Why is there no criminology of wage theft? (wrongful withholding of $50 billion of wages earned)

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Outline

1. Understanding wage theft [wage and hour violations]

2. There is no criminology of wage theft

3. Why there isn’t/should be a criminology of wage theft

4. Conclusion/call to action

Photo by Heather Mooney
Understanding wage theft

  - Congress finds “the existence... of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers
  - Minimum wage
  - 40 hour workweek w/ overtime at 1.5X regular pay
  - Dept of Labor Wage and Hour Division

- State and locals laws may go further
  - Can require higher than minimum – even a ‘living’ – wage
  - Specification for pay periods, data on paycheck, deductions
  - State Wage and Hour agencies
Understanding wage theft

• Fair Labor Standards Act of 1938: Penalties
  • 6 months in prison for second conviction under the Act (29 USC 216a)
    And
  • Civil action for wages due + 100% penalty (§216b)

• Some state laws also specify imprisonment

• Inherent in wage theft is fraud with payroll taxes, punishable by up to 5 years in prison 26 USC 7202
Understanding wage theft

• Types
  • Not paying for all hours worked – falsify time card
  • No overtime
  • Fail to pay minimum wage (esp piece work or with tips)
  • Changing paid breaks into unpaid, working through breaks
  • Requiring employees to work before or after shift
  • Violations of ‘donning and doffing’ [clothes, protective gear]
  • Improper classification of employee as independent contractor
  • Internships with no educational component (takes place of additional salaried employee)
  • Not paying retirement contributions, benefits or payroll taxes
Understanding wage theft

• 2009 study of low wage industries in three major cities found wage theft totaled $3 billion

• $50 billion loss updates and extrapolates to the rest of the low wage work force [Economic Policy Institute 2014]
  • 2012 – almost $1 billion in actual, known recovered wages

• FBI: losses from all property crime in 2012 = $15.5 billion

• $50 billion underestimate because wage theft happens to middle and upper income employees
No criminology of wage theft
No criminology of wage theft

• No major criminology journal has published an article primarily about wage theft in more than 20 years.

Why there isn’t/should be a criminology of wage theft

• Wage theft is a crime of the powerful

• “…the most important things done for good or ill… [are] done by corporate rather than individual actors.”

• We cannot proceed “as if Sutherland never gave his 1939 Presidential address to the American Sociological Society that brought ‘white collar crime’ into the English language.”

Why there isn’t/should be a criminology of wage theft

• Wage theft is about regulation

• The social control of (natural and corporate) persons requires an understanding of how criminal law mixes with civil law and regulations to create social control.

• “…today we live in a world where criminal action is increasingly embedded in organizational action.”

Why there isn’t/should be a criminology of wage theft

• Criminology programs claim they want to prepare students for the job market... just not the exploitation in the workplace
  
  • Prepare resume, practice presentations, discuss dress and practice interview questions
  • BUT
  • Don’t discuss the laws that give them rights over what they earned and how to challenge the theft of their earnings

• Teaching about wage theft could help empower students
Why there isn’t/should be a criminology of wage theft

• Criminology programs claim they want to help students think critically about crime and justice, even expose the injustice of harsh punishments for the poor... just not the hypocrisy of a system with little accountability for the powerful

• Why do some state wage and hour divisions who police business have no investigative power?
• Why were the wage and hour divisions of several states completely defunded for several years, so that there was no state policing of wage theft?
Conclusion: Call for a Criminology of Wage Theft

• “A fair day’s pay for a fair day’s work”

• Victimology: Mass financial victimizations
  • Can cost individuals a significant % of income, esp stressful when in precarious economic situation
  • Cheat govt out of taxes [reduce services, increase taxes]

• Competitive advantages to businesses engaged in wage theft, so practice spreads if enforcement is weak
  • Outsource to lowest bidder, so less directly accountable for wage theft that is part of the business model
Conclusion: Call for a Criminology of Wage Theft

• Criminology should study all significant crimes and embrace equal protection under the law.

• Especially NOT
  • “workplace theft” means employees stealing, not employers
  • “insurance fraud” means insurance company victims, not perpetrators
  • “credit card fraud” means financial institution victims, not predatory and illegal behavior by financial institutions

• Jock Young notes that at times, criminology is “parodying the most conventional prejudices of bourgeois society” (in Pearce, Crimes of the Powerful [1976], p 11)
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More information:

http://paulsjusticepage.com/paul/pauls-cv.htm

See also: