

# Open Research Online

---

The Open University's repository of research publications and other research outputs

## Obscuring Corporate Violence: corporate manslaughter in action

### Journal Item

How to cite:

Hebert, Jasmine; Bittle, Steve and Tombs, Steve (2019). Obscuring Corporate Violence: corporate manslaughter in action. *Howard Journal of Criminal Justice*, 58(4) pp. 554–579.

For guidance on citations see [FAQs](#).

© [not recorded]



<https://creativecommons.org/licenses/by-nc-nd/4.0/>

Version: Accepted Manuscript

Link(s) to article on publisher's website:  
<http://dx.doi.org/doi:10.1111/hojo.12345>

---

Copyright and Moral Rights for the articles on this site are retained by the individual authors and/or other copyright owners. For more information on Open Research Online's data [policy](#) on reuse of materials please consult the policies page.

---

[oro.open.ac.uk](http://oro.open.ac.uk)

Hebert, J., Bittle, S. and Tombs, S. (2019) Obscuring Corporate Violence: corporate manslaughter in action, *The Howard Journal*, Vol 58 No 4. December.

## **OBSCURING CORPORATE VIOLENCE: CORPORATE MANSLAUGHTER IN ACTION**

**Jasmine Hebert, Steve Bittle and Steve Tombs**

### **Abstract**

In April 2008, the Corporate Manslaughter and Corporate Homicide Act (CMCHAct) 2007 came into force in the UK. Since then, the Act has failed to live up to expectations, resulting in only 26 convictions in the first decade of its existence, despite thousands of work-related fatalities during this time. This article critically analyses these CMCHAct prosecutions in order to chronicle the problems of the law in action and to demonstrate how the Act serves to downplay the seriousness corporate killing. In so doing we approach law as an “active discourse” that is mutually constitutive of the broader social formation, so that it both creates but is also a product of the capitalist social order. Thus we explore the extent to which the CMCHAct ultimately privileges dominant beliefs that corporate killing is not ‘true’ crime and that corporate capitalism is an inherent good that must be defended, not disrupted.

### **Introduction**

It is now well documented that, following a series of high profile, multiple fatality disasters in Britain during the 1980s and the 1990s, egregiously emphasising the inability of the common law of manslaughter to hold large, complexly organised businesses to account for such deaths, a series of legal reform processes and struggles around these were set in train – the eventual result being the Corporate Manslaughter and Corporate Homicide Act (CMCHAct) 2007 (Almond and Colover 2010; Glasbeek 2017; Tombs and Whyte 2015). This had been 13 years in the making. Consistent with the historic reluctance of using criminal law against the powerful, there had been notable resistance against the criminalization of this form of corporate harm (Bittle and Stinson 2018; Tombs and Whyte 2015), with the path from original suggestions and demands to the enactment of the law full of conflict, controversies, dead ends, and

governments succumbing to the voices of powerful anti-regulatory groups (Gobert 2008; Tombs 2018).

The law's key legal innovation was to no longer require the identification of specific individuals and their guilt as contributing to work-related death (Tombs 2018). Instead, a prosecution under the Act requires a failure in the way in which the corporation is organized or managed that amounts "to a gross breach of its duty of care" (Crown Prosecution Services 2015). This in turn requires evidence that the failure fell "far below what can reasonably be expected" and may include consideration of the "attitudes, policies, and systems of accepted practices" of the organization (Tombs 2018, pp. 4-5). When the new law was in deliberation, there had for some time been the possibility that directors could be disqualified and potentially prosecuted alongside a corporation being convicted of manslaughter (*ibid.*). When these debates first started, there was little reason to believe that an individual should not or could not "be convicted for aiding, abetting, counselling, or procuring an offence of corporate killing" (CMCHAct, p. 13). Significantly, the original consultation documents from the Home Office indicated its willingness to consider holding directors and officers liable under CMCHAct for their role in the corporate killing offence. However, following the organized lobbying of employers, directors, and organizations, the CMCHAct explicitly ruled out this possibility. This change was and remains a major criticism of the law, as the people who own, control, and profit from the business cannot be held liable under the same law that allegedly seeks to hold corporations accountable for the harms they cause.

Further, the existence of the CMCHAct seems to make individuals less likely to be prosecuted under health and safety law. Tombs (2018, pp. 2-4) compares data on convictions under the old common law offence of manslaughter to those under the CMCHAct. Until 2009, when the last case was completed under the previous common law regime, all but one included a conviction of a director of gross negligence manslaughter. Comparatively, of the 26 convictions (at the time of this writing) for corporate killing under the CMCHAct, only four involved convictions of a company director (Tombs 2018, p. 4). Thus, an effect of the new law appears to be an exchange of liability – directors securing immunity from prosecution for themselves by offering up

the corporate entity through a guilty plea (Tombs 2018). Further, there is little evidence thus far that the new law has lived up to expectations it would make it easier to prosecute large, complex corporations: of the 26 convictions, 25 involved micro- or small companies, with only one of any significant size, CAV Aerospace, a parent company of some 460 employees and an annual turnover of £73 million. That said, the facts of the latter case were so egregious, and the evidence of senior management playing a substantial element in the gross breach at issue was so clear (Roper 2018), that this looks anomalous on a whole series of counts and does not establish the fitness for purpose of the new law (Tombs 2018).

Furthermore, Sentencing Guidelines accompanying the CMCHAct state that “punitive and significant fines should be imposed both to deter and to reflect public concern at avoidable loss of life” (Sentencing Guidelines Council 2010b), with the anticipation that “appropriate” fines would “seldom be less than £500,000 and may be measured in millions of pounds” (Sentencing Guidelines Council 2010a, para. 24). However, only three of the 26 convictions (against CAV Aerospace Ltd, Sterecycle Rotherham Ltd, and Bilston Skips) have attracted a sentence which reached the minimum putative fine of £500,000. Given the limited use of this body of law and the fact that fines have failed to reach minimal suggested levels, it is tempting to view the CMCHAct as purely symbolic. What remains in the context of health and safety crimes which result in deaths can still be characterised as “a sphere of activity” which produces significant harm and violence, but which is “effectively non- or de-criminalized” (Tombs and Whyte 2017, p. 9).

In what follows we explore the (re)production of corporate impunity for negligently killing workers through an analysis of convictions handed down since the CMCHAct came into force. Whilst there is some literature on the new law (Almond and Colover 2010; Gobert 2008; Tombs 2018), there is none examining the effects of its enforcement, particularly in terms of how findings of guilt help to frame understandings of corporate killing. Significant from our perspective is that law is an “active discourse” (Bourdieu 1987, p. 839) that is mutually constitutive of the broader social formation, meaning law not only “creates the social world” but is also a product of that same social order. This does not mean that legal actors necessarily or consciously manipulate the law in any pre-determined way; instead, it invites us to consider how legal precepts and

discourses were formed within particular conjunctures and if and how they (re)inforce particular ideological beliefs (Hunt 1993). Nor does it mean that law plays an automatic or determinative role in (re)securing the status quo – law’s dominance must be “explained not asserted” (Woodiwiss 1990, p. 72) – but does point to how it represents a complex and often contradictory system of rules and practices that can and does reproduce social relationships based on domination and exploitation (Whyte 2009). In what follows, then, we examine the extent to which the CMCHAct in action privileges dominant beliefs that corporate killing is not ‘true’ crime and that corporate capitalism is inherently good.

### **The Data**

This paper combines data from three sources, which together allow us to examine how language, key concepts, and categories are used to frame safety crimes – “one way of constructing an alternative epistemology with respect to the nature and impact of contemporary power relations” (Sim 2004, p. 131).

First, the CMCHAct states that “whether a particular organization owes a duty of care to a particular individual is a question of law. The judge must make any findings of fact necessary to decide that question” (CHCMAAct, p. 3). Therefore, to look at the law in action it is appropriate and necessary to examine judicial decisions in corporate manslaughter cases. We collected five judicial summaries from the cases detailed in Table 1 (Convictions under the Corporate Manslaughter and Corporate Homicide Act) from the Courts and Tribunals Judiciary website<sup>1</sup> and through LexisNexis Quicklaw. These cases were the only ones available through these sources at the time we conducted our search, which in itself may say something about the legal profile attached to the Act and prosecutions taken under it.

Second, we conducted a targeted internet search for legal commentaries on the CMCHAct from 2011-2018. These commentaries, written primarily by lawyers working in private firms, provided additional insight into the case decisions in more general terms whilst also helping to reveal the dominant narrative used to characterize

---

<sup>1</sup> <https://www.judiciary.uk/?s=corporate+manslaughter>

corporate manslaughter in the legal realm. After all, the legal profession was quite vocal in its opposition to the enactment of corporate liability law, sometimes going as far as arguing that it undermines the integrity of law itself, mostly because it strayed too far from established notions of individual guilt and intent (Bittle 2012). We analysed commentaries from the firms' websites related to successful prosecutions under the Act, for a total of 21 commentaries. In general, these commentaries stuck to describing the 'facts' of the cases, with occasional mention of sentencing trends. The commentaries cover 2011-2017, though not all cases are included in this analysis.<sup>2</sup>

Third, to explore the portrayal of corporate killing cases in the public domain, we collected data from different online sources. Of particular interest were stories about CMCHAct convictions, as well as more general stories about the law since its enactment. These sources included popular UK news outlets such as BBC, *The Guardian* and *The Telegraph*, news releases from the Crown Prosecution Services and the Metropolitan Police, and reports in specialist occupational health and safety press, notably *Health and Safety Bulletin*, *Safety and Health Practitioner Online*, and *Health and Safety at Work*. News media also helped fill the information gaps of the cases absent from the Courts and Tribunals Judiciary, LexisNexis Quicklaw, and law firm websites.

Corporate manslaughter prosecutions will only ever deal with the minutest fraction of deaths caused by work. In the first ten years of the operation of the CMCHAct – it came into force in April 2008, so we have included cases up to the end of March 2018 – 26 companies have been successfully prosecuted.<sup>3</sup> During the same ten year period, there were 1,528 recorded fatal injuries to workers and 2,736 to members of the public reported to the Health and Safety Executive (HSE)<sup>4</sup> – that is, in the context of 26 convictions, there were 4,264 work-related deaths (HSE 2017 and 2018). In some instances, a minority of fatalities reported to the HSE result in prosecutions under the

---

<sup>2</sup> Commentaries were collected from the top 3 most popular law firms via internet search. These were the firms with the most material on corporate manslaughter cases, with many others not discussing the crime in their blogs at all. This is likely due to the little attention afforded safety crimes generally.

<sup>3</sup> During the same period there were 2 acquittals (PS & JE Ward, MNS Mining), 1 dismissal of charge by judge as no case to answer (Maidstone and Tunbridge Wells NHS Trust) and 2 cases where charges brought but company pleaded guilty to health and safety charge and CM charge left to lie on file. (<http://readinglists.northumbria.ac.uk/page/summary-of-corporate-manslaughter-cases-april-2017.html>)

<sup>4</sup> Albeit there were changes to the reporting requirements for the latter in both 2013 and 2015, each reducing the numbers of reportable deaths.

Health and Safety act or directors taken under health and safety law (Tombs and Whyte, 2007); however, such convictions – some of which might have been pursued in lieu of a CMCHAct prosecution – proceed on the basis of strict liability rather than identifying *mens rea*, thereby lack the moral opprobrium of a ‘real’ criminal charge, a contemporary instance of what Carson (1979) called the “conventionalisation” of factory crime. Further, none of these considerations encompass the tens of thousands of workers who die annually as a result of workplace exposures, deaths technically covered by the CMCHAct, but which seem to represent almost insurmountable evidentiary challenges (Roper 2018).

### **Convicting Corporations of Manslaughter: An Analysis**

Five broad and overlapping themes emerged from the data, each cohering with dominant beliefs about corporate killing and violence and which are themselves related to wider conceptions of crime and criminality and the distributions of economic, political, and social power: safety crimes as accidents; corporate crime is not ‘real’ crime; negligence and risk are a normal part of business; maintaining the corporate veil; and law as bourgeois law. Significant for us is that these themes emerged despite the fact these were cases where a company was actually found *guilty* of criminal negligence; that is, they had a real salience even where they did not, ultimately, ‘work’ in preventing a conviction. This is worth bearing in mind when considering that in the overwhelming majority of cases of workplace deaths, no company ends up anywhere near a courtroom, let alone for a charge of corporate manslaughter.

#### *Safety Crimes as Accidents*

The first theme revolves around safety crimes as ‘accidental’ or ‘unintentional’ events. There is a long history of blaming workers for injuries and fatalities in the workplace and assuming such incidents as accidents, the regrettable but largely unavoidable cost of capitalist production (Rowland and Glasbeek 1979; Slapper and Tombs 1999). In reality, however, workplace fatalities are rarely ever ‘accidents’ but instead a product of a system of working which falls short of legal requirements to ensure the safety of workers (Tombs and Whyte 2007). In this sense, many workplace fatality cases involve an enormous and reckless disregard for human life. However, as Box (1983, p. 9) notes, “we are encouraged to see murder as a particular act involving a very limited range of

stereotypical actors, instruments, situations, and motives. Other types of avoidable killing are either defined as a less serious crime than murder or as matters more appropriate for administrative or civil proceedings." In dominant terms, the truly harmful and criminal acts are the one-on-one forms of violence that dominate news cycles and which look very different from typical workplace scenarios whereby an employer knowingly or negligently puts workers' lives in danger by cutting corners on safety (Tombs and Whyte 2015). As such, continued reference to the accident discourse, particularly when the CMCHAct is meant to undercut this exact narrative, only serves to reinforce the historic distinction between 'real' crimes and corporate offences.

Dominant beliefs of workplace fatalities as accidents held sway throughout the CMCHAct prosecutions. For instance, all of the judges' summaries use words such as "accident" (R v Pyranha Mouldings: 2, 5), "tragic" (R v Lion Steel: 2; R v JMW Farm: 10), and "sad death" (R v Cotswold Geotechnical: 1). Similarly, BBC News (2015) describes the Diamond and Son Ltd killing as a "tragic accident." This language also permeates the (minimal) media coverage of the CMCHAct cases.

The law firm commentaries also describe the killings as "fatal accidents" or "tragic deaths." In one commentary, Kingsley Napley (2012) describes the death of one employee (Sterecycle) as an accident, while simultaneously claiming that his death was "entirely preventable." Not only does this demonstrate the paradox of how corporate killing is understood, it also hints at the particular type of offender in these cases: it is indeed a very privileged position to be able to cause death through deliberate or negligent decision making whilst also having the consequences of those decisions be explained-away as unforeseen mishaps.

In the case of Master Construction Products (Skips) Ltd., Safi Qais Khan, an employee, became entangled in the rollers of a mobile trommel and conveyor system, a large machine that sorts waste material, and died of crush injuries. The machine, according to the police, was in a "dilapidated, ramshackle and lethal state", with essential guards to prevent entrapment missing (having been removed to ease access), no emergency stop button, and surrounded by uneven and waste strewn ground. Yet, the "expert report"

submitted to court by Dominic Swan, an HSE specialist inspector of mechanical engineering, states that the killing was an “accident”:

In my opinion, the general site conditions, trommel and conveyors were in a poor condition. I believe that the *accident* was caused by there being no guards around the dangerous parts of the trommel conveyor and/or a fall from height into the trommel and not having a safe system of work for clearing blockages. (Fidderman 2017 – emphasis added)

The common theme in all the documents examined was the use of language that portrayed safety crimes as unfortunate, unexpected incidents with no apparent or deliberate cause. In addition to ‘tragic’ and ‘accident’, one decision refers to the killing of an employee as “the conduct complained of” (R v Lion Steel: 28) as opposed to ‘crime’ or ‘harm’ or any other word that would imply wrongdoing on behalf of the corporation and its actors; in another, it is “the fatal incident” (Appleby 2017). Even after an organization is found guilty of a criminal offence, we do not see the word ‘criminal’ to describe their violence. It is common practice to hold others responsible for acts that are reasonably considered to be under an individual’s control (Glasbeek 2017). However, corporations are able to avoid the stigma of criminal labelling when workplace death is constructed as an unfortunate mishap, or as a deed or outcome described in terms lacking agency or moral blameworthiness.

This process is significant. The representation of workplace fatality cases as ‘accidents’ is an instance of denying or obscuring corporate violence, effectively drawing attention away from corporate responsibility for killing workers (Benoit and Czerwinski 1997; Lofquist 1997). Definitions of serious crime and harm are then constructed so as to exclude many similar acts and omissions, notably those likely to be committed more frequently by powerful and privileged individuals. This process ensures only a negligible fraction of deaths that have been criminally caused by employers attracts even a token response by enforcement agencies. This outcome does not mean judges consciously manipulate the law in favour of powerful interests but it does remind us that legal reasoning is not immune to social narratives regarding the benevolent corporation or accident-prone worker; language that downplays the seriousness of

corporate offending. Related is the second theme: the notion that corporations are not 'real criminals' who intend on committing harm. As the judge in the Pyranha Mouldings case states: "and it goes without saying that in cases of this sort there was no intention to kill. It was, in the true sense, an accident... an accident courted by no-one" (R v Pyranha Mouldings: 2).

### *Corporate Crime is Not 'Real' Crime*

The corporate crime literature is replete with examples of corporations routinely breaking the law and yet rarely facing criminal justice scrutiny (Barak 2017; Bittle *et al.* 2018; Snider 2015; Tombs and Whyte 2015). The image and idea of the modern corporation dominates our daily lives, Tombs and Whyte (2015, pp. 2-3) argue, significantly shaping "...how we think about corporations" and making it "appear to us as 'natural' and a permanent social institution." As such, whilst street criminals are calculating, dangerous, and deserving of serious punishment, corporations are generally benevolent and any harms they cause are "unintentional" or the result of organizational "bad apples" (Barak 2015; Friedrichs 2010). Moreover, corporate forms of law-breaking that lack direct physical connections between the victim and the offender, and where the harm is rooted in "deviant organizational culture" rather than the intent of an individual, often escape legal scrutiny and popular consciousness – they are not readily seen as criminal (Michalowski 2016).

Although the cases examined for this paper represent successful prosecutions of corporate manslaughter, the notion that corporate crime is not 'real' crime still factored prominently in the CMCHAct cases. For instance, a commentary by the Kingsley Napley (2012) law firm states, "it is more difficult to achieve a conviction for corporate manslaughter than it is for a breach of health and safety regulation", pointing to the requirements for proving corporate manslaughter and the obstacles they represent. However, this alone cannot answer why so few corporations have been held accountable for killing workers and members of the public. The idea that corporate violence is not 'real' crime once again relates to conventional definitions of crime fixated on one-on-one forms of violence (Slapper and Tombs 1999). Consider the following passage from the Pyranha Mouldings case:

In the vast majority of criminal cases, a judge is faced with a living person in the dock to whom he can explain the sentence, and to whom he may address his remarks. In those cases, almost without exception, the defendant will have committed a deliberate criminal act for which it is entirely right that he or she be punished (R v Pyranha Mouldings: 3).

Here the judge discusses some of the difficulties of corporate manslaughter cases, contrasting them with the kinds of traditional offences that truly represent “a criminal act.” The document even quotes assault and burglary as the types of crime where “the injured party should feel a proper sense of restorative justice” (R v Pyranha Mouldings: 3). This framing implies that safety crime is not deliberate or criminal, and that it might not be entirely ‘right’ to punish corporations and their actors, at least not in the same way as conventional criminals. The judge adds that he is “satisfied that there will be worse cases than this” and “at least [the victim’s family] are able to understand that their loss was not caused by a deliberate unlawful act; rather it was a result of oversight” (R v Pyranha Mouldings: 3).

Yet another way the ‘corporate crime is not real crime’ narrative factored in the judicial decisions was through the focus on the organizational component of the offences; that the worker’s death was the result of some bureaucratic omission or error, not negligence that stems from routine corporate decision-making resulting in the loss of life. The dominant assumption here is that corporations are inherently good and motivated to follow the law, a script which is maintained despite evidence to the contrary. When considering the seriousness of safety crimes, corporate manslaughter guidelines ask how foreseeable the risk of harm was, how far short of the applicable standard the company fell, and how common health and safety breaches are within the organization. In one law commentary, the Walker Morris (2013) team writes that “directors and managers understand the importance of their own health and safety obligations”, and some organizations just need to ensure “sufficient policies and procedures are fully embedded within the organization and supported by a strong compliance culture from the boardroom down to the shop floor”. Whilst strong and effective policies are essential for ensuring worker safety, this claim suggests that the only thing preventing corporations from reaching this goal is poorly designed and

implemented safety policies. In turn, this downplays important questions regarding the inherent risks and dangers of production in for-profit enterprises. Ironically, the very basis of holding corporations to account under the CMCHAct, namely using the failure of organizational policies as a basis for establishing corporate negligence, also serves to muddy the culpability waters, downplaying the need to refer to these as 'true' crimes.

In the Lion Steel case, for instance, the judge notes the company "had experience of properly conducted risk assessments and of heeding health and safety advice." The framing here is contradictory, as the company's "reasonable safety record" (R v Lion Steel: 12) is brought up even after evidence of dangerous practices commonly occurring at the company's worksite, including several HSE warnings in this regard. Furthermore, the fact the company had supposedly conducted risk assessments is a weak defence, as Tucker (2006) argues that these are often merely paper exercises with little to no impact on actual health and safety practices. Regardless of whether a company keeps formal record of dangerous conditions in their work environment, "when faced with a conflict between production and safety, [employers] stint on safety to achieve production targets" (Tucker 2006, p. 3).

We see this again in the data where the dangers in the working environment at JMW Farm were so significant that it was required to be recorded in the company's own risk assessment, but "steps that were required to be taken to secure against the foreseeable dangers were not satisfied" (R v JMW Farm:10). At the same time, however, the judicial summary of the JMW Farm case claims the company "has a good safety record and there is no evidence that they do not display other than a reasonable attitude to their employees" (R v JMW Farm: 13). Again, this claim followed evidence of deliberately ignoring health and safety warnings and the negligent killing of a worker. In line with the notion of the 'tragic accident', the JMW Farm killing case is either an "isolated in extent" or indicative of a brief "departure from good practice across the [company's] operations" (10-11). In any case, the corporate culture is not viewed as criminogenic and its violence is not understood as pervasive and ongoing.

Further examples from the cases underpin the belief that corporations are responsible social actors, not 'real' criminals. One commentary from BBC News (2015) on the

Diamond and Son case claims the company “had done all in its power to mend matters and had also set up a new gold standard where safety was concerned”. Additionally, the death is held as “not a question of short changing or trying to cut corners in the pursuit of profits” (ibid). Similarly, in the Pyranha Mouldings case the judge states the death was not indicative of how things were “when production was running normally” (R v Pyranha Mouldings: 1). The judge further characterizes the company as “relatively vibrant and profit making and a valuable employer within its local community employing upwards of 90 people. It makes a valuable contribution to the local and wider economy” (R v Pyranha Mouldings: 4-5). The judge concludes the company is “good” and “worth preserving”, which he then uses as a justification for applying a £200,000 fine despite the £500,000 minimum guideline.

In a similar vein, the judge in the JMW Farm case states that “common sense would have shown that a simple, reasonable and effective solution would have been available to prevent this tragedy” (R v JMW Farm: 10). The contradictions here are astonishing, considering that corporations are always said to “have an understanding of what [is] required to control the hazards in their operation” (R v JMW Farm: 10), but are also understood as childishly ignorant towards the dangers in their workplaces. Similarly, a news publication from the Crown Prosecution Services (2016) states that “safe working practices were not in place at Bilston Skips Limited [and] the risk to onsite workers had not been considered and was not managed.” This description, which suggests wilful ignorance – or, in the case of Jagbir Singh, the sole director of Master Construction Products (Skips) Ltd, what the judge called “wilful blindness” (Fidderman 2018, p. 9) – over deliberately violent disregards that unsafe working environments are simply ignored by senior management and owners, or considered a worthy risk compared to the loss of profits suffered by paying for improved safety.

For these reasons, much corporate violence continues to be wholly obscured or explained-away as quasi-legitimate, often even normalized and protected by dominant ideology. One possible way to expose corporate violence is through publicising its existence – and in this context it is important to note that the Act’s sentencing guidelines provide for publicity orders. These conditions “should ordinarily be imposed in a case of corporate manslaughter. The object is deterrence and punishment”

(Sentencing Guidelines Council 2010a, p. 8). Given this fairly prescriptive tone, it is therefore curious to say the least that there are just six publicity orders across the 26 CMCHAct convictions. In both the Lion Steel case and the Pyranha Mouldings case, the judges decided that publicity orders would “achieve nothing” (R v Lion Steel: 15) – and also that disqualifying company directors would be “neither proportionate or just” (R v Pyranha Mouldings: 5). Since these two sanctions are intended to demonstrate responsibility and publicly condemn unsafe work practices, it can be argued that in failing to invoke them, the violence is at best obscured and at worst both legitimated and normalized. This “charade of nonviolence” (Girard 2011, p. 5) is exceedingly important. Legal responses to corporate manslaughter are organized in such a way as to render the victims *as victims of murder or homicide* as inconspicuous as possible. The following section demonstrates the contradictions that arise out of the connection between risk and negligence and its relationship to safety crimes.

#### *Negligence and Risk - Just Doing Business*

Further underpinning the idea that corporate killing is ‘accidental’ and not ‘real’ crime was CMCHAct decisions that reinforced dominant beliefs that risk is a necessary part of capitalist endeavours – the means by which corporations innovate and secure maximal profits. There may be some occasions involving unnecessary risk, according to this dominant script, but this should not detract from the idea that risk-taking, including risks affecting workers’ health and safety, is a necessary component of free market capitalism (Tombs and Whyte 2007). If what is good for the company is good for society, and what is good for the company is ignoring health and safety hazards (in the sense that paying for health and safety diminishes profits), then the death of workers as a result of these decisions can also be seen as what is, in the end, an unfortunate but largely unavoidable by-product of the pursuit of maximal profits. In this sense the law is not really about challenging the status quo by ultimately securing the protection of workers and members of the public, but instead about establishing a tolerable level of risk and violence without upsetting the capitalist applecart (Glasbeek 2002; Tombs and Whyte 2017, p. 10).

The main contradiction here is that whilst there is evidence in all manslaughter cases of negligence and of taking risks with workers’ health and safety, often despite warnings

from HSE, the deaths are still framed as accidental and, by implication, non- or somehow 'less' criminal. As a result, the CMCHAct decisions reveal how corporate killing is much more likely to be considered "an accident waiting to happen" (Appleby 2017) instead of what it truly is: a killing or killings waiting to happen. This paradox can even be juxtaposed – the crushing of Safi Qais Khan at Master Construction Products (Skips) Ltd was described by one judge as "an accident waiting to happen, while the presence of five employees near an unguarded trolley occasioned a high risk of a fatality or a life changing event" (cited in Fidderman 2018) – so foreseeable and negligent, in fact, that the conviction was treated for sentencing purposes as one of Category A manslaughter, the most serious attracting the highest penalty.

In the Lion Steel case, the judge states that "risk of a fall through the roof was an obvious one, and those running the company should have appreciated it" (R v Lion Steel: 9). There was "also abundant evidence" that the company's senior management ignored the HSE's warnings of health and safety failings. In fact, "there was a considerable history" of the company "failing to implement a safe system of working" and failing "over a number of years to act on warnings...or with health and safety advice" (R v Lion Steel: 19). The evidence in this case shows that workers were improperly trained, lacked adequate safety gear, and "no suitable and sufficient measures were taken to prevent, so far as was reasonably practicable, persons falling a distance likely to cause injury" (R v Lion Steel: 3). This description not only demonstrates negligence and risk, but the specific type of prolonged, routine, and acceptable violence that workers commonly face.

Similarly, the judge in the JMW Farm case acknowledges that "it was clearly foreseeable that the failure to address this hazard would lead to serious injury and indeed that the consequences could well be fatal" (R v JMW Farm: 10). However, as noted above, "steps that were required to be taken to secure against the foreseeable dangers were not satisfied. Therefore of particular concern is that this operation had been going on for some time. It was not an isolated event" (R v JMW Farm: 10). This is another example of prolonged violence and the deliberate negligence of employers refusing to keep workers safe. However, a glaring contradiction can be noted in the following excerpt:

The company has fallen far short of the standard...and this operation was permitted to continue for some time. However, there is no evidence that this represents a systematic departure from good practice across the defendant's operations...and I find no evidence of a failure to heed warnings or advice (R v JMW Farm: 12).

Simultaneously, the judge states that the company was negligent over a significant period of time and that the fatal consequences were foreseeable, while also stating that this does not mean the company veered from being a responsible actor.

In the case against Pyranha Mouldings, "there was a significant amount of advisory and regulatory material available which, if followed, would have prevented an accident of this nature" (R v Pyranha Mouldings: 2). There had also been a conviction for a health and safety offence "within the recent past" at this company (R v Pyranha Mouldings: 4). However, the judge maintained that he was "far from convinced that there was any causative failure to heed warnings or advice" of that nature (R v Pyranha Mouldings: 3). This statement is significant, as evidence of ignoring health and safety warnings and regulations is one of the conditions for imposing more severe penalties for corporate manslaughter, something that some judges seem hesitant to acknowledge. Similarly, Odzil Investments Ltd continued work "despite warnings issued by the Health and Safety Executive about the hazards involved...and the requirement for adequate safety measures" (Kingsley Napley 2017). The company also hired "their friend and his company, Koseoglu Metalworks Ltd, to carry out the work without those required safety measures being put in place" (Kingsley Napley 2017). This second company "did not have any experience...and its workers were not trained in carrying out the work involved" (Kingsley Napley 2017).

In reference to the Diamond and Son case, BBC News (2015) states that dangerous work practices were "allowed to occur even though repairs could have been carried out safely. In addition, it is said that the safety guards preventing access to dangerous parts of the machinery had been modified and regularly bypassed for routine tasks." This is an example of the routinization of negligence and risk. The Crown Prosecution Services (2015) provided a similar illustration from the Huntley Mount Engineering Ltd case:

The company and its senior management allowed a 16-year-old apprentice to work on dangerous and defective machinery. Not only was [he] put to work on machinery without any meaningful supervision but he was provided with limited training. The risks were obvious.

The Metropolitan Police and the *Telegraph* both note that Martinisation London construction company asked employees “to perform a lifting operation at height without supervision and the requisite training” (Metropolitan Police 2017). The two victims in this case were not provided with a plan, method statement, or risk assessment prior to undertaking the work (Metropolitan Police 2017). Not only does this demonstrate casual exposure to risk and serious harm, but “the firm had a long and unhappy history of neglect of health and safety” (Telegraph reporters 2017) suggesting the negligence was routine and long-standing.

In the Cotswold Geotechnical case, a worker was killed in a pit that was “entirely unsupported. Unsurprisingly, it collapsed” (R v Cotswold Geotechnical: 6). In fact, “it was plainly foreseeable that the way in which the company conducted its operations could produce not only serious injury but death” (R v Cotswold Geotechnical: 6). The HSE previously had warned the company’s director to address issues relating to unsupported pits after receiving a complaint from an employee. Assurances by the director that health and safety changes would be in effect “were not honoured” (R. v Cotswold Geotechnical: 6). This evidence, paired with the minimal sentence the company received, suggests the legitimization of risk and negligence.

A key issue in the normalization of risk is the paradox of foreseeability and the salience of prior warnings alongside the regulator knowing that these warnings have not been acted upon whilst the work activity is allowed to continue. For example, in the CAV Aerospace case, several commentaries note the company had consistently failed to act on warnings of the dangers associated with excessive stock levels. Local management at CAV Cambridge had raised several times the unsafe situation with senior management at CAV Aerospace, and these had also been documented by an external safety consultant who undertook work at the site. Further, HSE had six near miss reports of collapses prior to the death of Mr Bowers – all logged on CAV Aerospace’s database – but no

action had been taken and no risk assessment had been carried out of the storage at Cambridge. The CPS therefore argued that these warnings about the dangers of excessive stock levels were “clear, unequivocal and repeated [...] over a sustained period of years prior to the fatal incident” (Fidderman 2017, p. 11).

In the Master Construction Products (Skips) Ltd. Case, an HSE inspector had previously investigated an injury to a member of the public and “recorded in his notebook that although the company produced safe systems of work, they were not suitable” (Fidderman 2018, p. 7). Thus, the prevalence of prior warning, and indeed in several cases of related prior enforcement actions, is significant – for it indicates the normalization of risk and negligence, as well as a level of regulatory tolerance (Tombs and Whyte 2015) with egregious offending, even with knowable, potentially fatal consequences. Also significant for our purposes is even when CMCHAct decisions and related commentaries recognize the risks taken by employers, and even if these risks are deemed unacceptable, they are framed in a manner that downplays their seriousness. Whilst risk in the workplace might be regrettable, it rarely rises to the level of a crime, and corporations are always motivated and capable of mitigating any unreasonable risks. This narrative prevails despite evidence to the contrary in the cases themselves, and regardless of previous research demonstrating that corporations can and do cut corners on safety (i.e. take risks) in the pursuit of profits. It is therefore the embedding of risk in the modus operandi of the modern corporation that is problematic, not simply that risks are known and yet ignored in limited (exceptional) circumstances (Glasbeek 2002; Tombs and Whyte 2007; Snider 2015). It is also worth noting that, to date, CMCHAct cases involve primarily small companies in which establishing the risks taken was relatively straightforward; this situation thus says nothing of the difficulties of law and legal reasoning in understanding the complex levels of risk in large, multinational corporations.

### *The Corporate Veil*

Yet another theme in the CMCHAct decisions that downplays the seriousness of corporate killing revolves around the sacrosanct status of the limited liability corporation. Corporate personhood, limited liability, and the corporate veil are key legal privileges granted to corporations under capitalist law (Tombs and Whyte 2015).

Corporate personhood established the corporation as an autonomous legal entity, independent of those who own and control it; limited liability limits the legal jeopardy for the actual owners and controllers of the corporate entity; and the corporate veil represents the barrier so constructed through these double-artifices. The corporate veil is thus the basis for the corporation as a structure of violent irresponsibility (Glasbeek 2017; Whyte 2018). There is “no individual liability” under the CMCHAct, indeed it is explicitly excluded: an “individual cannot be guilty of aiding, abetting, counselling or procuring the commission of an offence of corporate manslaughter” (CMCHAct, p. 13). However, company directors and senior officers can still be charged with the common law offence of negligent manslaughter – though this is rarely and, since the introduction of the Act, less and less the case (Tombs 2018).

The Pyranha Mouldings case demonstrates the ongoing trouble presented by the corporate veil: “Sentencing a corporation is fraught with difficulty. There is no person to imprison or to send to do community service, so there is a financial penalty imposed on the corporation for corporate failing” (R v Pyranha Mouldings: 3). The decision in this case states that “it is a relatively unusual experience for a judge to sentence a corporate defendant” (R v Pyranha Mouldings: 3). The judge expresses his difficulty with sanctioning for corporate manslaughter because there is “no person to look in the eye” when a sentence is passed (R v Pyranha Mouldings: 3). In fact, there was a company director who was convicted for Health and Safety offences but was not considered for gross negligence manslaughter.

Similarly, in the Lion Steel case, “the offer of a plea [for the corporation] was on the basis that the charges against the directors would not be proceeded with” (R v Lion Steel: 14). Not only did it help that “the personal levels of fault” of the directors is considered by the judge to be “irrelevant” (R v Lion Steel: 5), but this was paired with the notion that “a joint trial would have required directions to the jury of baffling complexity” (R v Lion Steel: 4). As a result, the manslaughter and negligence charges against the two directors were dropped. The Kingsley Napley team also comments on this case, claiming the conviction happened “in somewhat questionable circumstances – the company pleaded to corporate manslaughter in a deal that saved a director from the risk of personal manslaughter liability and likely custody” (Kingsley Napley 2012). The

law firm additionally comments on the J Murray and Sons case noting that “the decision to offer a guilty plea on behalf of a company in exchange for the removal of the risk of a personal conviction and likely prison sentence may not have been a difficult one, given that the director concerned was the owner of the company.” These commentaries reveal the privilege afforded by the corporate veil, allowing owners and directors to comfortably make decisions that kill workers with what amounts to legal protection.

Legal orthodoxy and capitalist ideology attempt to separate corporations from their human components, but of course the latter remain and have impacts. For example, in the JMW Farm case, it was the director who was operating the forklift that malfunctioned and killed an employee and “should have quite clearly seen that it was not secured in the proper fashion” (R v JMW Farm: 13). In the case against J Murray & Son, the working method and equipment alterations which killed an employee were devised by the controlling director of the company (R v J Murray & Son: 1). Clearly, the impact that owners and directors have on the companies that they profit from is significant, even though the corporate veil shields them from the consequences of their actions.

However, corporate manslaughter cases also present a paradox within the corporate veil. Despite being necessary for corporate offenders to continue causing harm with relative impunity, there were cases where the veil was lifted to benefit the powerful. For example, one judge states that he has “no doubt that [the victim’s] death was a tragedy also felt by everyone there, including those who run the company” (R v Lion Steel: 2). Another argued that “the court can appreciate that this tragedy would have had a profound impact on [the director], not least given his close and long-standing relationships with the deceased” (R v JMW Farm: 12).

In Cotswold Geotechnical, the judge “accepted the genuineness of [the company director’s] expressions of deep remorse and regret” (R v Cotswold Geotechnical: 6-7). The charges against the sole company director were stayed because the judge argued “it would be unjust and oppressive for the prosecution against [him] personally to continue” (R v Cotswold Geotechnical: 3). He was terminally ill and “all of this would have an impact on [his] family at a time when they would have troubles enough” (R v

Cotswold Geotechnical: 6). Indeed, “a careful direction was given to the jury about the potential disadvantages faced by the company through the inability for medical reasons of [the director] to give his evidence live” (R v Cotswold Geotechnical: 4). It should be noted that the jury was never deprived of the evidence from the director’s testimony, and they were aware of why he was unavailable for court. The paradox here is the claim is always that the corporation is autonomous from the people that comprise it, and it is for that reason that corporate manslaughter cases are “so difficult”; at the same time, the veil was lifted because it was “especially unfair” (R v Cotswold Geotechnical: 3) that the company director was not available to defend the company that allegedly acts on its own accord anyway.

In the Pyranha Mouldings case, the judge addresses a company director and clearly reveals the contradiction of the corporate veil:

The company may only act through its directors and senior officers. The company’s failure was also your failure – although the full responsibility does not fall on your shoulders. Rightly, you were not charged with gross negligence manslaughter. I fully accept that you and [the victim] were friends and that you were also devastated by the loss (R v Pyranha Mouldings: 6).

Here the judge lifts the corporate veil to demonstrate a human experience of loss, even though this is the same judge cited above who stated that corporate manslaughter cases are difficult as there are no guilty individuals to look in the eye when delivering a verdict.

### *Law as Bourgeois Law*

The final theme, intimately related to those explored above, is that corporate manslaughter law, as with other laws affecting the activities of business organisations, is ultimately generated within a system of corporate capitalism and, ultimately, bourgeois law. Important here is the pro-capitalist ideology – with law-makers and law-enforcers subject to these influences – that significantly informs law and legal reasoning and which serves to protect the long-term interests of capitalism and the role of the corporation therein (Pearce and Tombs 1990; Pearce and Tombs 1991). This includes the commonly held belief that holding corporations accountable for their harms will

threaten employment and entrepreneurship, and that corporations are beneficial to society as a whole. It is important to note that in formal terms, bankrupting or terminating a corporation is an acceptable consequence for a manslaughter conviction, as per the CMCHAct sentencing guidelines (Sentencing Council 2016). However, as this analysis demonstrates, this sanction is lost in practice. Our point is the CMCHAct was introduced to hold corporations to account for killing workers and yet when faced with this prospect, the law in action actually helps to (re)secure the corporation's existence. It also reminds us that criminal justice officials are not immune to dominant beliefs that the corporation is an inherently good and, but for the rare occasion, law-abiding entity that should ultimately be protected, not punished.

The tensions generated by the stated aim of the law and the necessary limits upon it are clearly illustrated in the judge's statement in the Pyranha Mouldings case: "let me make it clear that the whole purpose of the sentence is to punish the directors who are responsible for the state of affairs that led to this fatal accident...but my intention is to keep the company trading for the benefit of its employees and its customers" (R v Pyranha Mouldings: 5). He further states that "it is certainly not an acceptable consequence...to put the company out of business" (R v Pyranha Mouldings: 4), and that the minimum fine of £500,000 is only appropriate for companies "with huge resources and where a large fine may easily be paid" (R v Pyranha Mouldings: 4). Furthermore, he expresses concern that "the recent accounts show that there has been a substantial downturn in profitability" and that "the company could not meet a very substantial fine" (R v Pyranha Mouldings: 5).

Similarly, in the J Murray & Son case the judge states:

The company is not flourishing, and I have no wish to see it forced out of business, principally because it is providing significant employment in a rural area in these difficult economic times. I hope that the fine I impose will not have the effect of terminating the business (R v J Murray & Sons Ltd).

This language suggests it is more important to sustain a company than to secure the health and wellbeing of the workers who are otherwise sacrificed for it. In fact, the same

judge implies that the severity of the fine is irrelevant as neither “this nor any size of fine can, nor is it intended, to value the deceased’s life in money” (R v J Murray & Sons: 2). As a result, the company was fined £100,000.

Additionally, one company was described as ‘vibrant and profitable’ in order to demonstrate that it is a good social actor. This contradiction holds corporations as simultaneously too valuable to be shut down, but also too helpless to be held accountable for killing its workers. Ironically, the wellbeing of workers is only considered when in defense of a lenient sanction: “the fine I intend to impose will not affect...the employment of other innocent employees” (R v JMW Farm: 13); “I would regard it as a most regrettable consequence...if the effect of an order of this court were to imperil the employment of current and future employees at this company” (R v Lion Steel: 14). Similarly, J Murray and Sons was ordered to pay their already miniscule fine of £100,000 in annual instalments “in an attempt to ensure the continued employment of the company’s 16 employees” (Kingsley Napley 2012).

A common misunderstanding in corporate manslaughter cases is that safety violations are not the result of greed. For example, one news commentary notes that “profit was not the driving force” in the Diamond and Son death (BBC 2015). This claim helps secure other common misunderstandings, such as safety crimes are accidents, or not real crime, or corporations as separate entities from the human elements that run them. However, in the Martinisation case, The Metropolitan Police [30] state that “advice from an experienced and reputable lifting company on how to carry out the process safely was ignored due to time and budgetary constraints”. In the same case, a witness claimed the workers died because their firm was “too mean to spend money” on specialist lifting and equipment (Telegraph reporters 2017). One commentary from Stewarts Law LLP (Stewarts 2016) states that “it was the potentially cataclysmic fines which [originally] caused most concern in the boardrooms of larger, multinational organisations” but the lack of follow-through has “diluted the drive for changing boardroom attitudes towards health and safety”. In truly paradoxical fashion, corporate manslaughter legislation was essentially a law enacted to protect employees from greed and exploitation, only to help re-normalize those very things in its application.

## Conclusion

This paper argued that the application and enforcement of corporate manslaughter law is made up of elements, events, and discourses that together reproduce a particular notion of violence, one which reinforces capitalist hegemony and the role of corporations therein. It is an example of a reform which had the potential to undermine the legal protections which corporations currently enjoy, but which, in its ultimate formulation and then through ten years of implementation, has clearly failed to realise this potential. Indeed, while on some level the very first successful prosecution under the CMCHAct, Cotswold Geotechnical, signaled “an end to the frustrations long felt at the inability of English law to target companies whose negligence results in death” (Kingsley Napley 2017), it was also a harbinger of the law’s limitations. In particular, the prosecution of small companies (like Cotswold and others that followed) never seriously tested whether the law is “fit for purpose” (Tombs 2018). What is more, whereas the original hope was for the conviction of cases similar to the *Herald of Free Enterprise*, it appears unlikely that the law will ever produce the prosecution of a significantly large company (Kingsley Napley 2017; Tombs 2018).

Essentially, like other “non-radical tools” in the legal realm (Glasbeek 2013, p. 17), the CMCHAct lacks the ability to disrupt existing power relations and challenge the logic of capitalism – this is not surprising, because capitalist law ultimately upholds the existing social order. Thus, if powerful individuals and groups are prosecuted, this does not actually serve the function of regulating business activity; rather, it serves to dramatize an imaginary social order and legitimize the economic structure as something natural and inevitable (Pearce 1976). The occasional implementation of laws that hold powerful people accountable also seemingly give teeth to law’s claim to neutrality.

In the end, the CMCHAct in action reveals the paradoxical nature of law in capitalist society: that legislation intended to protect workers and the public from corporate violence instead helps to legitimize their harm. As the documents examined in this paper reveal, even when the courts acknowledge that corporations have caused serious harm, they still draw from hegemonic reasoning to (re)produce the judgement that such harm is not ‘real’ violence or crime. Instead, these harms are outliers that are far from

indicative of the guilty corporation's character, let alone corporations generally or capitalism itself.

It is clear from our analysis that safety crimes, even where death results, are still not treated as seriously as violent acts that cause widespread harm and suffering, despite changes to the law and concomitant legal findings of guilt. This situation does not necessarily or automatically equate to legal actors actively or consciously resisting the CMCHAct – after all, the cases analysed herein were successfully prosecuted – but it does demonstrate how the legal field is imbued with certain habitus (Bourdieu 1987) as it confronts competing conceptions of violence, including who is violent, why violence exists, and how violence should be dealt with. This scenario includes the deeply-embedded perception of violence that plays a role in the reproduction of a profoundly divided social order: it is individuals, not organisations nor systems, who are violent; corporate offenders differ from 'real' offenders because they engage in productive economic activities and are capable of being socially responsible; and death at work is an unfortunate cost of business. It is thus more than a little ironic that a law designed to make corporations accountable for such killings in fact helps to reproduce these representations which obscure this violence *as violence*.

## References

- Almond, P. & Colover, S. (2010) 'Mediating punitiveness: understanding public attitudes towards work-related fatality cases.' *European Journal of Criminology*, 7(5), 323-338.
- Appleby, L. (2017) 'Full story: jail for bosses who tried to cover up details of 25-year-old's fatal fall.' *SHP Online*. <https://www.shponline.co.uk/full-story-bosses-tried-to-cover-up-details-of-25-year-olds-fatal-fall/>. (accessed 20 October 2018).
- Barak, G. (2017) *Unchecked corporate power: why the crimes of multinational corporations are routinized away and what we can do about it*. London: Routledge.
- BBC. (2015) 'Diamond and Son fined over Peter Lennon's death.' *BBC News*, 28 January, <http://www.bbc.com/news/uk-northern-ireland-31027921>. (accessed 20 October 2018).
- Benoit, W. L. & Czerwinski, A. (1997) 'A critical analysis of USAir's image repair discourse.' *Business Communication Quarterly*, 60(3), 38-57.

- Bittle, S. & Stinson, L. (2018) 'Corporate killing law reform: a spatio-temporal fix to a crisis of capitalism?' *Capital & Class*. doi.org/10.1177%2F0309816818780644.
- Bittle, S., L. Snider, S. Tombs & D. Whyte (eds). (2018). *Revisiting crimes of the powerful: Marxism, crime and deviance*. London: Routledge.
- Bittle, S., S. Tombs & D. Whyte. (2019) 'Corporate killing personified: twisting the corporate hand to fit inside the criminal glove.' In. J. Fudge and E. Tucker (eds.), *The Class Politics of Law: Essays Inspired by Harry Glasbeek*. Halifax: Fernwood Publishing.
- Bourdieu, P. (1987) 'The force of law: towards a sociology of the juridical field.' *The Hastings Law Journal*, 38: 814-853.
- Box, S. (1983) *Power, crime, and mystification*. London; New York: Tavistock Publications.
- Carson, W.G. (1979) The Conventionalization of Early Factory Crime, *International Journal of the Sociology of Law*, 7, 37-60.
- Crown Prosecution Services. (2015) Company and its senior management sentenced following death of 16-year-old apprentice.  
[https://www.cps.gov.uk/news/latest\\_news/huntley\\_mount\\_engineering\\_ltd/](https://www.cps.gov.uk/news/latest_news/huntley_mount_engineering_ltd/). (accessed 10 September 2018).
- Crown Prosecution Services. (2016) Failed company and its manager convicted of corporate and gross negligence manslaughter.  
[https://www.cps.gov.uk/news/latest\\_news/failed\\_company\\_and\\_its\\_manager\\_convicted/](https://www.cps.gov.uk/news/latest_news/failed_company_and_its_manager_convicted/). (accessed 20 October 2018).
- Fidderman, H. (2017) 'Contractor admits corporate manslaughter after cover-up.' *Health and Safety Bulletin*, 459 HSB 9, 1 June.
- Fidderman, H. (2018) 'Corporate manslaughter no.25' *Health and Safety Bulletin*, 465 HSB 5, 1 February.
- Friedrichs, D. O. (2010) *Trusted criminals: white collar crime in contemporary society* (4<sup>th</sup> ed.). Belmont: Wadsworth Cengage Learning.
- Girard, R. (2011) *Sacrifice*. East Lansing: Michigan State University Press.

Glasbeek, H. (2002) *Wealth by stealth: corporate crime, corporate law and the perversion of democracy*. Toronto: Between the Lines.

Glasbeek, H. (2013) 'Contortions of corporate law: James Hardie reveals cracks in liberal law's armour.' *Australian Journal of Corporate Law*, 27, 132-67.

Glasbeek, H. (2017) *Class privilege: how law shelters shareholders and coddles capitalism*. Toronto: Between the Lines.

Gobert, J. (2008) 'The Corporate Manslaughter and Corporate Homicide Act 2007 – thirteen years in the making but was it worth the wait?' *The Modern Law Review*, 71(3): 413-463.

HSE (2017) RIDHIST. Reported injuries from 1974, <http://www.hse.gov.uk/statistics/tables/index.htm>. (accessed 20 October 2018).

HSE (2018) Workplace fatal injuries in Great Britain 2018. 07/18, London: Health and Safety Executive.

Hunt, A. (1993). *Explorations in Law and Society: Toward a Constitutive Theory of Law*. New York: Routledge.

Kingsley Napley. (2012) Corporate Manslaughter – 4 years and only a single conviction. <https://www.kingsleynapley.co.uk/insights/blogs/criminal-law-blog>. (accessed 18 July 2017).

Kingsley Napley. (2017) Three companies convicted of corporate manslaughter in a week. <https://www.kingsleynapley.co.uk/insights/blogs/criminal-law-blog>. (accessed 18 July 2017).

Lofquist, W. (1997) 'Constructing crime: media coverage of individual and organizational wrongdoing.' *Justice Quarterly*, 14(2), 243-263.

Metropolitan Police. (2017) Update: company guilty of corporate manslaughter. <http://news.met.police.uk/news/update-company-guilty-of-corporate-manslaughter-250660>. (accessed 10 August 2017).

Michalowski, R. J. (2016). 'What is crime?' *Critical Criminology*, 24(2), 181-199.

Pearce, F. & Tombs, S. (1990) 'Ideology, hegemony and empiricism: compliance theories of regulation.' *British Journal of Criminology*, 30(4), 423-443.

Pearce, F. & Tombs, S. (1991) 'Policing corporate 'skid rows': safety, compliance, and hegemony.' *British Journal of Criminology*, 31(4), 415-426.

- Pearce, F. (1976) *Crimes of the powerful: Marxism, crime, and deviance*. London: Pluto Press.
- Roper, V. (2018) 'The Corporate Manslaughter and Corporate Homicide Act 2007—A 10-Year Review.' *The Journal of Criminal Law*, 82(1), 48-75.
- Rowland, S. & Glasbeek, H. (1979) 'Are injuring and killing at work crimes?' *Osgoode Hall Law Journal*, 17(3), 506-594.
- Sentencing Council. (2016) Health and Safety Offences, Corporate Manslaughter, & Food Safety and Hygiene Offences: Definitive Guidelines. United Kingdom.
- Sentencing Guidelines Council (2010a) Corporate manslaughter & health and safety offences causing death: Definitive guideline. London: Sentencing Guidelines Council.
- Sentencing Guidelines Council (2010b) Council publishes definitive guideline on corporate manslaughter and health and safety offences which cause death. Press release, 9 February 2010, SGC 01/10.
- Sim J. (2004) 'The victimised state and the mystification of social harm.' In P. Hillyard, C. Pantazis, & S. Tombs (Eds.) *Beyond criminology: Taking harm seriously*. London: Pluto Press
- Slapper, G. & Tombs, S. (1999) *Corporate crime*. London: Longman.
- Snider, L. (2015). *About Canada: corporate crime*. Black Point; Winnipeg: Fernwood Publishing.
- Stewarts Law LLP. (2016). 'Alton Towers Smiler rollercoaster accident: Merlin Attractions Operations Ltd receives record fine.' [https://www.stewartslaw.com/news\\_tag/health-and-safety-executive/](https://www.stewartslaw.com/news_tag/health-and-safety-executive/). (accessed 17 July 2017).
- Telegraph reporters. (2017). Workers fell to their death after firm was 'too mean' to pay for specialist lifting. The Telegraph. <http://www.telegraph.co.uk/news/2017/04/25>. (accessed 10 July 2017).
- Tombs, S. (2018) .The UK's Corporate Killing Law: Un/fit for purpose?. *Criminology & Criminal Justice*, 18 (4), September, 488-507.
- Tombs, S. & Whyte, D. (2007) *Safety crimes*. Cullompton: Willan.
- Tombs, S. & Whyte, D. (2015) *The corporate criminal: why corporations must be abolished*. London: Routledge.

Tombs, S. & Whyte, D. (2017). 'Worker health and safety.' *Oxford Research Encyclopedia of Criminology*, 1-27.

Tucker (ed.) (2006). *Working Disasters: The Politics of Recognition and Response*. Amityville: Baywood Publishing Company.

Walker Morris (2013) Corporate Manslaughter – a Brief Update.

<https://www.walkermorris.co.uk/publications/corporate-manslaughter-brief-update/>.

(accessed 18 July 2017).

Whyte, D. (2009) *Crimes of the powerful: a reader*. Maidenhead: Open University Press.

Whyte, D. (2018) 'The Autonomous Corporation: The acceptable mask of capitalism.' *King's Law Journal*, 29(1): 88-110.

Woodiwiss, A. (1990) *Social theory after postmodernism: rethinking production, law, and class*. London: Pluto Press.