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THE NEOLIBERAL LEGITIMATION CRISIS
OF 2008

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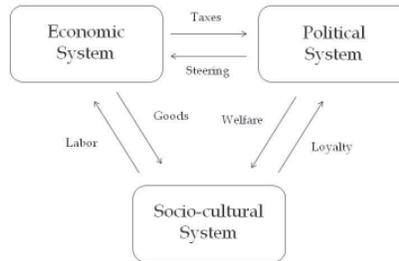
THE NEOLIBERAL LEGITIMATION CRISIS OF 2008

This paper will discuss how the Financial Crisis of 2008 has thrown neoliberalism into a deep legitimation crisis. Over the past four decades the neoliberal ethic of Ronald Regan and Margaret Thatcher has permeated American life both public and private. The principles of the laissez faire markets and of individual responsibility have guided most if not all national policy. Central to these principles was deregulation. As the Financial Crisis shifted into high gear, the tenants of neoliberalism, such as deregulation, became the target of considerable criticism. Section I will begin with an explanation of Jurgen Habermas's theory of the legitimation crisis. In particular, this section will discuss how an economic crisis can lead to a legitimation crisis. Section II will briefly sketch the rise of neoliberalism in America, flag the key tenants of neoliberalism, and highlight the key 'contradictions' of neoliberalism. Sections III will layout a history of the Financial Crisis and the backlash to the neoliberal position. Finally this paper will consider what the consequences of this Crisis will be for the neoliberal establishment.

SECTION I: CRISIS

A legitimation crisis occurs when the ruling institution looses the mandate of the population. For Habermas, social structure is made up of three social subsystems: economic,

political, and socio-cultural.¹ These interconnections are best summarized by the following graphic²:



The integration of these three systems provides significant opportunities for crisis to travel through the system. Habermas identifies two primary types of crisis, system crisis and identity crisis. Habermas provides the following chart:

	<u>System Crisis</u>	<u>Identity Crisis</u>
<u>Economic System</u>	Economic Crisis	-
<u>Political System</u>	Rationality Crisis	Legitimation Crisis
<u>Socio-Economic System</u>	-	Motivational Crisis

A legitimation crisis occurs when the loyalty link between the social-cultural system and the political system breaks down.³ Economic crisis is the primary means of creating a legitimation crisis.⁴ Since the political system is responsible for steering the economic system, economic crisis quickly becomes the problem of the political system. To stabilize an economic crisis a political system will react with further steering or administrative decisions. Contradictory administrative decision can convert the economic system crisis into a political system crisis which is called a rationality crisis. A rationality crisis results when the political system is forced to make decisions

that appear to go against the ruling institutions “core values.” Once a rationality crisis has exposed enough contradictions in the ruling institution, the electorate becomes disenchanted by the system’s exposed flaws and ultimately withholds loyalty from the political institution. This Crisis results in a loss of the institution’s legitimacy: a legitimation crisis.⁵

SECTION II: NEOLIBERALISM

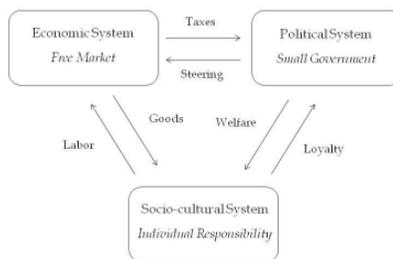
Neoliberalism is the system ideology which holds that the “state should favor strong individual private property rights, the rule of law, and the institutions of freely functioning markets and free trade.”⁶ Prior to the rise of neoliberalism and after the lessons learned during the Great Depression and World War II, government intervention in the economic system had become commonly accepted practice. This was so much the case that Republican President Richard Nixon went as far as to say “We are all Keynesians now.”⁷ However by the 1960’s classical liberalism began to break down⁸ leaving the door open to a new political epoch. Ronald Reagan emerged as the leader of a new political tradition, neoliberalism. With the international support of leaders such as Margaret Thatcher the neoliberal ideology became a game changing political movement.

The neoliberal ideology was aimed at creating greater opportunities and benefits for all through laissez faire principles and individual responsibility. By eliminating regulation and allowing the market to operate, unfettered, the United States would allow individuals to create the maximum amount of wealth. Over the course of two decades, tax rates on the wealthy were dropped from 78% to 32%⁹. This decision was

powered by the assumption that wealth generated in the top tax brackets would be reinvested in the US economy which would create more jobs and opportunities for the less well-off.¹⁰

Perhaps most integral to neoliberal economic principles were deregulation and anti-regulation principles. Deregulation is a central tenant of laissez faire economics as instantiated by University of Chicago Professor and Nobel Laureate Milton Friedman. Regan used his policies to begin massive deregulation of sectors including telecommunications and airlines. Neoliberal ideology held that the free movement of capital was the best way to stimulate capital accumulation and reinvestment in the US. Thus, perhaps, most integral to neoliberal policies was the liberalization of the financial sector. As noted by Harvey, the ethos became “what is good for Wall Street is all that matters.”¹¹ Thus, deregulation of the financial sector became a consistent trend for the past three decades. This trend will be discussed further in Section III.

In terms of Habermas, neoliberalism may have been an especially powerful movement because it provided three separate yet interrelated principles for each social subsystem.¹² The holistic management structure of neoliberalism can be seen below in the modified diagram of the social system:



The contradiction of neoliberalism

For Harvey the most compelling tension within the neoliberal ideology is between the ideology's professed goal of creating opportunity for all, and its actual aims which are, "the restoration of class power."¹³ The rise of neoliberalism has seen a rise in the accumulation of wealth at the expense of the poor. The share of national wealth concentrated in the top 1% of the population has increased to 15% since the rise of neoliberal policies began in the late 1970s.¹⁴ Real wages have on average reduced as productivity has increased.¹⁵ And, since the neoliberal ideology has gone to great lengths to protect inflation, unemployment has been forced to suffer.¹⁶ As Paul Krugman notes, "it was pretty clear that the American economy's progress had left at least 20 or 30 million people at the bottom of the distribution slipping backwards."¹⁷

This contradiction of neoliberal ethic, if exposed through economic crisis, could leave opportunities for a substantial legitimation crisis. Developing this crisis and the exposure of neoliberal contradiction will be the project of Section III.

SECTION III: THE FINANCIAL CRISIS AS CRISIS

This section will discuss how the neoliberal ideology has fallen into a legitimation crisis. The paper will follow Habermas's theory and divide the crisis into its three constituent parts. Part I will discuss how neoliberal antiregulation policies created and exacerbated the economic crisis. Part II will then argue that the economic crisis was quickly turned into a rationality crisis when the government was forced to make a series of seemingly contradictory administrative decisions.

Finally, in Part III, this section will draw on US polling data, the success of the Democratic Party in the 2008 election, and the rhetoric of Barack Obama during the presidential election to illustrate that the electorate has begun to withhold loyalty from the neoliberal ideology.

Part I: The Economic Crisis

This section will illustrate how neoliberal policies turned a minor crisis into a significant crisis in three ways: through not regulating Auction-Rate Securities, through not regulating Credit Default Swaps, and through the repeal of the Glass-Steagall Act.

Auction-rate securities created a simulated run on the banks due to the neoliberal policy of antiregulation. As Nobel Laureate, Paul Krugman, explains “the essential feature of a banking is the way it promises ready access to cash for those who place money in its care.”¹⁸ Thus, intuitions which act like banks should be regulated as banks. As became obvious during the Great Depression, bank panic can create an economic crisis. In 1907 the Knickerbocker Trust failed because one of its highly speculative real estate investments had failed. Individuals who had made deposits with the Trust lost their money. Since Trusts, like banks, were expected to be entirely safe places to store money panic quickly spread. In response, individuals lined up to retrieve their money from their local banks and Trusts.¹⁹ In response to this “run on the banks” numerous regulations were put in place to ensure that panic could not so easily spread through the banking system. Banks became highly regulated and insured so that this type of crisis could not happen again.

By creating an antiregulation ethos, neoliberal ideology ensured that auction-rate securities were not regulated thus allowing a simulated run on the banks. Auction-rate securities provided the same features of a bank but without the regulations. Traditionally, if a lender would like ready access to his capital so that he can access it quickly he must keep his money in a bank. Auction-rate securities provide the same benefits without the banking regulation. Lender A signs a longer term (perhaps) 30 year commitment to lend money to an institution. However, every week the institution holds an auction in which other lenders can bid on the right to replace Lender A's position in the loan. If no one shows up to the auction, the interest rate which the institution must pay to Lender A increases to a penalty rate. After the collapse of Lehman Brothers many institutions could find no bidders for these auctions. This essentially created a simulated run on the banks. Auction-rate securities were providing the exact service of a commercial banks (ready access to capital) but without the regulation. The Auction Rate Security market quickly collapsed which further exacerbated the crisis. At its peak, the Auction Rate Securities market contained \$400 billion. Thus, when this source of banking evaporated, there was simply not enough bandwidth in the traditional banking system to cover the amount of lending that the economy needed.

The Crisis was further exacerbated by the lack of regulation for Credit Default Swaps. Like Auction-Rate Securities, Credit Default Swaps allow an investing institution to skirt regulation. To illustrate the value of Credit Default Swaps we will use the example of a Pension Fund. A Pension Fund is asked to manage vast amounts of money. The Fund is restricted

from investing in risky assets for the safety of the individuals in the Fund. Thus the Fund may, for instance, only be allowed to invest in AA rated securities. If a Pension Fund wants to give a loan to a BB company it can do so by getting AIG (or another financial institution) to insure against the default of Company A. Since AIG is rated AA, the Pension Funds investment in Company A can be deemed a AA rated security. AIG may have provided Credit Default Swaps to a number of Pension Funds. Since AIG is spreading risk, this should be unproblematic as long as default rates among the loans which AIG underwrites are uncorrelated. However, in the case of a significant global downturn, the defaults *are* correlated. Thus, when Corporation A defaulted, many other corporations defaulted at the same time and AIG could not pay off all claims. The Credit Default Swap market represented some \$45 trillion which is twice the size of the US stock market.²⁰ The collapse of this market was the tipping point for a number of failed banks. Yet despite the size of this industry neoliberal ideology allowed this market to go unregulated.

Finally, the repeal of Glass-Steagall combined with weak regulation allowed financial institutions to take on extraordinary risk. As noted above one of the lessons learned from the Great Depression was the deposit-taking financial institutions should be limited in the amount of speculation in which they can engage. In response to this observation, Congress passed the Glass-Steagal Act which separated commercial banking from investment banking. Thus, deposit-taking banks could no longer tap the vast reserves of a commercial bank to finance speculation. In 1999 after decades of averting a run on the banks, and after years of bank lobbying, the Glass-Steagall act

was repealed. Again, investment banks would have access to commercial banking cash. This regime was monitored by the Basel Rules which regulated the types of assets which a deposit-taking bank could hold and what leverage ratios they must maintain. However, in the era of antiregulation sentiment these rules were not enforced well. As Cotty notes “regulators did little to restrain banks’ reckless attitude toward risk.”²¹

The Basel Rules require banks to hold capital reserves and a limited number of risky assets, however, these rules could be averted with collateralize debt and trading exceptions. Banks have assets that are held for the long-term sale and other assets that are held for the short term sale. The Basel Rules require banks to set aside a predetermined amount of capital for each long term asset which the bank holds. However, Basel does not require banks to set aside capital for assets that are held for trade (short term sale). The high yield of Mortgage Backed Securities attracted banks to hold these assets. However setting aside the required capital would be costly for the financial institution. To avoid this problem, the bank would improperly characterize Mortgage Backed Securities that were illiquid, long-term, risky assets as short-term assets for trade.²² Thus no reserve was set aside for many of these assets.

Thus, again, it seems that neoliberal distaste for regulation played an essential role in creating the financial crisis. Having highlighted three ways in which deregulation stimulated the economic crisis, Part II of this section will address how contradictory administrative decisions turned an economic crisis into a rationality crisis.

PART II: THE RATIONALITY CRISIS

This Part illustrates that the economic crisis was converted to a rationality crisis. When the Political System makes contradictory administrative decisions that expose the flaws in the political ideology we have a rationality crisis. As the crisis developed, the neoliberal political system made a series of decisions that contradicted the neoliberal agenda. Most illustrative about this point is the chart below which lists a number of governmental policies that had seemingly contradictory application:

<u>Date</u>	<u>Policy</u>	<u>Neoliberal Contradiction</u>
August 31, 2007	The US government announces a limited bailed out of homeowners facing foreclosure.	Neoliberalism believes in personal responsibility yet the government is bailing out people who borrowed to buy homes they could not afford.
March 10 - 16, 2008	Bear Stearns is given federal funding and is eventually sold to JP Morgan. The deal is backed by the Federal Reserve, providing up to \$30 billion to cover possible Bear Stearn losses.	Neoliberalism believes in little government intervention in the Economic System, yet the Political System orchestrates one of the largest bail outs in history.
September 7, 2008	Fannie Mae and Freddie Mac are taken over by the US government effectively nationalizing \$12 trillion of mortgage debt	Neoliberalism supports privatization, yet the Political System has support the nationalization of a \$12 trillion industry.
September 15, 2008	The US government allows Lehman Brothers to fail and Lehman files for Chapter 11.	The US government had just bailed out two major financial institutions because it was "vital to the US economy." If these institutions are so vital why was this one allowed to fail?
September 17, 2008	The US government lends \$85 billion to AIG so that they can avoid bankruptcy.	Again, Neoliberalism traditionally supports little government intervention in the Economic System. Further, why was Lehman allowed to fail but AIG bailed out?
October 14, 2008	The US government gives \$250 billion of tax payer money to large banks including: 1) Bank of America, 2) JPMorgan Chase, 3) Wells Fargo, 4) Citigroup, 5) Merrill Lynch, 6) Goldman Sachs, and 7) Morgan Stanley	Neoliberalism preaches little government intervention in the Economic System and personal responsibility yet the banks who caused the problem are getting money. Despite the rhetoric of being good for all, the neoliberal agenda appears to be preferencing Wall Street.
November 24, 2008	The US government bails out Citigroup.	Again, Neoliberalism preaches little government intervention in the Economic System. Further, why was Lehman allowed to fail but Citi bailed out?

As is clear from the chart above; numerous decisions made by the neoliberal political system seemed to contradict themselves and neoliberal principles. Most interesting in the chart above are the events of September 7, 15, and 17. This represents the most obvious “flip flop” of the political system: Fannie was bailed out, Lehman was allowed to fail, and AIG was bailed out. This will become relevant to our later analysis. Nevertheless, the economic crisis had been converted to a rationality crisis.

Part 3: The Legitimation Crisis

As the rationality crisis persisted, the electorate began to lose faith in the neoliberal policies that brought us to the brink of financial disaster. This Part will argue that the rationality crisis has been converted to legitimation crisis for the neoliberal ideology. To illustrate this point, we will appeal to the rhetoric of Barack Obama during the Presidential Election of 2008. Obama’s rhetoric during the election was, in many respects, avowedly anti-neoliberal. Further, the populace related to this rhetoric as evidenced by the Obama’s margin of victory and the substantial victory of the Democratic Party. In addition, the disapproval of neoliberal principles can be demonstrated by using the Republican Party and George W. Bush as a proxy for neoliberal approval. These polls will again show the declining popularity of neoliberal ideals among the population. Finally, by looking at updated polling data, this Part will attempt to illustrate the popularity of anti-neoliberal policies.

During the Presidential election of 2008 Obama utilized his airtime to launch a full assault on the policies of neoliberal-

ism. He attacked all constituent parts of the neoliberal ideology. Obama attacked the neoliberal doctrines of the Political System, the Economic System, and the Socio-Cultural System. Within the Economic System Obama's most pointed criticism was focused on the anti-regulation policies of the Bush Years:

I believe this is a final verdict on the failed economic policies of the last eight years, strongly promoted by President Bush and supported by Sen. McCain, that essentially said that we should strip away regulations, consumer protections, let the market run wild, and prosperity would rain down on all of us. It hasn't worked out that way. And so now we've got to take some decisive action.²³

Obama's message also attacked the Small Government Political System of the neoliberal establishment. Instead of the old trickle down principles of the previous political system, Obama argued that, "if the economy's good for folks from the bottom up, it's gonna be good for everybody. I think when you spread the wealth around, it's good for everybody."²⁴

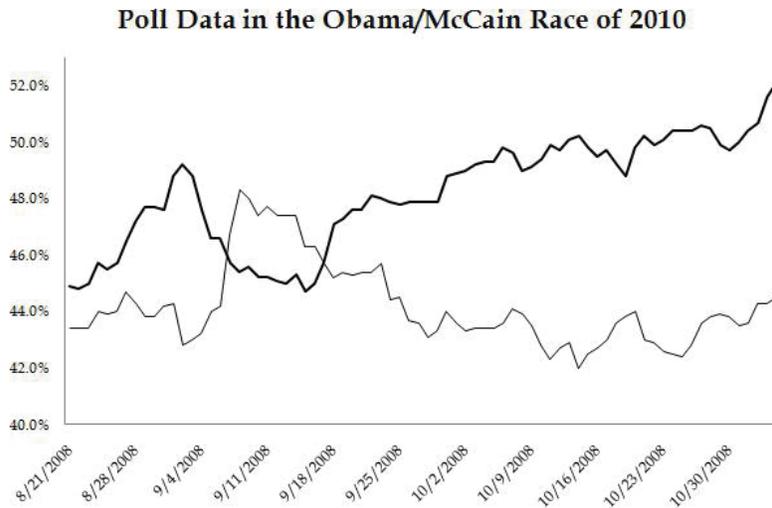
Finally, Obama attacked the most entrenched aspect of neoliberal ideology: personal responsibility. Instead of agreeing that everyone is responsible for his own destiny, Obama suggested that some may be naturally left out of prosperity and may require additional help. Further, he attributed this view of personal responsibility to the neoliberal policies of the previous administration:

For over two decades, [McCain's] subscribed to that old, discredited Republican philosophy - give more and more to

those with the most and hope that prosperity trickles down to everyone else. In Washington, they call this the Ownership Society, but what it really means is - you're on your own. Out of work? Tough luck. No health care? The market will fix it. Born into poverty? Pull yourself up by your own bootstraps - even if you don't have boots. You're on your own. Well it's time for them to own their failure. It's time for us to change America.²⁵

Thus, by attacking neoliberal philosophy in all three subsystems, Obama seemed to be challenging the neoliberal ideology that had been entrenched in the US social system. Given Obama's impressive victory and the success of the Democratic Party in 2008, it seems clear that the population was related to these anti-neoliberal principles.²⁶

Observation of the election polling data also indicates that the neoliberal legitimization crisis converges well with the rationality crisis. As is clear from the chart in Part II, the Bush Administration was forced to make a series of contradictory administrative decision in the September of 2008. According to the above argument these decisions were the heart of the neoliberal rationality crisis. Polling data from this time period also indicates that this is when Obama took the most significant lead over his rival. Consider the following graph²⁷:



At September 17th Obama and McCain were tied in a collection of national polls. September 17, 2008 was the bail out of AIG. This was the first drastic action taken by the Federal Reserve since letting Lehman Brothers collapse. One might argue that this was the key tipping point of the rationality crisis because it was the first “flip flop” of the crisis: The government had bailed out Bear Stearns and Fannie, allowed Lehman to fail, and then bailed out AIG. While there were, of course, many factors at play, it would be reasonable to suggest that this chain of contradictory decisions exposed the hypocrisy of the neoliberal establishment and thus converted the rationality crisis into a neoliberal legitimation crisis.

Finally the decline in Republican popularity and the increase in support for regulation may suggest that neoliberalism is in crisis. While neoliberalism has certainly spread through the entire political system, the Republican Party and George W. Bush are proxies for neoliberal ideology. Their

decline in popularity during the election was striking. In late 2008, participants were asked whether they approved or disapproved of the Republicans in Congress. Two polls put disapproval with congressional Republicans at 69% in late 2008.²⁸

Further, President Bush left office with the lowest approval ratings of any president in history. Only 22% of the population approved of President Bush as he departed with 73% disapproving.²⁹ Thus two symbols of neoliberal ideology seemed to have lost significant legitimacy at the close of 2008. Further, foundational neoliberal principles were not losing support. In the most recent poll on financial reform, 65% of those polled said they support financial reform, while only 31% said they do not support financial reform.³⁰ So powerful was this the financial-reform sentiment that Republicans who had previously vowed to filibuster any bill on the Democratic agenda agreed to open debate in the Senate.³¹

The neoliberal legitimization crisis may not have reached a crescendo. However, Obama's decisive win and anti-neoliberal rhetoric, the unpopularity of the Republicans and George W. Bush, the popularity of financial reform, and the convergence of the rationality crisis with the legitimization crisis seem to suggest that the neoliberal ideology is in crisis.³²

SECTION IV: THE RESULT OF THE CRISIS

Assuming that the neoliberal ideology has begun to lose legitimacy, one must consider the consequences of such a legitimization crisis. There seem to be three possible outcomes: 1) The collapse of neoliberalism and the replacement of a new ideology, 2) aversion of the legitimization crisis by way of the legal supra-structure, and 3) aversion of the legitimization crisis

by way of false-improvement. Of these options, option (1) is reasonably self-explanatory. Thus the rest of this Section will discuss options (2) and (3).

Aversion of the Legitimation Crisis by way of the Legal Supra-Structure

The current legal system may be constructed to avoid radical ideological change and to avert change to the neoliberal agenda. Thus the legal structure itself may not allow changes to the entrenched neoliberal ideology. Contrary to Marx, Duncan Kennedy argues that legal structure is not merely the result of economic power. Instead, Kennedy suggests that the entrenched legal structure, actually defines the terms between the negotiating parties.³³ Thus, if the legal structure favors one of the parties, then the law plays an active role in continuing to keep power in the hands of a particular class.

Entrenched legal structure may avert the legitimation crisis for the neoliberal ideology. Even though legal reforms need only be passed by majorities in the House and Senate, the Senate Filibuster allows the opposition to thwart reform as long as there are not 60 votes for reform. The Democrats had 59 Senators in the Senate. Of these Senators many are fiscally conservatives with neoliberal beliefs. Thus, to get any reform passed the Democratic leadership was forced to water down reform in order to appease the conservative Democrats and avert a Republican Filibuster. This was the fate of healthcare reform. Instead of passing a strong public option, the Democrats were forced to pass a weaker bill without a public option. Thus despite the mandate from the electorate and the substantial loss in neoliberal legitimacy, senate politics averted

the overhaul of neoliberal policies. Similarly, the Supreme Court is stacked with neoliberal sympathizers. Since the constitutionality of health care has been challenged, the Supreme Court may invalidate all reforms. The Supreme Court could re-legitimate neoliberalism by essentially ruling that all reform is unconstitutional.

Thus, the entrenched legal structure may re-instate the legitimacy of the neoliberal agenda by disallowing reform.

Aversion of the Legitimation Crisis by way of False-Reform

If there is merely superficial reform that does not actually alter the principles of neoliberal ideology, then the neoliberal agenda may actually be strengthened. It seems clear that lack of regulation was a key piece of the Financial Crisis. Neoliberal ideology may be able to distance itself from anti-regulationism without abandoning all its other core tenants. Thus, the neoliberal ideology may be able to sacrifice deregulation as a guiding principle. By acknowledging the mistake of under-regulation, and by actively reforming it, the neoliberal ideology may appear even stronger than before. As Krugman notes in our struggle with previous recessions “the shocks the economy experienced seemed, if anything, to reinforce the sense that we had finally figured things out.”³⁴ Perhaps this is why the Republicans have agreed to open debate for financial reform. By suggesting that deregulation is *not* a key tenant of neoliberalism, the Republicans can suggest crisis was not the fault of neoliberal ethic and can take credit for helping to reform the problem child – deregulation.

By chastising anti-regulationism, embracing financial reform, and by reshaping neoliberalism with the emphasis on deregulation, neoliberalism may be able to re-instate its own legitimacy.

CONCLUSION

This paper has adopted Habermas's theory of the legitimation crisis and illustrated how neoliberalism has fallen into crisis. Section II discussed the rise of neoliberal ideology and Section III closely tracked how neoliberalism has fallen into economic, rationality, and legitimation crisis. Section IV tried to address where neoliberalism would go from here. In particular, this section proposed two situations in which neoliberalism could survive virtually unfettered. Depending on one's belief's regarding neoliberalism, this may be problematic. If the neoliberal ideology is prone to crisis, then allowing the system to weather this crisis unscathed would be irresponsible. Neoliberalism has potentially provided classical liberals an ideal moment in which to flip the prevalent political trend by emphasizing the role of neoliberalism in creating the current crisis.

NOTES

- 1 Each of these structures informs the other. For instance, the political system provides steering to the economic system and receives taxes. The economic system provides goods to the social-cultural system and receives labor. And, the socio-cultural system provides loyalty to the political system while receiving welfare.
- 2 Joseph Heath, University of Montreal, 'Legitimation Crisis' in the later work of Jurgen Habermas
- 3 Motivational Crisis will not be discussed in depth because it is not related to the paper's primary argument.
- 4 For Habermas, economic crises, themselves, are never that detrimental because of our ability to manipulate economies, but advanced capitalist societies are prone to rationality crisis. Due to the proficiency of capitalism at managing macroeconomics, economic crisis is never very destructive. Even in the worst case scenarios, western economies seldom come close to collapse. Economic growth slows and unemployment may increase but collapse is rarely a possibility. However, because of the numerous classes that are represented in the social system a political system may regularly respond to economic crisis with contradictory administrative decisions. Capitalist social systems are layered with numerous socioeconomic classes. The most obvious distinction is between labor and the capitalists. Both of these groups must be ruled by the same institution, but their economic and social needs may be vastly different. Thus, when there is an economic crisis there are ample opportunities for the political system to respond to an economic crisis with seemingly contradictory decisions.
- 5 Once the political institution loses the electorate's loyalty, the system has suffered an identity crisis. At this point the ruling institution begins losing its ability to rule. To avoid losing legitimacy, the political system will appeal to symbols of the socio-cultural sphere. Note that the socio-cultural realm is the only subsystem capable of creating meaning. As the political system attempts to maintain legitimacy by co-opting socio-economic symbols, the symbols begin to lose meaning. Crisis destroys meaning. Ultimately the ruling institution collapses and a new institution must be instated.

The Neoliberal Legitimation Crisis of 2008

- 6 David Harvey, *A Brief History of Neoliberalism*, 64, (Oxford University Press 2005, reprinted 2009).
- 7 G. Eley, *Forging Democracy: The History of the Left in Europe, 1850–2000*, (Oxford: Oxford University Press 2000), DH 13.
- 8 Harvey, 12
- 9 Harvey, 52
- 10 In addition to these economic goals, the doctrine of individual responsibility allowed the gradual repeal of the social safety net which had seen fantastic expansion during Lyndon Johnson’s Great Society. It was these cuts in the Welfare State that financed the deep cuts in top bracket taxes.
- 11 Harvey, 33
- 12 Guiding the political system was the principle of limited government. Free market governed the economic system. And the principles of individual responsibility governed the socio-cultural system.
- 13 Harvey, 79
- 14 Harvey, 16
- 15 Harvey, 15 Figure 1.6
- 16 Harvey, 23
- 17 Krugman, 28
- 18 Paul Krugman, *The Return of the Depression Economics and the Crisis of 2008*, W.W. Norton and Company (New York 2009), 158.
- 19 Krugman, 155 - 156
- 20 Janet Morrissey, *Credit Default Swaps: The Next Crisis?*, *Time*, March 17, 2008 (citing the International Swap and Derivatives Association)
- 21 James Crotty, *Structural Causes of the Global Financial Crisis: A Critical Assessment of the ‘New Financial Architecture’*, Working Paper 2008-14, 35.
- 22 As Gillian Tett noted:

The travails of UBS have served as a particularly painful wake-up call. UBS had quietly stockpiled tens of billions of dollars of so-called super-senior CDO tranches on its trading book, supposedly because it planned to sell these to investors (although it is unclear whether the bank expected such sales to occur.) The bank made little provision against the chance of these instruments turning sour, because the models implied a negligible risk of losses. When the price of these super-senior tranches collapsed by up to 30 per cent late last year, this created more than \$10bn (£5.1bn, 6.4bn) worth of trading book losses for which the bank had set nothing aside...Tett, Gillain (2008c) "Battered banks face regulators' harder line on trading books," *Financial Times*, June 3.

- 23 Transcript of second McCain, Obama debate, October 7, 2008
- 24 Charles Hurt, Obama Fires a 'Robin Hood' Warning Shot, *New York Post*, October 15, 2008.
- 25 Barack Obama, *The American Promise*, Acceptance Speech at the Democratic Convention, Mile High Stadium, Denver Colorado, August 28, 2008
- 26 Not only did Obama attack the neoliberal structure, his message connected with the populace. On Tuesday November 4th, Barack Obama was elected the 44th President of the United State with a mandated for change by winning 349 electoral votes compared to John McCain's 162. In addition, the Democratic Party picked up 21 seats in the House and 7 seats in the Senate. One can argue that the population was merely reacting to Obama's charisma, that they were reacting to the War in Iraq, or that they were reacting to the need for some "Change" and that they were not reacting to Obama's anti-neoliberal ideology. However, the decisive win coupled with Obama's strong rhetoric supports the conclusion that neoliberalism was losing its legitimacy with the American people.
- 27 RealClearPolitics.com, Obama/McCain Election Data, http://www.realclearpolitics.com/epolls/2008/president/us/general_election_mccain_vs_obama-225.html
- 28 http://www.pollingreport.com/cong_rep.htm

- 29 Bush's Final Approval Rating: 22 Percent: CBS News/N.Y. Times Poll Finds President Will Leave Office With Lowest Final Approval Rating Ever, June 16, 2009, CBSnews.com, <http://www.cbsnews.com/stories/2009/01/16/opinion/polls/main4728399.shtml>
- 30 Andy Barr, Nearly two-thirds of Americans support financial reform, April 26, 2010, Politico.com, <http://www.politico.com/news/stories/0410/36343.html>
- 31 David M. Herszenhorn and Edward Wyatt, Republicans Allow Debate on Financial Overhaul, April 28, 2010, New York Times.
- 32 If neoliberalism is in crisis it is important to try to determine what role the Tea Partiers are playing. Foucault may be instructive here. As Foucault noted the world can be understood in terms of subtle and not-so-subtle relations of power. Where there is power there must be resistance. (Michel Foucault, *The Ethics of the Concern for Self as a Practice of Freedom*, Edited by Paul Rabinow, *Ethics: Subjectivity and Truth Vol 1*, (The New Press, 1994), 296.) Neoliberalism has been in a stronger position of power with a number of other social ideologies. Over time the resistance of those ideologies has begun to tip the balance of power. If neoliberalism is, in fact, in crisis then that tipping point may switch which ideology is in the dominant position. At this tipping point, where either ideology could attain the dominant position, it seems reasonable that the resistance of the declining party would be most vocal. Perhaps this is the role of the Tea Partiers. They are the resistance as the relations of power shift.

In which system does the Tea Party operate? Habermas would argue that a declining political system may co-opt meaning from the social-cultural system in order to survive. The Tea Parties have certainly attempted to co-opt meanings. They have appealed to anti-socialism rhetoric, they argued that healthcare reform takes away "freedom", and they have portrayed Obama as a terrorist in the form of the Joker. As noted earlier, meaning is created by the lifeworlds of the socio-cultural system. When a Political System tries to co-opt meanings, the symbols may lose meaning. But the Tea Partiers are not necessarily members of the Political System. They are members of the socio-cultural system. Thus, their redefinitions may not create a loss of meaning. On the other hand, if the Tea Partiers are merely an extension of the neoliberal Political System

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then there could be a loss of meaning as they co-opt more and more symbols to fight for survival.

Thus, the Tea Partiers provide some interesting theoretical problems in our analysis of the neoliberal legitimation crisis.

33 Duncan Kennedy, The Stake of Law, or Hale and Foucault!, Legal Studies Forum, Volume XV, Number 4 (1991).

34 Krugman, 22.