[{}_mD + {}_mS])$$

where,

C_g = *crimes of globalization*

c = *harmful consequences to vulnerable populations*

${}_mD$ = *massive deregulation*

${}_mS$ = *minimal state*

The Poverty of Neoliberalism in Sub-Saharan Africa

The IMF, World Bank, GATT (and its successor institution, WTO) have historically been used to advance and sustain the neoliberal experiment, especially in developing economies. This is particularly true of sub-Saharan Africa, where continuing economic crisis and increasing poverty have supported the desire for alternative economic policies to the state-led ones. Although neoliberal policies, as currently packaged, are not the sole cause of economic woes in sub-Saharan Africa, the desire to open up the African market and resources for Western exploitation (which earlier manifested in trans-Atlantic slave trade and colonialism) was foundational to the economic crisis confronting the continent. This foundation of exploitation has historically been aided by some home-grown crises such as corrupt and inept leadership, dictatorships, ethnic crises, civil wars and analogous conflicts, political instability, among others. In other words, African leaders have contributed to the problems of the continent through their greed, ineptitude and political rascality. However, the activities of the IMF, World Bank and GATT/WTO have particularly been devastating for the continent commonly seen as the poorest in the world. Often working in tandem with corrupt leadership in many African countries, these international financial institutions have failed to deliver the promised economic "El Dorado" to the long-suffering people of the continent. It has, in fact, been documented that the policies promoted by these institutions have actually worsened the social conditions of many Africans (see, Ezeonu, 2003, 2000; Okolie, 2003; Ezeonu and Okolie, 2001).

The IMF and the World Bank (jointly referred to as the Bretton Woods institutions) came into being in 1944 as part of the multilateral agreements entered into at Bretton Woods, New Hampshire, to regulate international trade and economic relations, and to help rebuild post-World War II global economies. The IMF was established to regulate international exchange rates among currencies and to maintain international financial stability by offering loans to member states undergoing balance of payment crisis. The World Bank, on the other hand, was set up to help eradicate global poverty, by aiding the rebuilding of those industrialized economies ravaged by World War II and strengthening the economies of poorer countries. This mission is succinctly captured in its motto: "Our dream is a world without poverty" (Kawachi and Wamala, 2007: 11, quoting Stiglitz, 2002; see also, Evans and Newnham, 1992). The mission of the World Bank could be said to have been realized in respect of the first objective, i.e., the facilitation of the post-war reconstruction of industrialized economies. However, in respect of developing economies, its mission has achieved minimal results – a fact demonstrated by the lingering poverty in sub-Saharan Africa where it (alongside the IMF) has dominated economic policies for more than two decades.

The structural adjustment programme was the common policy used by the IMF and the World Bank to "reform" the economies of most African countries in the 1980s and the 1990s (Engberg-Pedersen et al, 1996). This policy was aimed at creating a friendly environment for private enterprises by reducing state involvement in economic activities. Structural adjustment was, therefore, a policy framework for trade, financial and market liberalization. Trade liberalization entails such policies as the promotion of international trade through the elimination of government subsidies to export goods, the removal of import controls and currency devaluation. Financial liberalization involves the removal of restrictions or regulations of foreign capital moving in and out of the country, as well as, the liberalization of the domestic financial markets (such as the removal of government controls on interest rates and the privatization of the banking sector). Market liberalization includes the liberalization of prices that affect labour and capital (such as wages and interest rates), the elimination of price controls through the abolition of institutions as state marketing boards, and the removal of government subsidies to indigenous farmers and manufacturers. Other policies promoted by structural adjustment programmes include the privatization of state-run enterprises, the reduction in the size of the civil service (usually through massive retrenchment of workers) and the introduction of user fees in key sectors, including education and healthcare (Ezeonu, 2003: 2000).

Similarly, following the Uruguay Round Agreements of the last GATT trade negotiations which require greater liberalization of international trade, sub-Saharan African countries have become unequal partners in a global economy driven by market forces and imposed by the world's biggest economies, especially the United States and the European Union. The institutional framework for enforcing the Uruguay Round agreements is the World Trade Organization (WTO). This institution has replaced GATT as a forum for multilateral trade negotiations. In its relatively short existence, the WTO, especially the philosophy behind its establishment, has become a subject of controversy, derision, praise and protests. Its secretive, unrepresentative, undemocratic and unfair methods of conducting its business and its double-standard approach to free trade have been sources of tensions among states and non-state actors. One of the most criticized policies initiated under the Uruguay Round of trade agreements is the TRIPS agreement. Though originally intended to encourage innovation, the TRIP agreement favours powerful multinational corporations (especially, pharmaceutical companies) at the expense of poor people in the developing world, whose access to life-saving drugs has become increasingly restricted (Kawachi and Wamala, 2007; Ezeonu and Okolie, 2003).

The conditions created by the neoliberal agenda to which African countries have been subjected over the years often have devastating effects on the vulnerable population of the region, especially the poor, women and children. For instance, one criticism commonly levied against structural adjustment programmes in the region is that they were insensitive to local circumstances and that in rolling back state expenditure in such an important sector as the health care, the few health care options available to the poor have become even more limited (see, Engberg-Pederson, 1996). This situation has been exacerbated by the requirements of the Uruguay Round's Trade-Related Investment Measures (TRIMS) which even advances the neoliberal agenda further, and the Trade-Related Intellectual Property Rights (TRIPS) agreements which limit the access of many Africans to drug curtails needed to manage health crisis, especially the HIV/AIDS. O'Manique (2004: 79) argues that the HIV/AIDS pandemic in sub-Saharan Africa, "graphically illustrates not only the fallacy of the market mechanism as the most efficient, beneficent arbiter of wealth and life chances, but also the hypocrisy of those who stand behind the ideology of free market". He observes that the extension of the neoliberal paradigm to the developing world, such as sub-Saharan Africa, has contributed to the "deeper problem of the commodification of basic human necessities" which he argues "has life-and-death implications" for vulnerable populations.

In fact, the implementation of neoliberal policies in sub-Saharan Africa has had some worrisome criminogenic (social harm) effects. Firstly, neoliberalism encourages massive retrenchment of workers from the public service and the pauperization of those who survive the retrenchment. Most of the retrenched workers have families and dependents to support. They, therefore, often desperately seek alternative employments to meet their financial obligations. Many of them, especially the men, sometimes migrate farther away from their families in search of work opportunities. While living away from their spouses, they sometimes patronize commercial sex workers, many of whom are HIV positive. On occasional visits to their families, their spouses potentially become exposed to the virus (see, O'Manique, 2004). Also, the spouses left behind may engage in extra-marital affairs themselves for material or emotional support, and where these sexual relationships are unsafe, they (and eventually their husbands) may also become exposed to HIV infection. Thus, studies have established a close association between labour migration and HIV infection (Becker, 1990; Hunter, 1989; Brummer, 2002). In this case, such labour migration may be motivated by loss of jobs, a condition made possible by the implementation of neoliberal policy.

Similarly some female workers retrenched from the public service, in desperation for survival, resort to commercial sex work. Hunter (2003) calls this type of sexual liaison "survival sex" (27), and suggests that "sex is a major part of the economy for poor women" (28). She argues that some poor women "form steady, sometimes clandestine, relationships with relatively wealthy men in the hope that it will bring them some material benefits" such as their children's school fees. Sometimes "sex is the only currency these poor women have" to confront their destitute situation (Hunter, 2003: 28 quoting Epstein, 2002: 43; see also, O'Manique, 2004). In the light of their squalid economic conditions, many of the women who engage in survival sex often find themselves in positions of disadvantage in negotiating protective sex with their clients or financial patrons. This has enormous implications for HIV transmission considering the vast population of men served by these women, and the fact that some of the men concerned are married. Krieger (2007: 658) emphasizes the effect of poverty on public health, warning that "epidemiologists cannot afford to ignore poverty" in trying to understand the etiology and distribution of diseases.

Perhaps no single issue has attracted more controversy in the discourse of neoliberalism in sub-Saharan Africa than the debates over access to health care. Firstly, neoliberal policies, such as the structural adjustment programmes, require states to download the cost of medical care to individual citizens, so as to free up government funds for debt servicing. The implementation of these policies results in budget cuts to the health sector, and the introduction of user-fees for medical services. With high level of poverty and redundancies in the public sector, citizens often find it difficult to access health care. Individuals with life-threatening diseases become the victims of this experimental economics of health commodification. With respect to the HIV pandemic, access to drugs becomes particularly problematic since "drug therapies costing $10,000 to $20,000 per year are essentially irrelevant in countries where the total per capita spending on health care is perhaps $2 or $3" (Brigham, 1997: 48-49). For instance, it is documented that in Tanzania where more than a million children have been orphaned as a result of AIDS, the government expenditure on health care stands merely at around US$3.20 per person per annum. Meanwhile, under increasing pressure from the International Monetary Fund (IMF), this same government "spends in excess of three times more on debt servicing than it does on health care" (World Development Movement, 2006). Also, as part of the adjustment conditionality in such countries as Zimbabwe, Tanzania, Uganda, and Ghana user fees were introduced in the health sectors, thereby pushing a great percentage of medical expenditures to individuals, irrespective of their employment or income statuses. One obvious outcome of this policy, for instance in Zimbabwe, was the tendency for the poor not to access treatment (Engberg-Pedersen et al, 1996).

Adjustment conditionality also encourages mass retrenchment and salary freeze in the public health sector, thereby exacerbating the public health crisis in many parts of Africa. Health professionals, who are retrenched or have poor salaries and uncertain future, often migrate in great numbers to the more economically viable countries of the West in search of greener pastures. Hogstedt et al (2007) observe that health care professionals represent an essential part of economic migrants in many Western countries, especially as the aging population in these countries creates the need for increasing health care and services. This need has led to massive recruitments of health care professionals from developing countries, including Africa. Statistics show that foreign-trained nurses constitute 23% of the entire nursing workforce in New Zealand in 2002; 6% in Canada in 2001; 8% in Ireland in 2002; and 4% in the United States in 2000. Between 1998 and 2003, the population of newly registered foreign-trained nurses grew rapidly in the United States. Many of these nurses came from sub-Saharan Africa, where conditions created by the neoliberal experiment, among other factors, have made economic migration irresistible. In 1998/1999, the population of newly registered foreign-trained nurses in the United Kingdom were 179 (from Nigeria), 52 (Zimbabwe), 40 (Ghana), 19 (Kenya), 15 (Zambia), 6 (Mauritius) and 4 (Botswana). However, by 2002/2003, the numbers have risen to 509 (Nigeria), 485 (Zimbabwe), 251 (Ghana), 152 (Kenya), 133 (Zambia), 59 (Mauritius), 57 (Malawi) and 39 (Botswana) (see, Batata, 2005: 1, 5; Aiken et al, 2004). Perhaps, there are more African-trained nurses and midwives working in the United States and Western Europe today than those working in the continent and many of those still "trapped" in sub-Saharan Africa are determined to join the economic exodus to the West.

All the countries mentioned above have experimented with structural adjustment programmes, and are today unequal partners in a global market economy supervised by powerful Western countries through their institutional surrogate, the World Trade Organization. A keen observer of the African political scene may argue that the migration of African nurses and other public health professionals to the West can be accounted for by political instability in most African countries, such as Zimbabwe (under Robert Mugabe) and Nigeria (where public service was made unattractive by decades of military dictatorships, and where crime rate has gone up astronomically). However, such an argument cannot hold of Mauritius, Zambia, Ghana and Botswana, where national politics has been relatively stable.

Similarly, sub-Saharan Africa experiences rapid depletion of physicians, many of whom immigrate to Western countries in search of better working conditions. Studies show that many English-speaking OECD countries[3] have benefited from the migration of foreign-trained physicians. For instance, the Southern African Migration Project (2006) reports that the number of sub-Saharan African-trained physicians (especially from South Africa and Nigeria) practising in Canada has increased between 1993 and 2003. According to this report, within this period, South African-trained physicians working in Canada have increased by more than 60%, while the number from Nigeria has more than tripled. Again, one may argue that other factors, such as the post-apartheid politics or high crime rate in South Africa or political instability, high crime rate or corruption in Nigeria, explain this migration. However, one common reason given in this report is economic survival, since these physicians "do not earn enough in their countries" of origin (see, p.21). In fact, Chikanda (2006) traces the migration of African public health professionals to low salaries and poor working conditions resulting from the disastrous implementation of Structural Adjustment Programmes (SAPs) in many of these countries. Nevertheless, not all health professionals from Africa are lucky to find jobs in their chosen professions. African physicians who work as taxi drivers and private security guards are becoming common sights in Western countries. This shows a pragmatism to survive at the lowest edges of Western economies rather than work as poorly-remunerated physicians in their countries of origin.

The increasing migration of African health professionals has worsened the already severe shortage of health workers in the continent. Apart from the economic loss of training these professionals, these migrations also affect health promotion, disease prevention and diagnoses, as well as, treatment and rehabilitation of sick people (Kirigia, et al, 2006). In a continent suffering a number of health epidemics and devastated by the HIV/AIDS pandemic, the depletion in the population of health workers contributes to high mortality rates. The World Health Organization's 2006 annual report documents that of the 57 countries that have the most critical shortage of health service providers, 36 are in sub-Saharan Africa (World Health Organization, 2006: 12-13). In this market dynamic, the ultimate loser is the average poor African whose options in respect of health care are increasingly limited.

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[3] OECD is the short form for the Organization of Economic Co-operation and Development. It is made up of 30 mostly wealthy countries operating market economies. The current membership includes Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak republic, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States.

Chikanda (2006) observes that the depletion of African health professionals through economic migration has worsened the management of HIV/AIDS pandemic in the continent, especially in the light of the increased workload of health personnel who remain behind. He argues that the increasing migration of these professionals to the West has also largely affected the overall quality of health care available to African people, especially those who rely on public health services. This falling standard of health care is "largely attributed to low morale resulting from… excessive workload associated with the stress of dealing with so many dying patients" (Chikanda, 2006: 675). In fact, the deregulation of the health sector in many poor African states, no doubt, contributes to the high mortality rates in the continent.

Another area of concern regarding the harmful consequences of neoliberalism in Africa is in respect of Trade-Related Intellectual Property Rights (TRIPS) agreed upon at the Uruguay Round of the General Agreements on Tariffs and Trade (GATT). Intellectual property rights are exclusive rights granted to inventors or innovators to prevent others from appropriating their inventions, designs, innovations, or creations without permission and/or compensation (see, World Trade Organization, 1998). At the GATT Uruguay Round of trade negotiations, intellectual properties (i.e., all creations of the mind that have monetary values) became internationally recognised as private commodities, which deserve the same level of protection accorded private property, and member states were enjoined to formulate or amend their domestic laws in accordance with this objective.

However, the implementation of the intellectual property rights in poor African countries has shown clearly the oft-harmful nature of free market economics. Confronted with an escalating increase in HIV infection and the high cost of drugs needed to manage this disease, South Africa produced generic versions of these drugs to provide cheaper access to medication to its teeming population of HIV patients. One of these drugs is Azidothymidine (AZT), an antiretroviral drug which helps to prevent the transmission of HIV from a mother to her unborn child. However, this action was challenged by US-based pharmaceutical companies which accused South Africa of patent rights violations. These companies were supported by the United States government which claimed that the country was losing more than $2.5 million per annum in royalties not paid to its pharmaceutical companies (O'Manique, 2004: 84). It threatened economic sanctions against South Africa for using these "home-made generic versions" of the drugs to reduce the cost of treatment from $10,000 to $300 per individual, per year. A number of U.S.-based pharmaceutical companies actually went to court to block the South African government from making these cheaper versions of the drugs available to its population. The legal challenge attracted public indignation, and facing massive opposition from the international civil society, the pharmaceutical companies dropped the lawsuits.

In all of these litigations, the interest of the United States government and pharmaceutical companies was profit maximization, as dictated by free market economics. It did not matter that this objective would be achieved at the expense of millions of lives and monumental misery in South Africa and other countries which benefit from the cheaper versions of the medications. It was even more disheartening considering the fact that poor people, especially in sub-Saharan Africa, were often used as guinea pigs in testing the potency of most of these drugs. For example, 160 South Africans were among the 3,500 AIDS patients on whom Hoffman La Roche tested its HIV drug, Seuinivir (Johnston and Nicoll, 1997).

The United States government and pharmaceutical companies based their opposition to South Africa's production of generic versions of HIV drugs on the argument that South Africa violated the TRIPS agreements negotiated under the Uruguay Round. However, the TRIPS agreements were largely imposed by powerful industrialised countries (the US, the EU, Japan and Canada) on the rest of the world to promote and protect their economic interests. Equally, multinational corporations such as the U.S.-based firms, Pfizer and IBM, played crucial roles in bringing up and influencing the issue of intellectual property rights at the Uruguay Round of trade negotiations (O'Manique, 2004). These agreements are, therefore, akin to unjust laws imposed by one powerful social group over another, and as Zinn (1997) would argue, there is no moral justification to obey them.

Moreover, the United Nations Commission on Human Rights (2004) has declared access to essential medicine as a fundamental human right, and enjoins member states "to do all it reasonably can to make an essential medicine available in its jurisdiction". The right to health specified by this Commission requires that "health facilities, goods and services shall be *available*, *accessible* and of *good quality*" and that "whether publicly or privately provided, the essential medicine must be affordable to all, not just the well-off". It also enjoins states to take every necessary measure to prevent third parties from interfering with this fundamental right (UNCHR, 2004: 10-11). These important human rights provisions no doubt overshadow the logic of patent rights protection in the health sector, especially in an economically-challenged region like sub-Saharan Africa.

Although the TRIPS agreements made some provisions which authorize member states to "adopt measures necessary to protect public health" (World Trade Organization, 2006, see Article 8[1]), these provisions, until the WTO's Fourth Ministerial Conference held in Doha, Qatar in November 2001, have been subject to ambiguous and controversial interpretations. The Doha Declaration has given greater impetus to addressing the public health concerns associated with the TRIPS agreement in the developing world; however, much work is required in balancing the desire for private profit (which advocates of the TRIPS agreements argue is necessary for greater innovation) and the protection of public good as it affects the health and life chances of the most vulnerable populations in many parts of the world.

In any case, it suffices to say that the duty of a state to protect its population from preventable harm justifies the need for the state to intervene in the globalization process. The use of cheaper generic drugs for HIV treatment in poor countries comes to mind in this regard. In denying the social obligations of the state in respect of public health, neoliberalism creates the enabling environment for millions of avoidable deaths in sub-Saharan Africa and the other poor areas of the world. It is estimated that of about 28 million people who have died of AIDS by the end of 2002, 26 million came from sub-Saharan Africa and that 18 million more people will die of the disease by 2010 (Hunter, 2003: 21 and 45). Similarly, an epidemic update released by the Joint United Nations Programme on HIV/AIDS (UNAIDS) in December 2002 indicates that of the 42 million people currently living with HIV around the world, 29.4 million are from this part of the world (O'Manique, 2004: 1). Comparing the HIV/AIDS mortality rates with those of some deadly conflicts of the 20th Century (such as the two world wars, the Vietnam and Korean wars, the U.S. Civil War, the Bolshevik Revolution, among others), Hunter (2003) concludes that if the rate of HIV infection continues unabated, the mortality rate will take as many lives as those of the above conflicts put together. Yet in a continent where such a horrendous disaster is taking place, international financial institutions have been pressuring governments to refrain from intervening for the social good of their citizens and Western-based drug companies have been fighting governments' attempts to provide cheaper drugs to the victims, in the name of respecting international patent laws.

Studies have consistently established that the ecology of extreme poverty, often created, sustained and perpetuated by market-friendly policies, lies at the root of the HIV pandemic in sub-Saharan Africa (see, Stillwaggon, 2006; Hunter, 2003; Sachs, 2005). In the words of Susan George, the politics of neoliberalism has become about "who has the right to live or does not?" (quoted in Giroux, 2004: xxii). If corporate abuses which are purely of economic nature could attract the scholarly attention of criminologists, there is no reason why the activities of the international financial institutions, which are often responsible for even greater social harm, should not come under interrogation by criminologists. The implications of neoliberalism should go beyond the concerns of economists and development experts; after all, like colonialism, which emerged in pursuit of cross-border capital and profit, neoliberal policies ravage the vulnerable population across the world.

Although the numerous genocides and atrocities committed under colonialism have often been treated as historical rather than criminological events (see, Agozino, 2003; Elkins, 2005; Rodney, 1972; Fanon, 1963), it will be dangerous for contemporary criminology to repeat this mistake in respect of the insurgent force of the global market in the developing world. The acerbic Occidentalism of traditional criminology which romanticizes law and legalism clogs the discipline's potential for growth. To expand the intellectual circumference of criminology, the discipline should take seriously the issue of social harms, like the ones generated by the neoliberal experiment in sub-Saharan Africa.

As Friedrichs and Friedrichs (2002: 16) put it, "a criminology of the 21st century must address immensely consequential forms of crime being committed in an evolving new global order". These forms of crime go beyond the proscriptions of the criminal law and are often even committed in accordance with the spirit and letters of the law. But they have lethal consequences for the vulnerable population, especially the poor. Pfohl (2003: xi), therefore, warns against "criminology's blindness to… the victimization" caused by the "global system of power".

Conclusion

For years, the criminological imagination has been predominantly driven by Occidental epistemology and has been anchored on the belief in the supremacy (and sometimes the presumed infallibility) of the law. To the traditional criminologists, the ubiquity of the criminal law protects our society from regress to the brutish state of nature. Their focus on the "law and the lawlessness of individual offenders" (Pfohl, 2003: xiv) has historically been presented as the sacred scroll of criminological inquiry. However, counter-hegemonic narratives, which often find shelter under the broader canopy of critical criminology, are increasingly challenging the essentialist conclusions of traditional criminology, especially with respect to the definition of crime. Many of these schools of critical criminology rather see the legal definition of crime as inadequate and limiting. The criminologists of globalization, in putting social harm at the epicentre of criminological inquiry, participate in this challenge to the hegemony of the law in the criminalization process.

This paper reviews the operation of neoliberal economics in sub-Saharan Africa and shows how poverty, the migration of health professionals, and the epidemiology and management of diseases (especially the HIV/AIDS pandemic), among other factors, are strongly associated with untrammelled capitalism in the region. It concludes that the ecology of poverty created by neoliberalism in sub-Saharan Africa produces enormous social harm which criminologists are encouraged to embrace as criminal. This is in line with a certain level of acceptance that the legal definition of crime does not adequately address the vital problem of social harm, which affects a wider population than the traditional street crime.

REFERENCES

Agozino, B. (2003). *Counter-Colonial Criminology: A Critique of Imperialist Reason*. London: Pluto Press.

Aiken, L. H. et al (2004). "Trends in International Nurse Migration". *Health Affairs*. 23: 69-77.

Barak, G. (ed.) (1991). *Crimes by the Capitalist State*. Albany: State University of New York Press.

Batata, A. (2005). "International Nurse Recruitment and NHS Vacancies: A Cross-Sectional Analysis". *Globalization and Health*. 1 (7): 1-10.

Becker, C. M. (1990). "The Demo-Economic Impact of the AIDS Pandemic in Sub-Saharan Africa". *World Development*. 18(12): 1599-1619.

Brigham, T. (1997). "Most people with AIDS can't even get an aspirin". *Africa Today* (January/February): 48-49.

Brummer, D. (2002). *Labour Migration and HIV/AIDS in Southern Africa*. IOM: International Organization for Migration Regional Office for Southern Africa.

Chikanda, A. (2006). "Skilled Health Professionals' Migration and Its Impact on Health Care Delivery in Zimbabwe". *Journal of Ethnic and Migration Studies*. 32(4): 667-680.

Elkins, C. (2005). *Imperial Reckoning: The Untold Story of Britain's Gulag in Kenya*. 1st ed. New York: H. Holt.

Engberg-Pedersen, P. (eds.) (1996). *Limits of Adjustment in Africa: The Effects of Economic Liberalization, 1986-1994*. Copenhagen: Centre for Development Research.

Epstein, H. (2002). "The Hidden Cause of AIDS". *The New York Review*. (May 9): 43-49.

Evans, G. and J. Newnham (1992). *The Dictionary of World Politics: A Reference Guide to Concepts, Ideas and Institutions*. (Revised Edition). New York: Harvester Wheatsheaf.

Ezeonu, I. (2007). "State Crime Control" in Gregg Barak (ed.). *Battleground: Criminal Justice. Vol. 2*. Westport, CN: Greenwood Press.

Ezeonu, I. C. (2003). "Structural Adjustment and Stabilization in sub-Saharan Africa" in Malinda S. Smith (ed.). *Globalizing Africa*. Trenton, NJ: Africa World Press, Inc.

Ezeonu, I. C. (2000). "Ghana and Uganda: A Reappraisal of the 'success story' of market-led Development Strategy". *Africa Quarterly*. 40(4): 77-118.

Ezeonu, I. C. and A. C. Okolie (2001). "The GATT Uruguay Round Agreements and their implications for sub-Saharan Africa". *Africa Quarterly*. 41(3): 33-75.

Fanon, F. (1963). *The Wretched of the Earth*. New York: Grove Press.

Farmer, P. (2004). "An Anthropology of Violence". *Current Anthropology*. 45 (2): 305-325.

Farmer, P. E. et al (2006). "Structural Violence and Clinical Medicine". *Policy Forum*. 3 (10): 1686-1691.

Friedrichs, D. O. (1998). *State Crime: Volumes I and II*. Aldershot, U.K.: Ashgate/Dartmouth.

Friedrichs, D. O. (2007). *Trusted Criminals: White Collar Crime in ContemporarySociety. Third Ed*. Belmont, CA: Thomson Higher Education.

Friedrichs, D. O. and J. Friedrichs (2002). "The World Bank and Crimes of Globalization: A Case Study". *Social Justice*. 29: (1-2): 13-36.

Galtung, J. (1969). "Violence, Peace, and Peace Research". *Journal of Peace Research*. 6: 167-91.

Giddens, A. (1990). *The Consequences of Modernity*. Cambridge: Polity Press.

Giroux, H. A. (2004). *The Terror of Neoliberalism*. Boulder: Paradigm Publishers.

Harvey, D. (1989). *The Condition of Postmodernity*. Oxford: Basil Blackwell.

Hillyard, P. and S. Tombs (2004). "Beyond criminology?" in Paddy Hillyard et al (eds.). *Beyond Criminology: Taking Harm Seriously*. London: Pluto Press.

Hogstedt, C. et al (2007). "The Consequences of Economic Globalization on Working Conditions, Labor Relations, and Workers' Health" in Ichiro Kawachi and Sarah Wamala (eds.). *Globalization and Health*. Oxford: Oxford University Press.

Hunter, C. W. (1989). "Migrant labor and sexually transmitted disease: AIDS in Africa". *Journal of Health and Social Behavior*. 30: 353-373.

Hunter, S. S. (2003). *Black Death: AIDS in Africa*. New York: Palgrave Macmillian.

Johnston, L. and R. Nicoll (1997). "AIDS Drugs Cut to 'Guniea Pigs'". *Review of African Political Economy*. 73(24):388-389.

Kauzlarich, D. and D. O. Friedrichs (2003). "Crimes of the State" in M. D. Schwartz and Suzanne E. Hatty (eds.). *Controversies in Critical Criminology*. Cincinnati, OH: Anderson Publishing Co.

Kawachi, I. and S. Wamala (2007). "Globalization and Health: Challenges and Prospects" in Ichiro Kawachi and Sarah Wamala (eds.). *Globalization and Health*. Oxford: Oxford University Press.

Kirigia, J. M. et al (2006). "The Cost of Health Professionals' Brain Drain in Kenya". *BMC Health Services Research*. 6(89): 1-10.

Krieger, N. (2007). "Why Epidemiologists Cannot Afford to Ignore Poverty". *Epidemiology*. 18(6): 658-663.

Lynch, M. J. and W. B. Groves (1989). *A Primer in Radical Criminology. 2nd ed*. New York: Harrow and Heston Publishers.

Marshall, D. D. (1996). "National Development and the Globalization Discourse: Confronting 'Imperative' and 'Convergence' Notions". *Third World Quarterly*. 17 (5): 888-889.

Okolie, A. C. (2003). "Development Hegemony and the Development Crisis in Africa: The Importance of Indigenous Knowledges and Practices in the Making of Food Policy". *Journal of African American History*. 88(4): 429-448.

O'Manique, C. (2004). *Neoliberalism and AIDS Crisis in sub-Saharan Africa: Globalization's Pandemic*. New York, NY: Palgrave Macmillan.

Peet, R. (2003). *Unholy Trinity: The IMF, World Bank and WTO*. London and New York: Zed Books.

Pfohl, S. (2003). "Foreword". Biko Agozino. *Counter-Colonialism Criminology: A Critique of Imperialist Reason*. London: Pluto Press.

Quinney, R. (1978). "The Ideology of Law: Notes for a Radical Alternative to Legal Oppression" in Charles E. Reasons and Robert M. Rich (eds.). *The Sociology of Law: A Conflict Perspective*. Toronto: Butterworths and Co. (Canada) Ltd.

Reiman, J. (1996). *…And the Poor Get Prison: Economic Bias in American Criminal Justice*. Boston: Allyn and Bacon.

Rodney, W. (1972). *How Europe Underdeveloped Africa*. London: Bogle-L'Ouverture.

Rothe, D. et al (2006). "Crime on the High Seas: Crimes of Globalization and the Sinking of the Senegalese Ferry Le Joola". *Critical Criminology*. 14: 159-180.

Todaro, M. P. (1997). *Economic Development*. 6th ed. London: Addison Wesley Longman Ltd.

Tombs, S. and P. Hillyard (2004). "Towards a Political Economy of Harm: States, Corporations and the Production of Inequality" in P. Hillyard et al (eds.). *Beyond Criminology: Taking Harm Seriously*. London: Pluto Press.

Sachs, J. (2005). *The End of Poverty: Economic Possibilities for Our Time*. New York: Penguin Press.

Schwartz, M. D. and S. E. Hatty (2003). *Controversies in Critical Criminology*. Cincinnati, OH: Anderson Publishing Co.

Smith, A. (ed.) (1937). *The Wealth of Nations*. New York: The Modern Library.

Smith, M. (ed.) (2003). *Globalizing Africa*. Trenton, NJ: Africa World Press, Inc.

Southern African Migration Project (2006). *The Brain Drain of Health Professionals from Sub-Saharan Africa to Canada*. Cape Town: Idasa.

Stiglitz, J. E. (2002). Globalization and Its Discontents. New York: W. W. Norton and Co.

Stillwaggon, E. (2006). *AIDS and the Ecology of Poverty*. Oxford: Oxford University Press.

Sutherland, E. H. (1961). *White Collar Crime*. New York: Holt, Rinehart and Winston.

Sutherland, E. H. (1940). "White-Collar Criminality". *American Sociological Review.* 5(1): 1-12.

United Nations Commission on Human Rights (2004). *Economic, Social and Cultural Rights: The right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Report of the Special Rapporteur, Paul Hunt)*. Geneva: United Nations Commission on Human Rights.

World Development Movement (2006). "Briefing on Debt and AIDS: Deadly conditions? Examining the relationship between debt relief policies and HIV/AIDS". http://www.wdm.org.uk/campaigns/cambriefs/debt/ (*Sourced*: October 15, 2007).

World Health Organization (2006). *Working Together for Health*. Geneva: The World Health Organization.

World Trade Organization (2006). *Uruguay Round Agreement: Trade-Related Aspect of Intellectual Property Rights*. (http://www.wto.org/english/docs_e/legal_e/27-trips_01_e.htm. (*Sourced*: November 15, 2007).

World Trade Organization (1998). *Trading into the Future. 2nd ed.* Geneva: World Trade Organization.

Wright, W. and S. L. Muzzatti (2007). "Not in my port: The "death ship" of sheep and crimes of agri-food globalization". *Agriculture and Human Values*. 24:133-145.

Zinn, H. (1997). "Law and Justice". *The Zinn Reader: Writings on Disobedience and Democracy*. New York: Seven Stories Press.