

Resistance and Movement in Neoliberal Society: A Literature Review on the Criminalisation of Dissent

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This paper contributes to understanding resistance and movement in neoliberal society through a literature review on the criminalisation of dissent within social movement studies, political science and criminology. Dissent encompasses many forms of resistance and movement, which when criminalised limits opportunities for political and cultural change within society. The review highlights a diverse body of research that examines and problematises the criminalisation of dissent in a range of global contexts. It aims to bring disparate literature together in a comprehensive way to highlight prominent themes and possibilities for future research. The review was conducted as a part of a qualitative UK research project and theoretically framed by Gramscian critical theory and interdisciplinarity. The review covers themes of policing protest, state repression, protest control, politics and socio-legal change, crime, social control and security. Overall, the criminalisation of dissent is a vibrant and important area of inquiry and whilst well-researched, there are opportunities for future work to interrogate the ongoing processes both formal and informal that criminalise legitimate forms of resistance and movement.ⁱ

Keywords: criminalisation; dissent; protest; social movement; social control

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Introduction

Contemporary forms of resistance and movement are abundant across the globe, including Occupy, BlackLivesMatter, School Strikes for Climate and Extinction Rebellion. These, alongside historical examples, such as suffrage movements and abolitionism, highlight the centrality of dissent as a feature of social change and political struggle. Dissent is a political relation with multiple manifestations. Whilst often conflated with protest, dissent is more diverse, involving a range of actions, thus, requiring a richer and more inclusive definition (Watts 2019). Dissent is ‘not merely an act of resistance against a prevailing set of ideas, though that meaning remains, but is a process through which changes in the dominant cultural forms are achieved’ (Pifer 2020, n.p). The criminalisation of dissent, involving formal and informal mechanisms, threatens citizens’ rights to engage in collective and individual forms of resistance and social movements. It narrows scope for critical dialogue and social and cultural change, which is understandably of concern to academics and activists alike. This review of literature on the criminalisation of dissent brings together research across social movement studies, political science and criminology in key areas of: protest policing, state repression, politics, socio-legal change, crime, social control and security.

The review was a major component of a critical, interdisciplinary qualitative research project, conducted for a UK degree in social sciences and arts and humanities. Interdisciplinarityⁱⁱ is necessary for addressing complex topics that transcend disciplinary boundaries, and the criminalisation of dissent requires combining sociological, criminological and political knowledge. Whilst attuned to theoretical pluralismⁱⁱⁱ, the review was framed by a critical Gramscian epistemology and ontology (Jubas 2010), which emphasises that there is no ‘objective’ truth waiting to be discovered, and knowledge is political and socially constructed in specific historical and cultural contexts (Lincoln and Cannella 2004). Critical^{iv} researchers argue that in ‘an inequitable social order, the unthinking reproduction of normative standards is more problematic than those approaches that begin their analysis from a critical stance’ (Price and Sabido 2015, p.2). As such, adopting a critical stance I aimed to create a body of literature that problematises the criminalisation of dissent, contributes to understanding resistance and movement in

ⁱⁱ Interdisciplinary denotes synthesising knowledge across disciplines in an integrative way.

ⁱⁱⁱ Theoretical pluralism suggests there no one method or theory that is superior for addressing interdisciplinary topics.

^{iv} Critical is a broad term encompassing Marxism, anarchism, feminism and (post)structuralism (Wigger 2016).

contemporary neoliberal society^v, and promotes positive social change. Given the scope of the review as described and space limitations, historical literature was excluded; whilst international examples are included, in-depth comparison across world contexts, geographical scales and rural and urban settings was not possible. The review involved keyword searching of databases, using ‘the criminalisation of dissent’, then combination searches using ‘criminalisation/criminalization’, ‘dissent’, ‘protest’, ‘social control’. This was accompanied by targeted thematic reading around social movements and criminalisation, including backwards and forwards snowballing for further readings and capturing relevant texts not referring to the keywords. Interestingly, when updating the review in 2020, the full phrase ‘the criminalisation of dissent’ appeared more frequently than in 2015, when the review was first completed, suggesting a growing interest in researching this topic.

Policing Protest and State Repression

In social movement studies^{vi}, the criminalisation of dissent relates to studies of the ‘policing of protest’, a central aspect of state responses to social movements. Research shows that in western democracies, police strategies of control from the late 1960s through to the 1980s shifted from ‘escalated force’, which involves harsh repression of even minor forms of transgression, towards ‘negotiated management’, which reduces the use of force in favour of dialogue and tolerance of the right to dissent (Della Porta and Diani 2006). This shift was argued to reflect the growing denunciation by the public of coercive policing of protest (Della Porta and Reiter 1998), and the notion that police strategy increasingly aims to accommodate crowd objectives^{vii} (Waddington and King 2005). In the 1990s, the selective nature of protest policing, with diverse policing styles implemented in different situations towards different actors, emerged (Della Porta and Reiter 1998). The more institutionalised the dissent, the more facilitative the policing, and thus, the less institutionalised, the more subject to coercive policing (Waddington 1998). Additionally, police tactics differ for dealing with transgressive protestors compared with co-operative protestors, leading Noakes and Gillham (2006) to conceptualise the ‘strategic incapacitation’ of protestors.

A shift away from repressiveness is challenged by the idea of an authoritarian turn in the policing of protest, representative of unequal power relations between increasingly criminalised protestors and police, who act with relative legal impunity (Gilmore 2010). As

^v For full explanation of neoliberalism see Hall (2011) or Cox and Nilsen (2014) in relation to social movements.

^{vi} A sociological sub-discipline that emerged in the 1970s central to the study of protest today (Edwards 2014).

^{vii} Although not always during major police operations or transnational policing of protest (see Della Porta et al 2006).

King (2013) illustrates, far from being an alternative to repressive strategies, negotiated management styles of policing are actually used to prevent protest through criminalisation of legal activity and physical repression. Moreover, attempts at facilitation are not effective in practice, and policing often reverts to attempts to contain protest (Gorringe et al. 2011). For example, ‘Kettling’^{viii} is a controversial police tactic and use of excessive force that provokes, rather than prevents, violent protest within the larger trend towards the use of oppressive tactics (Craig 2011). Research points to new hybrid forms of intelligent control and strategic incapacitation in protest policing (De Lint 2005; Gillham 2011; Gorringe et al. 2012; Monaghan and Walby 2012a), which suppress dissent and are used to control space (Noakes et al. 2005; Starr et al 2011). The relationship between space and protest^{ix} emerges in McNamara and Quilter’s (2019) research in Australia, where governments are employing ‘move-on’ police powers as a way to control how public space should and should not be used, curtailing opportunities for public protest.

Another area of interest is the increasing ‘militarisation’ of protest policing, occurring within the ‘broader logics and practices that are tied to a globalising and neoliberalising field of policing’ (Wood 2014, p.164). Paramilitary police units construct politically active segments of the public as enemy combatants to be destroyed, rather than as practitioners of democracy to be protected, thus shattering the illusion of police political neutrality (Wozniak 2005). The police are not neutral arbitrators of law and order, but serve above all to preserve the existing social order and protect the interests of ruling elites, especially through paramilitary policing (ibid). Thus, policing both politicises social movements by deploying military forces against the people who become the enemy within, and de-politicises them through constructing activity as criminal (El-Enany 2015). Recently, Pickard (2018, 2019b) has highlighted the militarisation of policing and use of excessive force in Britain, marking a significant shift away from policing by consent, towards policing by coercion^x. Responding to the ‘increase’ in militarised policing, Shantz (2016) uses a historical lens in Canada to argue that policing has always been military^{xi}. Furthermore, although seemingly contradictory, ‘negotiation’ and ‘militarisation’ in policing are complementary, represented through the dichotomy of ‘good protester/bad protester’ which reflects wider discourses of ‘responsibilisation, security, citizenship and rights’ (Dafnos 2014, p.515). Research of policing the G8 protests shows police operating

^{viii} Kettling involves police formations to corral large crowds into limited areas, preventing them from moving. Police choose when to release or mass arrest protestors, who can be held for hours in uncomfortable and dangerous conditions.

^{ix} See also D’arcus (2004); Lubin (2012); Sbicca and Perdue (2014); Wahlström (2010); Zajko and Beland (2008)

^x Likewise, Atak (2017) problematises coercive protest policing in Turkey.

^{xi} Neocleous (2014) theorises more broadly police-military power.

with specific assumptions and perceptions of protest groups and protestors, especially tied to ideas of (il)legitimacy, and this influenced subsequent interactions (Rosie and Gorringer 2008). Events which are less connected to ‘established’ social movements and involve violence and disruption are likely to be viewed as deviant and labelled as riots, leading to the criminalisation of dissenters and the spread of ‘law and order’ orientations among the public (Diani 2012). More generally, where protest challenges the status quo and disrupts social order, it will be dealt with violently by the police (Jackson et al. 2015). Dafnos (2014) suggests expanding conceptualisations of policing to transcend the narrower ‘public order policing’ in favour of viewing protest policing on a continuum with policing in essence about establishing public order as a form of social regulation. Similarly, Fernandez and Scholl (2014) suggest a continuum encompassing protest policing and insurgency control, whilst noting a trend towards the use of the counter-insurgency.

The criminalisation of dissent also brings to the fore studies of state repression (Davenport 2007), which is determined by the severity of the threat a social movement presents to the state (Davenport 2000). State repression research^{xii} questions how and why political authorities use coercive power domestically to respond to potential and existing challengers and challenges (Davenport 1995, 2007). Carey’s (2006, 2009) work explores the relationship between protest and repression across democratic, semi-democratic and non-democratic political regimes. Whilst dissent always increases repression, state coercive behaviour has a range of different influences on dissent from radicalization to demobilization (Davenport and Loyle 2012). More recently, Peterson and Wahlström (2015, p.18) advocate conceptualising repression as governing domestic dissent and propose a multi-dimensional model for mapping ‘configurations of repression’ across ‘the scope of different scales or levels of repression, the multiplicity of the institutions of repression [and] the repressive strategies that confront a social movement’. Repressive strategies might include ‘softer’ forms of repression as indicated by ‘relational repression’ which captures the psychological, not just physical, coercion methods used by states (O’Brien and Deng 2017). Relations among protesters, elites, authorities and the general populace play a role in shaping the risks and results of protest and state responses; and protest related violence often meets with harsh state violence (Goldstone 2012). Theorising violence, Gonzalez-Sanchez (2019) suggests considering physical and ‘symbolic violence’ as embedded within processes of penalization that transcend the narrow focus on repression. Advancing our understanding of the criminalisation of dissent, he emphasises the ‘communicative’ function of penalization and the ‘conceptual’ role of policing (ibid). Informed by

^{xii} See Davenport and Armstrong (2004); Davenport and Nordas (2013); DeMerrit and Young (2013); Shor et al. (2014).

Wacquant^{xiii}, this suggests how ‘penalization neutralizes populations that pose a potential threat to the established order of things’ through both material and symbolic means tied to the development of a neoliberal penalty (Gonzalez-Sanchez and Maroto-Calatayud 2018, p.456). Similarly, the productive nature of policing refers to the creation of orderly, disciplined subjects within a wider project of pacification (Jackson et al. 2015).

Repression also involves private and non-state actors (see Earl 2011), which requires a broader typology of repression as ‘protest control’, or the ‘social control of protest’ (Earl 2006) encompassing: the identity of the repressive agent, the character of the repressive action and whether the repressive action is observable (Earl 2003). For Seferiades and Johnston (2012), forces of social control include police, military and semi-official private militias, all acting to protect the power of political elites. Boykoff’s (2006) typology of actions suppressing dissent posits a triadic relationship between social movements, the state and the mass media, covering various types of dissident activities and modes of suppression. This includes a focus on subtle mechanisms of repression, such as resource depletion, stigmatisation, divisive disruption and intimidation, that are often overlooked by focusing only on police and protest (Boykoff 2007). Research also shows the social control of protest concerns actions before and after protest, not just during, such as the use of pre-emptive legal controls (Fernandez 2008). For example, police violence is often proactive, seeking to raise the cost of participation in disruptive protest *before* any occurs (Seferiades 2005). Other methods of pre-emptive control include increasing levels of surveillance^{xiv} of social movements by public and private actors (Monaghan and Walby 2011; Starr et al. 2008), and what occurs after protest, referring to (often excessive) legal and criminal proceedings that follow acts of political dissent (Barkan 2006).

Politics and Socio-Legal Change

Research on the criminalisation of dissent concerns politics, civil society and the law with studies exploring legislative developments that threaten civil liberties for all and specific dissenting groups. For example, the criminalisation of youth activism is evident in Grasso and Bessant’s (2018) edited volume covering student protest in Canada (Chicoine 2018) and the UK (Pickard 2018; Watts 2018), and young women’s (Sen 2018) and young Muslims protest (Badurdeen 2018; Coppock et al. 2018; Mustafa 2018). The criminalisation of student protest is also documented in South Africa (Naidoo 2015) alongside analysis of the politics of dissent over time (Brown 2015; Paret 2015). In the UK,

^{xiii} Influenced by Bourdieu, Wacquant (2009) discusses the punitive turn in managing poverty that integrates welfare and criminal justice.

^{xiv} Whilst most research has focused on the negative impact of surveillance, Bradshaw (2013) studies counter-surveillance strategies used by protest groups to highlight excessive police force and challenge authority.

contextualising youth activism in relation to political participation and party politics, Pickard (2019a, p.446) argues despite overwhelmingly peaceful protests, young people's dissent has been met with an 'authoritarian legislative framework'^{xv} and 'increasing levels of military-style policing'. Additionally, with young people's political dissent often using new media, Bessant (2016) highlights processes of criminalisation surrounding Distributed Denial of Service^{xvi} attacks, a form of digital protest^{xvii} performed by activists that governments characterise as a non-political, criminal act.

Studies of legislative change cover diverse global contexts. In Canada, Esmonde (2002, 2003) examines the use of bail and breach of the peace as powerful tools for criminalising dissent, whilst MacPherson (2003) outlines the role of legal professionals in the repression of civil disobedience. In South Africa, Omar's (2017) work highlights issues with the Regulation of Gatherings Act, and the increasing number of arrests being made at protests—a continuation of the apartheid trend of state resistance to dissent. In Chile and Mexico, Doran (2017) analyses processes criminalising collective action, related to a limited concept of democracy, the legacy of authoritarianism and the intensification of security discourses. She argues criminalisation represents the contestation for 'a hegemonic definition of democracy in public space by targeting social forces that push for a broadening of democracy through rights defence and demands for individual, civil, and political rights' (ibid, p.18). Anti-protest legislative developments emerging in Australia are extending public order offences beyond the remit of policing individuals for obstruction or trespass towards general dispersal of protesters, with laws striking at association more than individual actions (Ricketts 2015). This is tied to the power of the mining industry lobby, whose rights are being placed above the freedom of peaceful assembly in civil society, especially given the absence of a constitutional right to protest (ibid). Similarly, with anti-fracking protests in the UK, oil and gas companies use civil injunctions with police support, to create a 'chilling effect' on the right to protest, with protestors unclear about what exactly is being prohibited, bringing the commitment to facilitate peaceful protest into question (Gilmore et al. 2019). Other UK studies explore the development and use of dispersal powers in the Anti-Social Behaviour Act 2003 as an encroachment on civil liberties (Crawford 2008; Crawford and Lister 2007). For Buchholtz (2011, p.80), the attack on civil liberties in Britain over the years and the worrying flexibility with which the law has been applied to criminalize dissent and dissenters embodies 'a struggle between counter-hegemonic and hegemonic forces, between the rights and demands of ordinary people and

^{xv} Pickard explains this in Chapter 14 citing legislation from 1936-2016.

^{xvi} A collective method for disrupting the operations of an organisation through technological means.

^{xvii} The relationship between dissent and technology is examined in Curran and Gibson's (2013) case study of Wikileaks.

the interests of the state and ruling classes.’

Research also concerns how anti-terror legislation threatens human rights and civil liberties in Western democracies (see Clarke 2002; Gearty 2005; Terwindt 2013) and China (Clarke 2010), with the criminalisation of dissent hidden in the rhetoric of security (Brazabon 2006). Political research has shown how security strategies to counter extremism are used to depoliticise those deemed by the state as extremists thus delegitimising and criminalising alternative politics (Jackson 2012). US scholars, especially, chart the effects of anti-terror legislation on environmentalists, with new law enforcement powers directed against these groups to redefine them as eco-terrorists (Del Gandio and Nocella 2014; Vanderheiden 2005, 2008). This changes perceptions of environmental activists from peaceful, loving, leftists to violent domestic terrorists (Lovitz 2007). Finally, Baser et al. (2017) highlight the criminalisation of academics through counter-terror policy in Turkey, which thus goes beyond eliminating security threats towards suppression of dissent generally in a declining democratic and increasingly authoritarian context.

Whilst the criminalisation of dissent has certainly increased since 9/11, with worrying effect, it was underway beforehand (Salter 2011) and continues beyond. Clarke (2002), for instance, discusses the criminalising of opposition to the emerging capitalist neoliberal global world order, and Shantz (2014) considers the criminalisation of dissent a central feature of neoliberal governance and liberal democracies. The connection between neoliberalism and the criminalisation of dissent is explored by Roberts (2013), who asks why the UK and the US, countries strongly aligned to neoliberal ideology, have markedly less protest and dissent than other nations. He describes an implicit formula in both states for keeping peace that involves reducing the ability to mobilize protest, reinventing policing and giving emergency powers to technocrats (ibid). Regarding liberal-democracies, Watts (2019) has argued there is a paradox relating to the legitimacy of dissent, given how states regularly and routinely disapprove of and criminalise dissent. Exploring this paradox requires analysing relationships between the state, politics and the criminalisation of dissent (ibid). The notion of criminalising politics is useful here, linking to Kirkpatrick’s (2019) work on the criminalisation of political expression and his original typology distinguishing between the criminalisation of political activities, political identities and political violence.

Finally, public attitudes have been of some interest to scholars studying the politics of dissent, although, not always in relation to criminalisation and rarely using a critical theoretical approach. For example, in the 1960s in the US there were studies of whether the public grants legitimacy to protest (Olsen 1968), attitudes towards the anti-war movement (Robinson 1968) and whether acts of collective disruption are considered protest or crime (Turner 1969). In the UK and Europe in the 2000s, Sanders et al (2003) considered the

preparedness of the public to engage in protest as a means of influencing politics, and Van Aelst and Walgrave (2001) examined the legitimacy of protest in the eyes of the public, arguing the normalisation of protest was leading to the normalisation of the protestor. Duckett and Miller's (2005) cross-country study suggests universal public support for some level of protest, with acceptance dependent on method, and violence rarely considered acceptable. The legitimacy of protest in the eyes of the public is a complex picture, and there is scope for critical qualitative research to study perceptions of the criminalisation of dissent and dissenters specifically.

Crime, Social Control and Security

Understanding the criminalisation of dissent from a criminological perspective introduces literature on crime, social control and security. The impact of social control on political protesters was identified as an important but neglected area of study by Wilson (1977). He argued that social control is a response to the subversion of norms, which, in the context of protest, involves a 'process of labelling and treating dissenters as deviants', amounting to criminalisation through denying the political status of acts (ibid, p.470), such as flag-burning (see Welch 2000). Social control^{xviii} brings to the fore notions of how order and disorder play out, and crime becomes emblematic of forms of deviance over which control is routinely sought (Innes 2003). Starr et al.'s (2011) multi-method research sets out a framework for examining the tactics and the effects of the social control of dissent, identifying three important sites of study: the geography of control, the political economy of control and violence. Additionally, the concept of social control reveals how protest and dissent are not always controlled through hard mechanisms or repressed, but subject to 'soft social control' as embodied in the Gramscian concept of hegemony (Innes 2003). Hegemony suggests control goes beyond repression through the establishment of perceived legitimacy for the regime of capitalists in the domain of ideas and societal values (ibid, p.23). For example, as evidenced in Coleman's (2003) analysis of how normative social control is embedded in the practices and relations of the neoliberal state, such as the use of CCTV surveillance, which is changing perceptions of public space and the parameters of state power. Concerning increasing state power, Carver (2013) points to the expansion of extraordinary powers of social control through criminal justice, and integrates processes of creep and normalisation to show how they intentionally criminalise legitimate protest. For example, unconstitutional laws being used to justify questioning, searching and detention of legitimate protesters (ibid). This is problematic because 'criminalisation today opens the door for wider criminalisation tomorrow' (Aaltola 2012, p.178), allowing any form of

^{xviii} See also Cohen (1985) and Garland (2001) for criminological theories of social control.

activism to be labelled criminal.

Social control can be further understood in relation to criminological scholarship on deviance and labelling theory. Especially the notion that there is no inherently deviant or criminal act (Becker 1963). Rather, there are ‘folk devils’ who have been labelled as deviant in the process of a wider ‘moral panic’ in which they are viewed as a threat to society through media exaggeration and policy responses (Cohen 1980). Hall et al.’s (1978) seminal work^{xix} explains how the state created a moral panic to mask social and economic crises ‘by tapping into already existing popular stereotypes regarding black youth, and popular explanations of criminality based upon “permissiveness” and a “soft” criminal justice system’ (Tierney 2010, p.207). This work highlights the role of the media in the criminalisation process and demonstrates the hardening of public opinion into consent relies upon the repetition and accumulation of expressions and beliefs ‘on the streets’ (Hall et al. 1978). Expanding on this, Tyler’s (2013a) social and cultural account of neoliberalism as a form of governance concentrates on the mechanisms through which public consent^{xx} is procured for policies and practices that effect inequalities and fundamentally corrode democracy. Elites maintain hegemony through the construction of acts of dissent as deviant, creating the justification for repressive controls and criminalisation, helped along by media conceptualisations which manipulate public opinion (Fletcher 2014). For example, anti-capitalists in the UK and the Czech Republic were (mis)constructed by the media as ‘folk devils’ and labelled as violent criminals and dangerous anarchists which influenced their treatment by public authorities (Donson et al. 2004). Likewise, political responses to protests in Brazil led to criminalisation of protesters and the creation of negative stereotypes of the deviant anarchist (Schwartz et al. 2014). Students are another group criminalised through media constructions of them as dangerous and violent, with subsequent police and court responses shaped by repression and overzealous sentencing (Power 2012). Whilst specific groups have been researched, there is scope to explore the criminalisation of dissent in the media more broadly. First, to understand the construction and negotiation of hegemonic discourses and to identify commonalities or differences in how dissent is perceived across different forms of media. Second, this could be contextualised by the themes identified herein relating to the criminalisation of dissent, such as understandings of the police, the law, politics, democracy, social order and security.

For critical criminological theorists, security is a concept associated with negative forms of oppressive state intervention (Jones 2012). Generally, the ‘pursuit of security’ (Zedner 2000) by states invokes the fragile balance between individual liberty and

^{xix} Informed by Gramsci’s theory of hegemony.

^{xx} She notes the hardening of public opinion into consent increasingly occurs online not just on the streets.

collective security (Zedner 2005), as evident in research about the curbing of citizen freedoms associated with the War on Terror (Hudson 2009). For example, government suppression of critical knowledge and dissent (Walters 2003) and the association of peaceful social action, writing and speech with terrorism to criminalise dissent and discredit specific subjects (Greenberg 2013). Monaghan and Walby (2012b) point to the blurring of the categories of terrorism, extremism and activism, with obvious implications for human rights around expression and protest (Kingston 2011), which are visible in many global contexts (see Poynting and Whyte 2012). Ultimately, the processes of securitisation, depoliticisation and pacification in the era of the War on Terror are producing citizen-subjects unwilling and unable to dissent (Jackson 2013). For Hallsworth and Lea (2011), the suppression of dissent is a condition of the move towards a ‘security state’, which is based on criminalising social policy and the welfare state^{xxi}, measures to combat terrorism and organised crime and the blurring of warfare and crime control. This extends beyond the state, as indicated elsewhere in ‘the securitisation of society’, which concerns how security is constituted and produced through dynamic processes involving a hybridity of multiple actors (Schuilenberg 2015).

Critical criminologists theorising the politics of the state explain the criminalisation of dissent as a feature of neoliberal capitalism (Shantz 2012). As a method, the criminalisation of dissent is used by states and ruling elites to maintain their status, power and authority, as well as existing social structures whilst controlling opposition (ibid). For Garland (2012), this criminalisation and repression is state violence, directed towards dissent against free market capitalism and embodying a kind of structural violence. He argues:

To consider violence from above (legal violence used by agents of the state) as morally superior to violence from below (violence/illegality from the oppressed resisting their oppression) is to have entered into the perverse ethical universe of capitalism itself (ibid, p.38).

Moreover, the policing of dissent, especially trends in pre-emptive policing, are not neutral attempts to maintain order, but reinforce existing unequal property rights, and demarcate the limited political processes of parliamentary democracy as the preferred or privileged form of political expression (Garland 2012; Shantz 2012). Any action outside such legitimised and hierarchical channels is treated as deviant, threatening or criminal (ibid), such as the Occupy movement’s challenge to the US neoliberal police state (Giroux 2013). This brings to the fore notions of the ‘criminalisation of incivility’ (Hillyard et al. 2004)

^{xxi} The welfare state solved social problems by extension of rights and entitlement whereas the security state reconceptualises problems as risks requiring increasingly coercive forms of management (ibid).

and the interconnectedness of crime and dissent.

Oliver (2008) proposes rejecting the dichotomy of crime and dissent to better understand the relationship between the repression of dissent and the control of ordinary crime. Social crime, a concept originating with Hobsbawm (1959, 1969, 1972) and important to radical criminology, conceptualises criminality as rebellion, resistance and a collective survival strategy of the poor (Lea 1999). Lea (1999, p.322) suggests its relevance to understanding 'the complex and conflicting ways in which protest or survival strategies interface with violence and oppression in both the criminal and widening sections of the legitimate economy'. Lovell (2009) argues the role of deliberate law breaking as a means of propelling social change has been overlooked, with failure to acknowledge that domestic unrest and 'crime' serve as necessary antecedents to social change and social justice. Research of the 2011 UK riots demonstrates rioting as a distinctly political action (Akram 2014), despite prevalent perceptions in media and political commentary that conceptualised protest as crime, viewing rioters through lenses of 'pure criminality', 'mob rule' (Cavanagh and Dennis 2012) and 'underclass' (Tyler 2013b). These discourses ignored the underlying causes of the riots^{xxii} and socio-economic inequalities (Grover 2011; Lightowlers 2014), stigmatising the rioters and perpetuating the myth that they are mindless criminals. This served to prop up a wider project of punishing the poor and legitimating neoliberal austerity (Slater 2011; Wacquant 2009). Bennett (2013) highlighted how re-contextualisation of the 2011 riots and Occupy protests through employing neoliberal discourse serves to moralise^{xxiii} material, class-based opposition, a function of attempting to assert hegemonic neoliberal understandings of the inequalities of contemporary capitalism. Blurring the boundaries between crime and dissent, studies of the riots reinforce the relevance of critical criminological theories by asserting both the material and discursive nature of the criminalisation of dissent.

Discussion and Conclusion

Dissent concerns notions of resistance and movement in contemporary society, and each of the disciplinary areas reviewed contributes to our understanding of its criminalisation. Social movement scholars have been crucial to theorising the specific dynamics surrounding the policing of protest and the changing logics of state and police strategies for managing resistance and movement in public space. Political researchers have interrogated many of the legislative developments that threaten civil liberties and pave the

^{xxii}See Allen et al. (2013) for a sociological overview.

^{xxiii} Many including Prime Minister David Cameron said rioting was a sign of moral collapse in society.

way for the criminalisation of dissent across many different national contexts globally. Finally, critical criminologists are uniquely well-placed to highlight the blurred boundaries between crime and dissent and the construction of deviance, with certain forms of resistance and movement characterised as criminal, rather than political or economic. Arguably, by combining these areas, each is better understood in relation to the other two, providing a more holistic picture of the criminalisation of dissent.

The review identified some common themes across the three disciplinary areas of research which relate to understanding resistance and movement in contemporary neoliberal society. In each area of interest, research invokes notions of ‘social control’ linked to the ongoing social and political construction of public order and disorder. Studies show the criminalisation of dissent is a process involving both public and private actors, but primarily, denotes ways that governments, police and the media undermine resistance to the dominant socio-political order. Moreover, studies show this is achieved through both hard and soft, formal and informal mechanisms, akin to how Gramsci theorises elites as ruling by coercion and by consent. Secondly, taken as a whole, the studies in the review appear to demonstrate that many different forms of dissent, engaged in by different groups for different reasons, can be subject to processes of criminalisation. Whether protesting at a specific event for a political, environmental or social purpose, or dissenting from a dominant narrative of securitisation, surveillance and restrictions of civil liberties, the response of the actors aforementioned is to criminalise citizens. The majority of research does tend to focus on collective protest, social movements and marginalised groups in terms of the criminalisation of dissent. Hence, there is potential to explore the full ‘spectrum of dissent’ (Watts 2019, p.69), including individuals dissenting in institutional settings. The second finding arguably reinforces the first, however, that powerful institutions limit the freedoms and rights of citizens acting for social change as a means to achieve a desired form of public order that reinforces the status quo. Finally, whilst indicating this inclination towards criminalisation is somewhat continuous, the review did highlight how processes of criminalisation intensify around particular ‘moments’ and issues in time, such as in response to terrorism post-9/11, where societal and political conditions allow for the introduction of specific legislation. Moreover, across the literature, the criminalisation of dissent is understood in relation to contemporary neoliberal logics underpinning capitalist economies and societies and thus the regulation and governance of citizens. This is important because ‘naming neoliberalism is *politically* necessary to give resistance content, focus and a cutting edge’ (Hall 2011, p.10), helping to make connections across movements that support the articulation and creation of alternative worlds (Cox and Nilsen 2014).

In terms of future research, from an interdisciplinary perspective as used in the review, there is a need for new research theorising how dissent and dissenters are

understood by publics. Public attitudes have received minimal attention, and rarely from a critical theoretical perspective, surrounding the criminalisation of dissent in a neoliberal society. With the widespread use of digital and social media, it would be particularly interesting to utilise online forums as spaces in which to interrogate public discourses related to dissent. For resistance and movement to be effective, they must bring publics on board with the messages of the dissenters, and thus a useful contribution to knowledge would be to understand how those that engage in dissent, and the kinds of dissent performed are perceived. This is especially pertinent, given recent psychological research indicates the public may resist social change due to negative stereotypes of activists (Bashir et al. 2013). This could be better understood using criminological theories and a Gramscian approach to the criminalisation of dissent to explore the construction of public ‘consent’ to the status quo through ‘common sense’ discourses, especially in public online spaces (see Hall and O’Shea 2015). Current literature using Gramscian theory predominantly relates to elites and the media, rather than publics, as producers and consumers of ‘common sense’ discourses that naturalise the status quo, and so this could be better examined.

Beyond this review, the criminalisation of dissent could also be understood from the perspective of other disciplines. Firstly, whilst there has been some attention to space in the literature herein, further insights may be found in critical geography and theories of spatial politics. Exploring this further could enhance our understanding of public order, social control and the criminalisation of dissent—for example, if and how criminalisation differs across rural and urban space, public and private space and layers of scale such as the local, national and global. Secondly, the review included minimal studies using a historical lens, and further work might consider how historical resistance and movement relates to contemporary forms^{xxiv}. For example, to what extent has dissent historically been ‘criminalised’ and how does this legacy relate to processes of criminalisation being experienced under neoliberal capitalism? Reviewing literature pertaining to crowds, mobs, and periods of revolution and rioting (such as Clements 2016; Rowbowtham 2013) would be especially worthwhile, as well as how institutions (such as police and states) have developed over time in response to different forms of dissent in different historical and cultural contexts. Whilst criminalisation broadly has been explored through a historical lens (see Lacey 2009), criminalisation scholars have tended to ignore the topic of dissent (Watts 2019). Hence, another area for future research could include approaches to the criminalisation of dissent developed by legal scholars and philosophers and informed by a multidisciplinary, comparative approach to criminalisation research (see Lacey 2013).

^{xxiv} See Price and Sabido’s (2015) edited volume for some consideration of how historical legacy shapes current practice.

Contemporary crises across environmental, economic and social domains continue to spark dissent from people engaged in diverse forms of resistance and movement globally. Dissent has many faces as a form of political praxis (Watts 2019), and yet, consistently appears subject to formal and informal processes of criminalisation. The criminalisation of dissent is a burgeoning field of inquiry for scholars across disciplines, especially those concerned about neoliberal actors narrowing possibilities for public debate and increasingly resorting to repression (Cox and Nilsen 2014). Understanding the criminalisation of dissent requires an interdisciplinary perspective to bring into dialogue diverse but complementary literatures in sociology, politics and criminology. In adopting this approach, the review explored key areas of policing, repression, politics, socio-legal change, crime, social control and security. With a solid foundation to build on, there is scope for additional contributions to the criminalisation of dissent and new insights from other disciplinary perspectives. Continuing to problematise the criminalisation of dissent is vital, because as Fortier and Wood (2014, p.145) eloquently state: ‘by challenging the legitimacy, resources and autonomy of repressive authorities as they criminalize dissent, we defend the breathing spaces needed for the building of resistance, relationships and a better world’.

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