The Wall Street Crime Syndrome: Ten Reasons Why the Banksters "Get Away With It"

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The Wall Street Crime Syndrome Goes Deeper Than We Think:

Q. Why No Prison?

A: It's The System, Not Just The Prosecutors

Hats off to writer Matt Taibbi for staying on the Wall Street crime beat, asking in his most recent report in Rolling Stone: "Why Isn't Wall Street in Jail?"

"Financial crooks," he argues, "brought down the world's economy — but the feds are doing more to protect them than to prosecute them."

True enough, but that's only part of the story. The Daily Kos called his investigation a "depressing read" perhaps because it suggests that the Obama Administration is not doing what it should to rein in financial crime.

Many of the lawyers he calls on to act come from big corporate law firms and buy into their worldview. They have no appetite to go after executives they know and naively hope will help speed our economic "recovery."

Kos should be more depressed by the failure of the progressive community—his own readers– to focus on these issues, and for not pressing the government to do the right thing. Without pressure from below, there is often little action from above.

There is no doubt that Administration policy gave crooks great latitude, as financial journalist Yves Smith explains, "The overly generous terms of the TARP, and the failure of Team Obama to force management changes on the industry in early 2009 was a fatal error. It has embedded and emboldened a deeply corrupt plutocracy."

There is, however, much more to this story. It's also more about institutions than individuals, more about a captured system that enables and covers up crime and, then, deflects attention away from the deeper problem.

Ten Problems

You could see that when Television host Bill Maher pressed Taibbi to name the biggest Wall Street crooks, on his weekly political comedy show, he didn't fully understand what we are really up again.

Here are ten factors that help explain the procrastination and rationalization for inaction. The government is not just to blame either. Several industries working together, through their firms and associations, associates, and well-paid operatives, collaborated over years to financialize the economy to their own benefit.

Personalizing bad guys makes for good TV without offering a real explanation.

When financial institutions and services became the dominant economic sector, they, effectively, took over the political system to fortify their power. It was a done incrementally, over years, with savvy, foresight and malice.

First, many of those who might later be charged with financial crimes and criminal fraud invested in lobbying and generous political donations to insure that tough regulations and enforcement were neutered before the housing bubble they promoted took off.

They did so in the aftermath of the jailing of hundreds of bankers after the S&L crisis, to guarantee that could never happen again when the next crisis hit.

In effect, their deregulation strategy also deliberately "decriminalized" the environment to make sure that practices that led to high profits and low accountability would be permissible and permitted.

Presto: The once illegal soon became "legal."

The cops and watchdogs were taken off the beat. Anticipating and restraints, they engineered a low-risk crime scene in the way the Pentagon systematically prepares its battlefields. This permitted illicit practices, to be encouraged by CEOs in a variety of control frauds to keep profits up so that the executives could extract more revenue with obscene bonuses and compensation schemes.

Today's proposed Republican cutbacks for the funding of regulatory bodies aims to undercut recently passed financial reforms. Warns one Commissioner of the Commodity Futures Trading Commission, if the budget is slashed, "there would essentially be no cop on the beat…we could once again risk another calamitous disintegration." He added, according to a New York Times report, "the process will mean nothing, squat, diddley … if we get cut we're going to be in a world of hurt." The GOP knows exactly what the intended consequences of its plans are.

Second, the industry invented, advertised and rationalized exotic financial instruments as forward looking 'innovation" and "modernization" to disguise their intent while enhancing their field or maneuver. This was part of creating a shadow banking system operating below the radar of effective monitoring and regulation. There was no focus on controlling the out of control power of the leverage-hungry gamblers at unregulated hedge funds.

Third, the industry promulgated economic theories and ideologies that won the backing of the economics profession which largely did not see the crisis coming, making those who favored a crackdown on fraud appear unfashionable and out of date. As economist James Galbraith testified to Congress:

"…The study of financial fraud received little attention. Practically no research institutes exist; collaboration between economists and criminologists is rare; in the leading departments there are few specialists and very few students. Economists have soft-pedaled the role of fraud in every crisis they examined, including the Savings & Loan debacle, the Russian transition, the Asian meltdown and the dot.com bubble. They continue to do so now."

Foxes guarding the chicken coop

Fourth, prominent members of the financial services industry were appointed to top positions in the government agencies that should have cracked down on financial crime, but instead looked the other way. The foxes were indeed guarding the chicken coop guiding institutions that tolerated, if not enabled, an environment of criminality.

Alan Greenspan and Ben Bernanke were repeatedly warned by underlings at the Federal Reserve Bank about pervasive predatory practices in the mortgage and Subprime markets and they chose to do nothing. Now Greenspan acknowledges pervasive fraud but decries the lack of enforcement while Bernanke wants to run a Consumer Protection Agency after ignoring consumer complaints for years. Even as the FBI denounced "an epidemic of mortgage fraud" in 2004, their white-collar crime units were downsized.

Fifth, the media was complicit, seduced, bought off and compromised. As the housing bubble mushroomed in the very period that the media was forced to downsize, dodgy lenders and credit card companies pumped billions into advertising in radio, television and the internet almost insuring that there would no undue media investigations Financial journalists increasingly embedded themselves in the culture and narrative of Wall Street by hyping stocks and CEOs\

The "guests" routinely chosen by media outlets to explain the crisis were often part of it, charges Jim Hightower, "Many of the 'experts' whom I read or see on TV seem clueless, full of hot air. Many of their predictions turn out wrong even when they seem so self-assured and well-informed in making them."

His advice: "Don't be deterred by the finance industry's jargon (which is intended to numb your brain and keep regular folks from even trying to figure out what's going on."

Sixth, politicians and corporate lawyers fashioned settlements of abuses that were exposed rather than prosecutions.

The government benefited by getting large fines while businessmen avoided jail. When exposed, this led to practices such as the deliberate engineering of mortgages to fail" being written off as a cost of doing business.

Financial executives were often rewarded with bonuses and huge compensation for practices that skirted or crossed the line of criminality.

Intentional violations of the spirit and letter of laws were justified because "everyone does it" by high priced legal firms that often doubled as lobbyists. Conflicts of interest were sneered at. Judges, dependent on industry donations for reelection looked the other way.

Seventh, as the economy changed and industries that were once separated began working together, regulations were not changed. In A FIRE economy, financial institutions worked closely with Insurance companies and real estate firms. Yet law enforcement did not recognize this new reality.

Financial crime was still seen almost entirely under the framework of securities laws that are designed to protect investors, not workers or homeowners who suffered far more in the collapse. Cases are framed against individuals with a high standard of proving intent, not under RICO laws used to prosecute organized crime and conspiracies.

By defining crimes narrowly, prosecutions became few and far between, reports Reuters:

"Cases against Wall Street executives can be difficult to prove to the satisfaction of a jury because of the mind-numbing volume of emails, prospectuses, and memos involved in documenting a case."

Criminal minds

Convicted financial criminal Sam Antar who appears in my film Plunder is contemptuous of how government tends to proceed in these cases, in part because they don't seem to understand how calculated these crimes and their cover-ups are. He told me. "Our laws—innocent until proven guilty, the codes of ethics that journalists like you abide by limit your behavior and give the white-collar criminal freedom to commit their crimes, and also to cover up their crimes.

"We have no respect for the laws. We consider your codes of ethics, and your laws, weaknesses to be exploited in the execution of our crimes. So the prosecutors, hopefully most prosecutors, are honest if they're playing by the set of the rules; they're hampered by the illegal constraints. The white-collar criminal has no legal constraints. You subpoena documents, we destroy documents; you subpoena witnesses, we lie. So you are at a disadvantage when it comes to the white-collared criminal. In effect, we're economic predators. We're serial economic predators; we impose a collective harm on society; time is always on our side, not on, not on the side of justice, unfortunately."

Eighth, even as the economy globalizes, and US financial firms spread their footprint worldwide, there was little internationalization of financial rules and regulations. Today, even as the French and the Germans propose such rules, Washington still opposes a tough and coordinated global regime of enforceable codes of conduct to insure ethical standards.

Overseas, in Greece and England, and other parts of Europe, there's been an indictment of American corporate predators, especially Goldman Sachs. They are being denounced as "financial terrorists" and discussed in terms of their links to various elite business formations like the Bilderberg Group.

Ninth, with the exception of a few polite inquiries by a softball Financial Crisis Inquiry Commission, there has been no hard-hitting intensive investigation in the United States of these crimes. While Senator Levin of Michigan did spend a day aggressively grilling Goldman Sachs on one deceptive practice, their defense was more telling about the real nature of the problem: 'everyone did it." (Almost ten times as much money was spent investigating Bill Clinton's sex scandal.)

The case for criminality has still not achieved critical mass as an issue or become a dominant explanation for why the economy collapsed.

In fact, the "crime narrative" is still being sneered at or ignored even as the public in many surveys feel they have been robbed.

Finally, tenth, a big disappointment in my countdown, is the role of the progressive critics of the crisis who also largely ignore criminality as a key factor and possible focus for a populist organizing effort.

They treat the crisis as if they are at a financial seminar at Harvard, focusing on the complexities of derivatives; credit default swaps and structured financial products in language that ordinary people rarely can penetrate. They argue that banks that should not be too big to fail, but rarely they are not too big to jail.

Few of the progressive activist groups stress the immorality of these practices, much less its criminality after all these years! There is little active solidarity even in the progressive community with the newly homeless or jobless.

Where are the active empathy, compassion and the caring for the many victims of financial crimes?

The response to the crisis has been muted. There is little pressure from below in part because unions stress their own issues and tail after the Administration. The talk about the American dream, not Wall Street's scheme. The financial crimes task force that the Administration set up seems to mostly go after small fry

It is as if this crime crisis within the financial crisis does not exist.

Curiously, even as most media outlets and politicians refuse to discuss the pervasive fraud that did occur, the Administration is using the threat of prosecutions as a way of pushing a "global settlement" of all housing fraud to get the issue off the table. They are proposing a $20 billion dollar deal to bury the problem.

The banks are saying this will hurt their investors and not bring relief to those facing the highest foreclosure rate in recent history. At the same time, as a quid pro-quo, there will be no major trials.

What should be done? By all means, workers should rally to protect their rights to have unions as they have in Wisconsin, but they should also realize that it is the banks that are ultimately to blame for the financial pressures behind the attacks they face. Pension funds have lost billions because of Wall Street scams. State governments have taken a big hit. The unions didn't cause the problem.

At the same time, why have the unions and left groups been mostly silent on this key issue? Perhaps it is because they are fighting to keep what they have. The failure to press for economic justice for everyone makes their claims seem to be one only of self-interest. They need a broader view.

Ironically, the economic justice issues appeals to the anger in many diverse constituencies and could enlarge a real movement for financial accountability.

Even after the markets melted down, even after Wall Street bonus scandals and bailout disgraces, Wall Street has hardly been humbled. It is still spending a fortune on PR and political gun slinging with 25 lobbyists shadowing every member of Congress to scuttle real reform. Its arrogance is evident in an email the Financial Times reported was "pinging around" trading desks. It reads in part:

"We are Wall Street: It's our job to make money. Whether it's a commodity, stock, bond, or some hypothetical piece of fake paper, it doesn't matter. We would trade baseball cards if it were profitable… Go ahead and continue to take us down, but you're only going to hurt yourselves. What's going to happen when we can't find jobs on the Street anymore? Guess what: We're going to take yours.

… We aren't dinosaurs. We are smarter and more vicious than that, and we are going to survive."'

Perhaps it's not surprising, that in an act of preemptive anticipation, some years ago, Wall Street firms began financing companies that built and ran privatized prisons. As long as they can avoid incarceration, they can profit from the mass jailing of the poor.

When will we call a crime a crime? When will we demand jail-out, not just more bailouts? Unless we do, and until we do, the people who created the worst crisis in our time will, in effect, get away with the biggest plunder in history.

*News Dissector **Danny Schechter** made the film Plunder The Crime of our Time. (Plunderthecrimeofourtime.com) Parts of this essay appear in his companion book The Crime of Our Time (Disinfo Books) It originally appeared on AlJazeera.net*

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