

Mitigating and Responding to Corporate Violence: Beyond Crime and Criminology





CONTENT

01

Author & Introduction

02

Corporate Harm, Crime and Violence

03

Corporate Decision-Making

04

Responding to the Harmful Corporation

05

Disrupting the Corporation

06

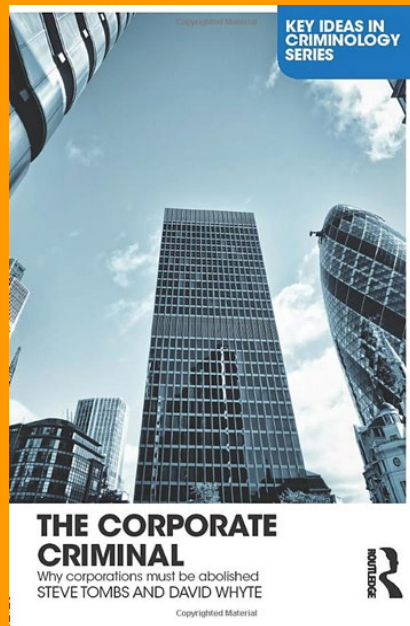
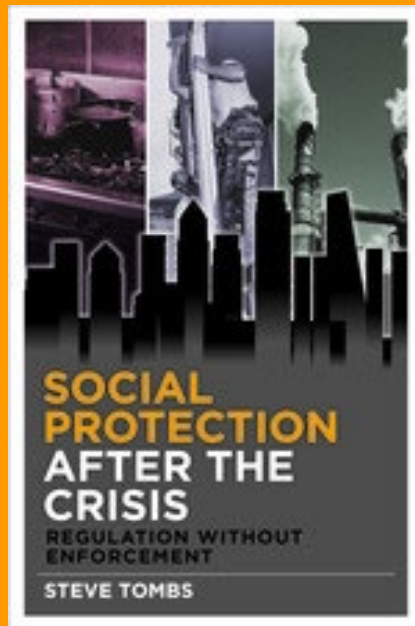
Beyond the Corporation, Beyond Crime,
Beyond Criminology?

PART 01

Author & Introduction



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Steve Tombs

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Corporate

The single best way of organising the production and distribution of goods and services in the contemporary world.

The corporation is a motor of efficiency, innovation, economic progress, and ultimately social good.

Corporations are essentially benevolent institutions

generate **destructive side-effects**

problems caused by corporations which seriously threaten our lives and the very existence of our planet.

Corporations and their senior managers must be **empowered to reform themselves** along more socially responsible lines.

Only where 'corporate social responsibility' fails should governments step in to regulate (or enforce) the law

It is possible for corporations **themselves to balance effectively economic progress with social welfare.**

Scopes for CSR Work



Environment



**Labor & Human
Rights**



Ethics



**Sustainable
Procurement**

Benefits of CSR

- to enhance access to capital and markets
- to increase sales and profits
- to save operational cost savings
- to improve productivity and quality
- to secure an efficient human resource base
- to develop brand image and reputation
- to enhance customer loyalty
- to advance decision-making and risk-management process

Carroll Model(1991)



Corporate violence

Chapter 8

one specific form

corporate harm- the violence corporate activity wreaks systematically upon **workers**

one specific question

what are the most appropriate ways of **responding to and mitigating** such harm



Violence or not?

Typical
Criminal
Justice
Response

The
abolition of
the
corporation



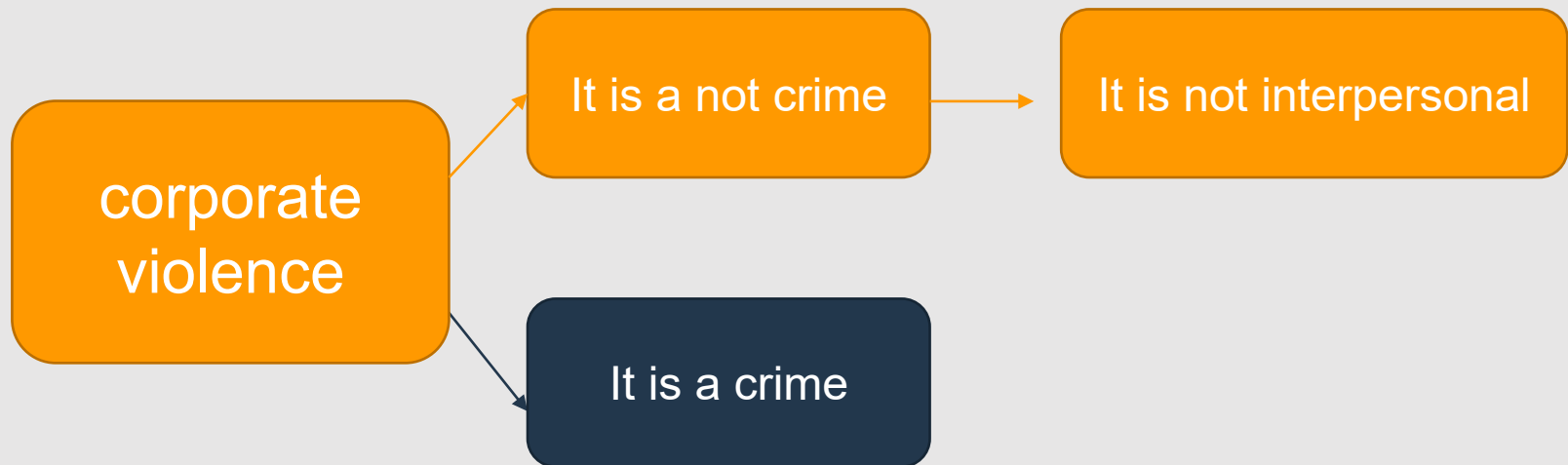
Corporate violence



Colin Sumner

by Colin Sumner through his work on social censure, ideology and violence, and indeed to one specific, crucial insight

we can not take crime—and, I would argue, criminal justice (Tombs and Whyte 2017)—**for granted**.



TRYING FORD



Comments on the Ford Pinto case

The significance of suing Ford (—)

- ✓ The Ford Pinto trial was regularly significant in the media as “one of the most significant criminal court trials in American corporate history”
- ✓ A corporation being brought within the reach of the criminal law, the case thus provided a rare and concrete glimpse of the power that corporations can bring to bear to avoid conviction
- ✓ It revealed that prosecution of corporations for offenses of a product liability type will necessarily involve legal theories with which participants in the criminal justice system are only vaguely familiar and perhaps will find inappropriate for their arena.

Comments on the Ford Pinto case

The significance of suing Ford (二)

- ✓ The very fact of prosecution is notable not merely for its role in bolstering formal legal precedent but in breaking psychological barriers.
- ✓ The legal community is now sensitized to the possibility that companies that recklessly endanger the physical well-being of the public may be held criminally responsible for their conduct.



CONCLUSION: comments on the Ford Pinto case

Impact on the social environment (—)

- ✓ The Pinto case was very much a social product the more general crusade against the Pinto, itself a manifestation of a broader movement attacking corporate crime that sought to question the appropriate moral boundaries of corporate behavior
- ✓ This perspective suggests that the ultimate, long-range meaning of the Pinto trial may depend less on the legal precedent that has been set and more on the nature of the social context that comes to prevail

**benefit
v.s
morals**



Comments on the Ford Pinto case

Impact on the social environment (二)

✓ That is, will the future see a sustaining of the movement against corporate crime; and thus encourage attempts to build on the Pinto prosecution, or will concern with upper-world illegality

benefit
v.s
morals



Comments on the Ford Pinto case

The attitude of the U.S. government (—)

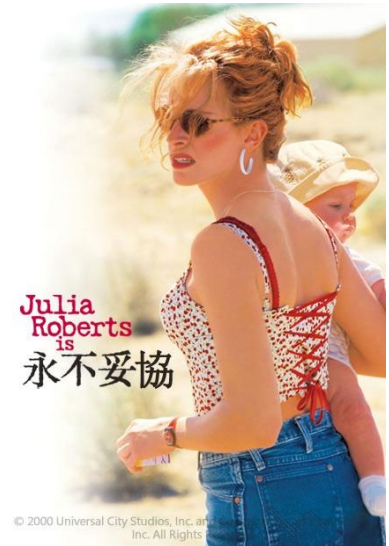
- ✓ The Reagan administration moved to reinterpret the moral character of corporate America and to officially clarify what “real” crime is; thus, loosening of regulatory controls on business was accompanied by a renewed concern over violent street crimes and the trafficking of drugs, meanwhile, **white-collar and corporate criminality was placed on the back burner.**



Comments on the Ford Pinto case

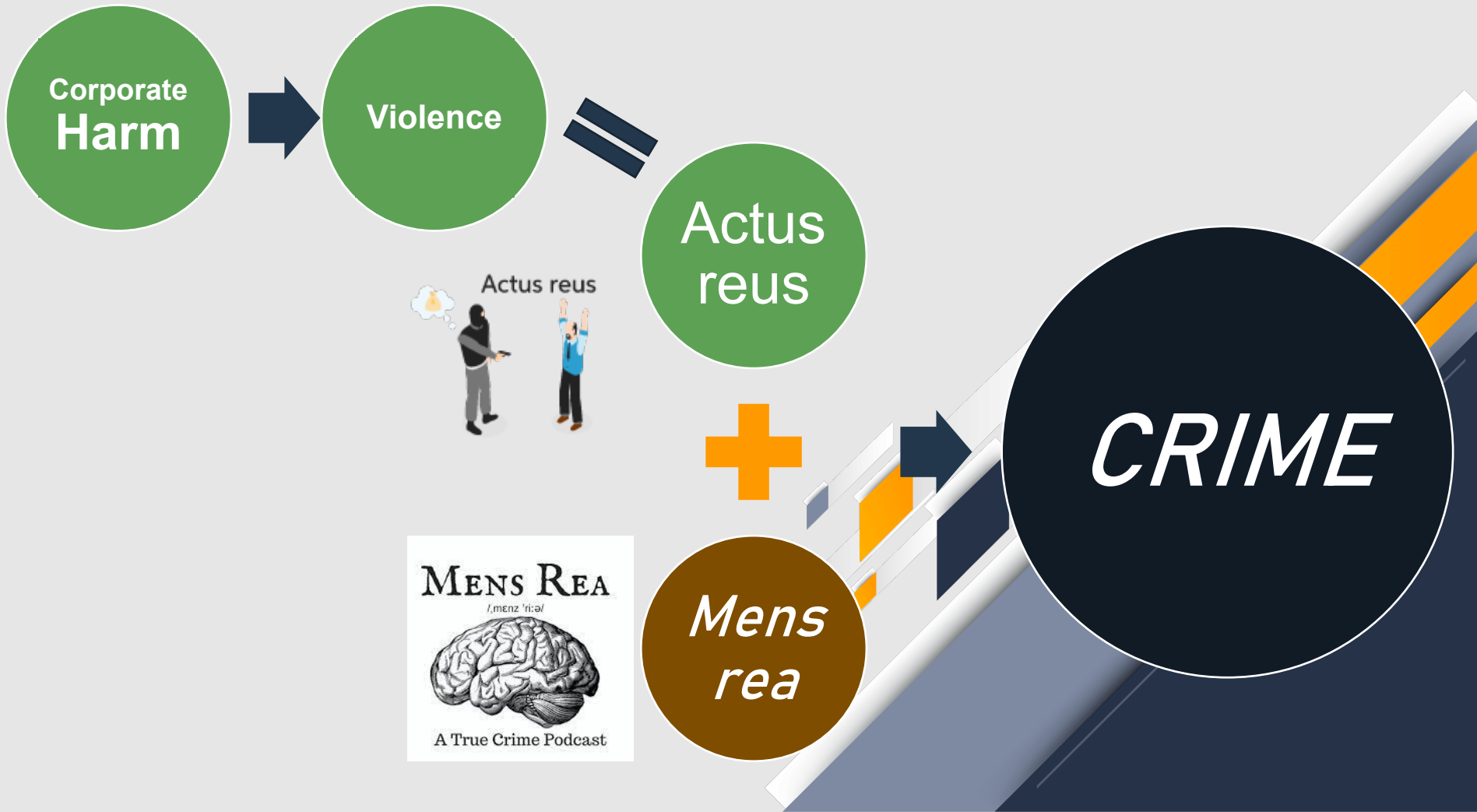
The attitude of the U.S. government (三)

- ✓ As in the Environmental Protection Agency (EPA) incident involving the dumping of chemical wastes, should run high
- ✓ Corporate conduct should thus remain a matter of continuing public concern
- ✓ It will be difficult for the state to retain legitimacy if it chooses to ignore flagrant affronts to existing moral boundaries; criminal prosecutions in the immediate future of corporations that persist in recklessly endangering the public's well-being



PART 01

Corporate Harm, Crime and Violence

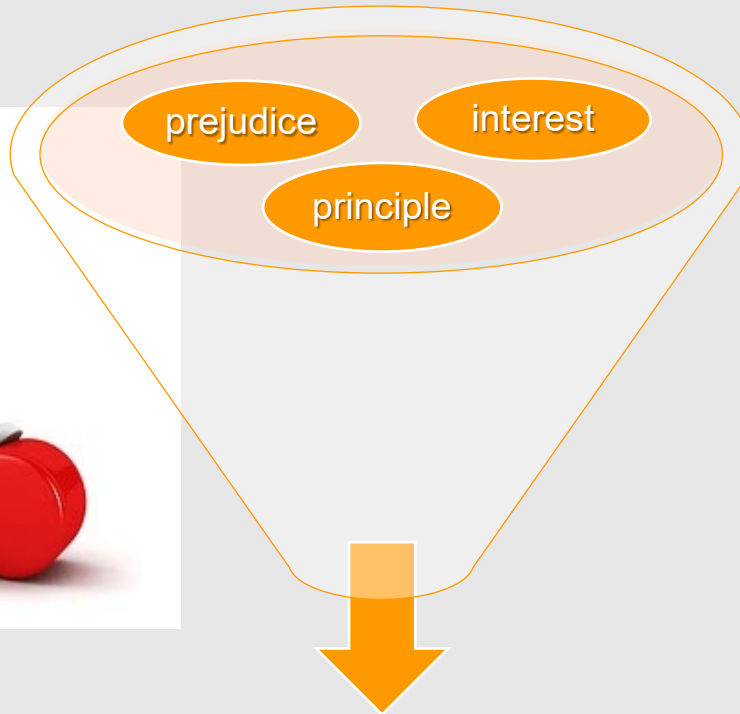


Violence

is a cultural and historical sign, subject to the usual filters of human interest, prejudice and principle; as a sign of disapproval, **it is more arbitrary and capricious** than a simple effect of its referent **or** target.... **what counts as violence is subject to the acculturated or political understandings and standpoints of the viewer**



What is Violence ?



What is Violence ?

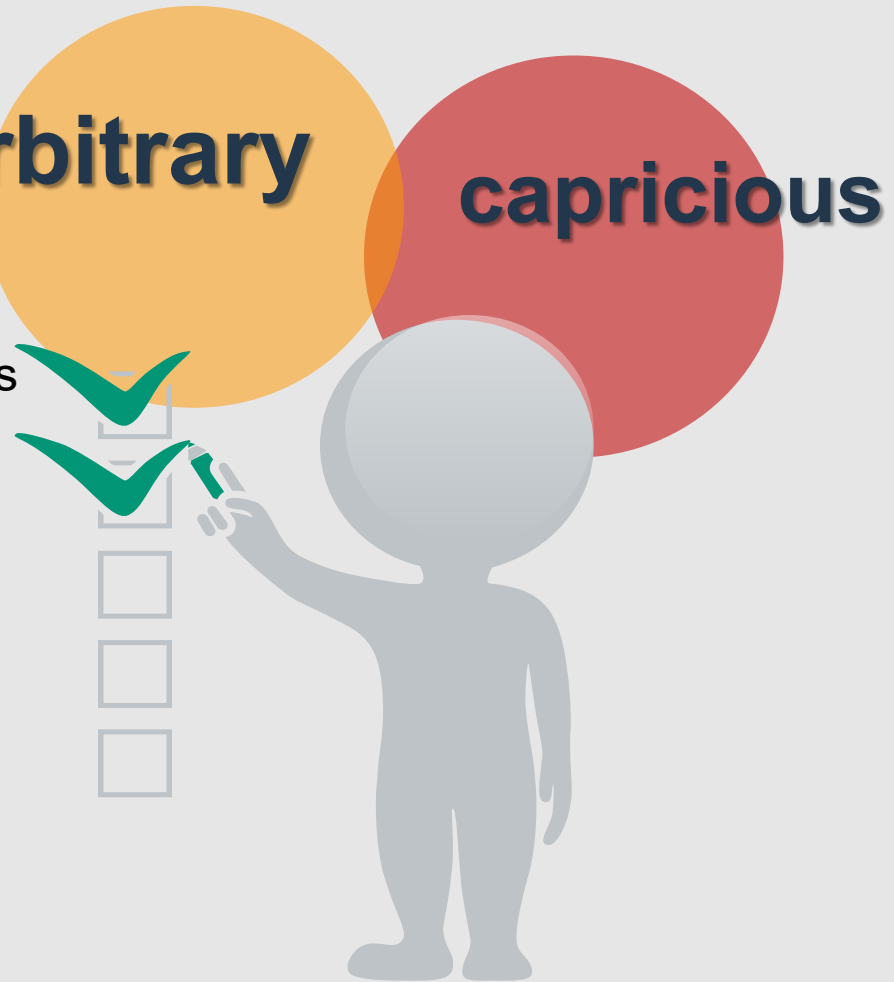
arbitrary

capricious

acculturated understandings and standpoints

political understandings and standpoints

(Sumner 1996: 3)



Corporate Harm, Crime and Violence

Corporate Harm



Violence



**Health & Safety
Executive**

HSE is the most comprehensive facility in the world dedicated to the investigation and research of health and safety science.

It's a true national asset and is the main home of HSE's Science Division - 380 scientists, engineers, occupational health and hygiene specialists and support professionals working together to provide the research and evidence that HSE requires to underpin its regulatory activities, protect people and places and make Great Britain one of the safest places in the world to work and do business.

Corporate Harm, Crime and Violence

Unit	Fatal accident	Occupational Exposure (chemicals and dusts)	Mesothelioma (asbestos)	Total
HSE 2015-2016	150	13000	2515	15665
European Agency				21000
O'Neill				40000
Hazards Campaign				50000

the basis of HSE's collection of self-reported data is counted in **seven figures**

Work is a major source of physical harm.

Corporate Harm, Crime and Violence

Corporate Harm



criminalisation

prevented

breaches of the
criminal law

Corporate Harm, Crime and Violence



Corporate Harm, Crime and Violence

Corporate Harm



Violence



injury and death



injury and death

Corporate Harm, Crime and Violence



Violence

injury and death



Corporate Harm

injury and death

Safe Crime



It is not violence with the interpersonal

It is not violence with intention

Corporate Harm, Crime and Violence

Safe Crime

=

Indirect violence

not interpersonal
no mens rea



Colin Sumner

relations of domination

condoned violence

the meaning attributed to it

no intention to kill

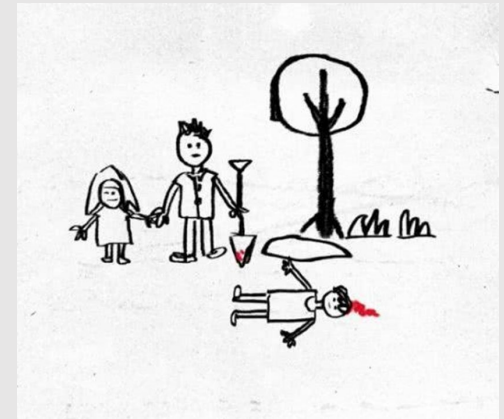
easily avoided

'violence' is not a quality of an act but the meaning attributed to it, within specific cultural and historical contexts (Sumner 1996)

Mens rea (guilty mind)

Actus reus

	<i>Mens rea</i>	<i>Actus reus</i>
Manslaughter	No	Yes
Murder	Yes	Yes

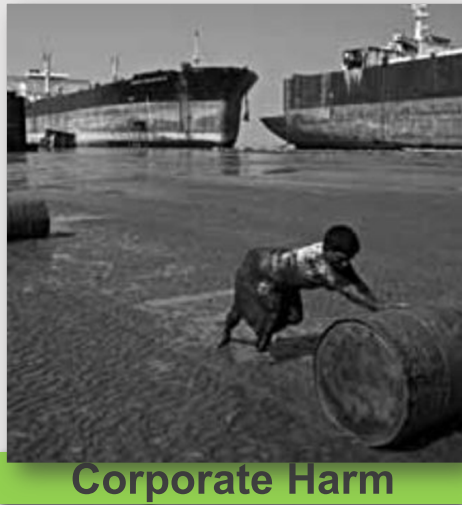


Corporate Harm

manslaughter

murder

Corporate Harm, Crime and Violence



manslaughter

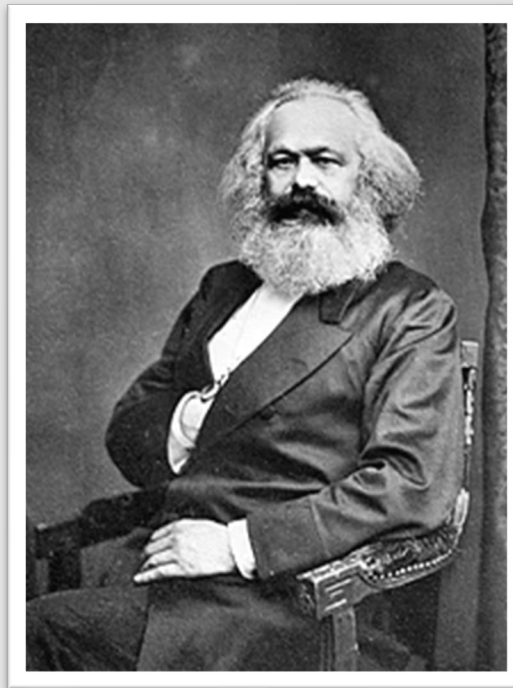
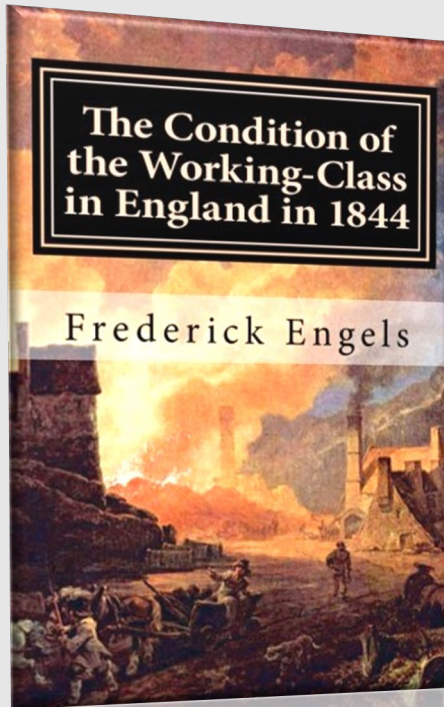
murder

murder

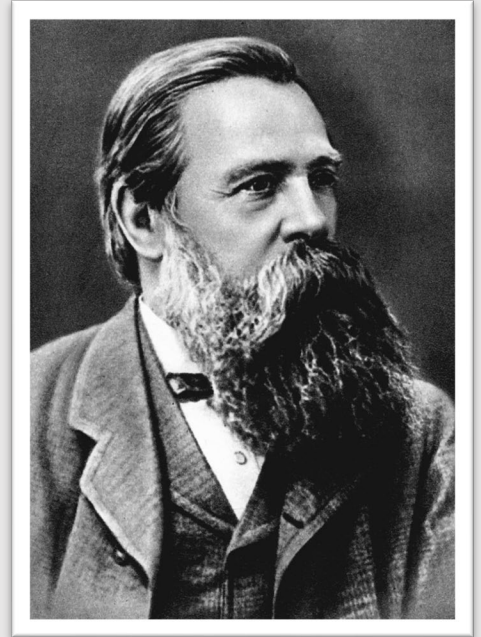
Knows these thousands of victims must perish,
and yet permits these conditions to remain, its deed
is murder

Social Murder

the systematic and routine killing of workers and citizens in the horror of the emergence of industrial capitalism.

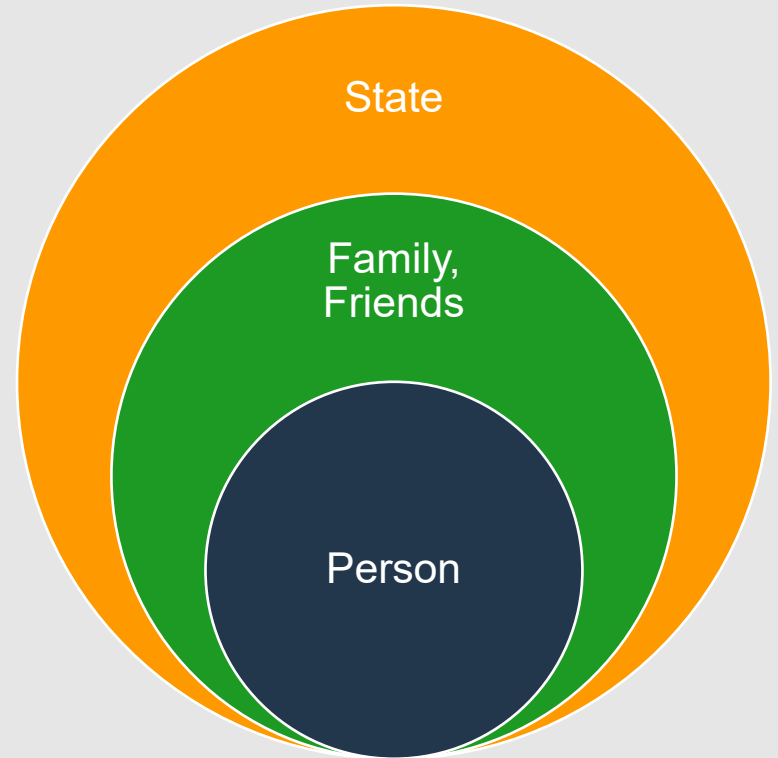



Engels developed what is now known as [Marxism](#) together with [Karl Marx](#).



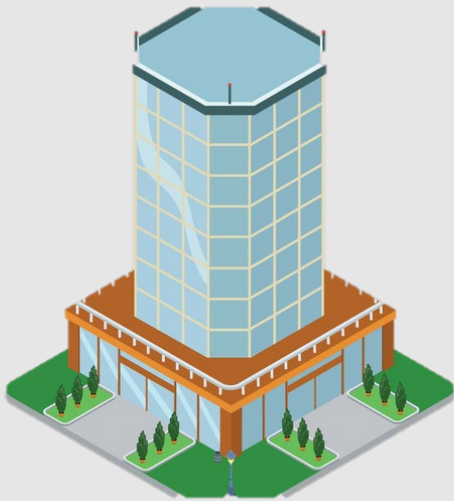
a German [philosopher](#), [critic of political economy](#), historian, [political theorist](#) and [revolutionary socialist](#).

Effect of Corporate Harm





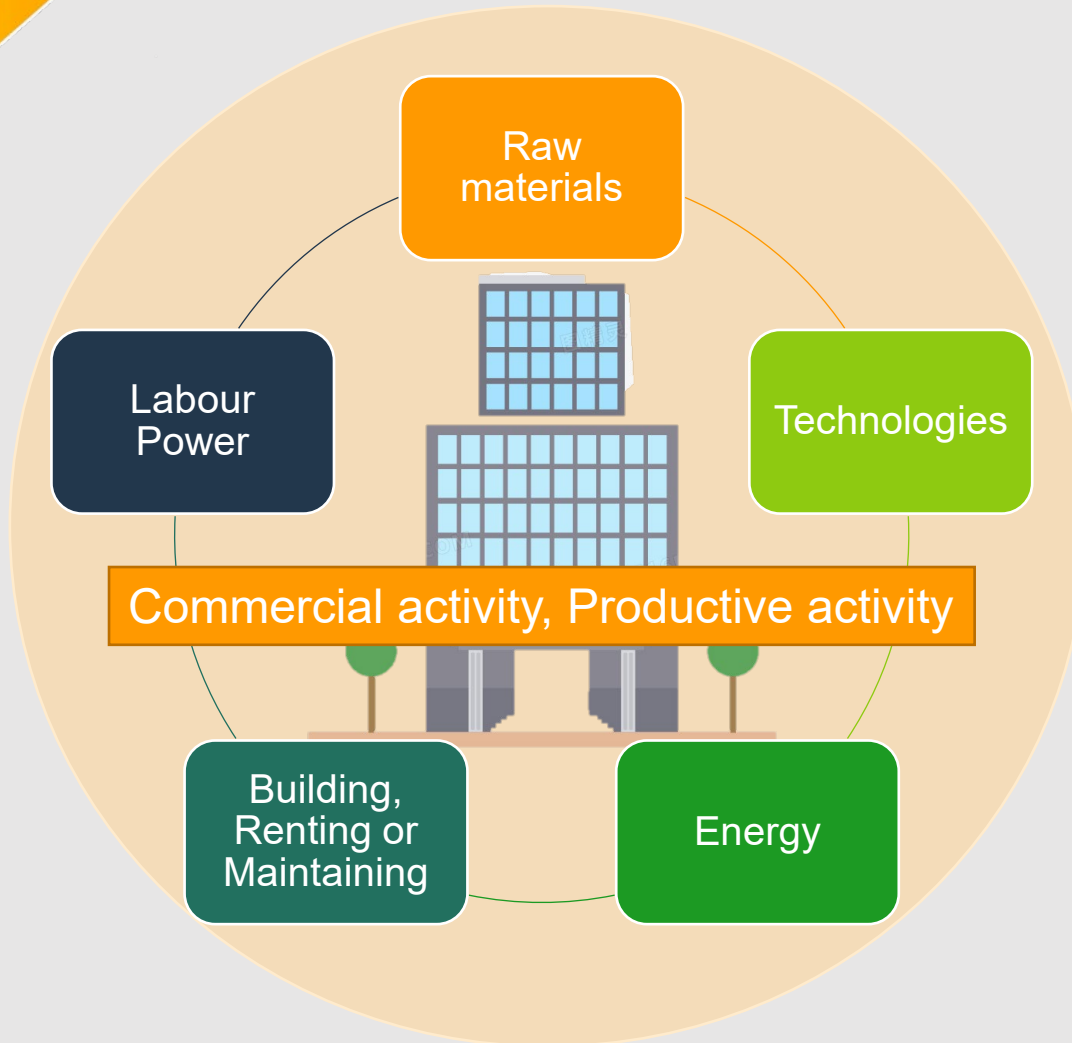
£8b is borne by individuals
£2.8b by employers
£3.3b by government / taxpayers



employers bear some
20% of the costs



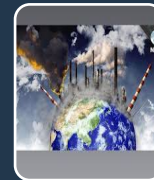
Externalities



Industrial Injuries



Industrial Diseases



Environmental
Pollution

PART 03

Corporate Decision-Making

Current normality is criminal and thus crime stands compromised as a meaningful category (Sumner 1997: 149).

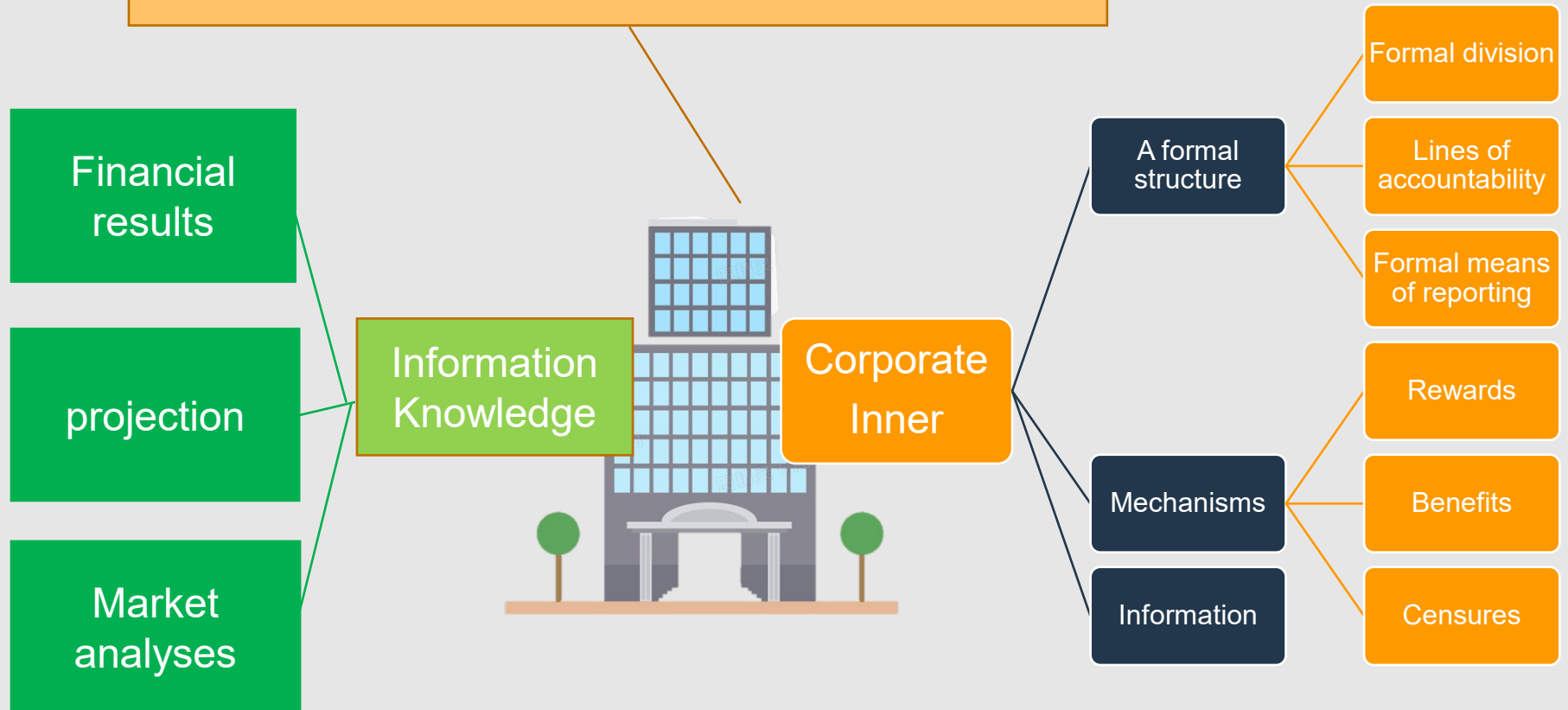
How do these externalising machines work?
How do they produce violence?





How do these externalising machines work?

Any corporation seeks at the very least *to present itself to external environments as rational*.



DECEMBER 3, 1984



**STRUGGLE FOR JUSTICE CONTINUES
BHOPAL GAS TRAGEDY**

BHOPAL:

TAKE ACTION! ▶

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RESOURCES ▶

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ICJB PRESS RELEASES, STATEMENTS, LETTERS

BHOPAL SURVIVORS ORGANISATIONS LAUNCH CAMPAIGN TO HOLD STATE & CENTRAL GOVTS TO HONOUR THEIR PROMISES ON ADDITIONAL COMPENSATION

🕒 NOVEMBER 1, 2022

👤 GUNEET NARULA

💬 LEAVE A COMMENT

Press Conference
November 01, 2022

At a Press Conference today, five organizations of survivors of the Union Carbide disaster in Bhopal launched their month-long campaign

**Union Carbide
Disaster in Bhopal: 37
Years 37 Questions
for Justice & Life of
Dignity for the
Survivors**

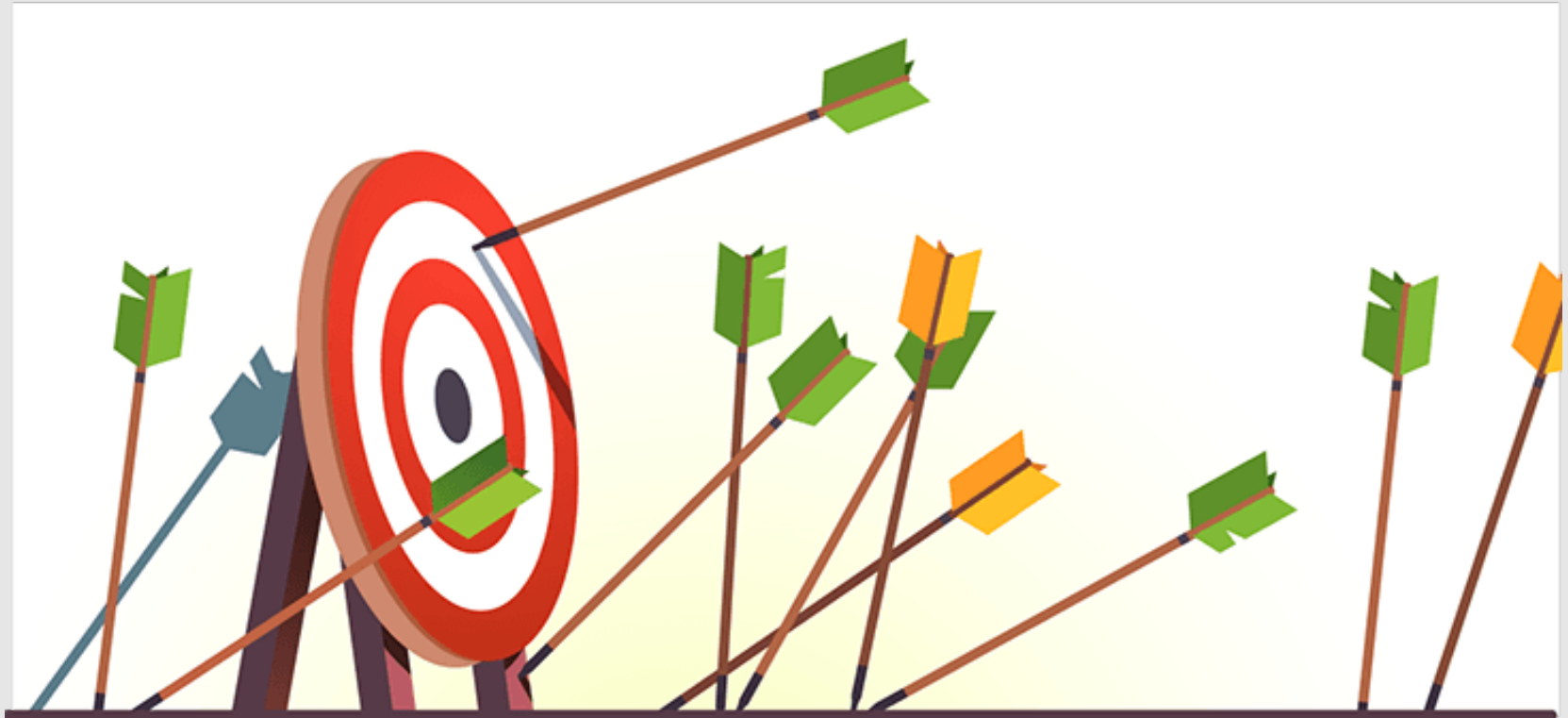
#BHOPAL37

COVID19 IN BHOPAL



36 वीं बरसी: संगठनों ने पीड़ितों की बिगड़ती स्वास्थ्य, स्थानीय मिट्टी और भूजल में जारी प्रदूषण के लिए दाव केमिकल कम्पनी और प्रदेश की सरकारों पर सख्त मांग रखते हुए

But this does not represent “proof” that corporations had not struggled towards more rational decisions which would have pre-empted the deleterious outcome(s), merely that **they failed in these efforts.**



This is not to deny, then, that amongst corporations there exists

“a diversity of styles of organisational life”

(Fisse and Braithwaite 1993: 122), nor that

these diverse styles have real effects for the production of violence.



Sutherland expressed this pithily when he referred to corporations as **‘rationalistic, amoral and non-sentimental’** (Sutherland 1983: 236–238).

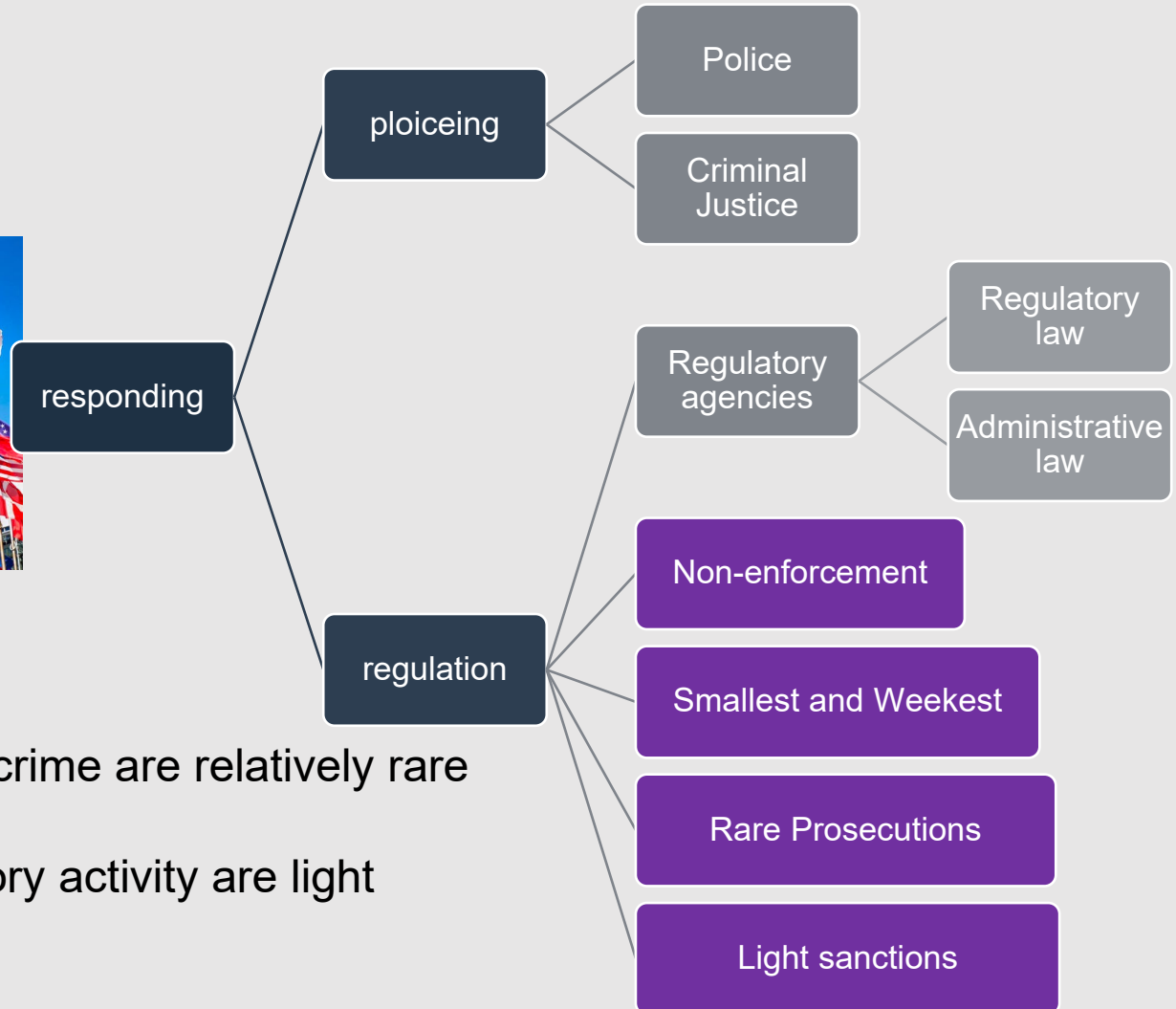
PART 04

Responding to the Harmful Corporation

As a whole, censures and their enforcement tend to reflect the antisocial interests of capital, patriarchies and ethnicities. In that way, the major 'crimes' often remain uncensured and unpunished (Sumner 2004: 28).



Bhopal disaster



prosecutions for corporate crime are relatively rare

sanctions following regulatory activity are light
(Snider 1993: 120–124).

Responding to the Harmful Corporation

A compliance-oriented enforcement approach

a compliance-oriented enforcement approach



regulators is not to seek to punish past evils



advise



educate

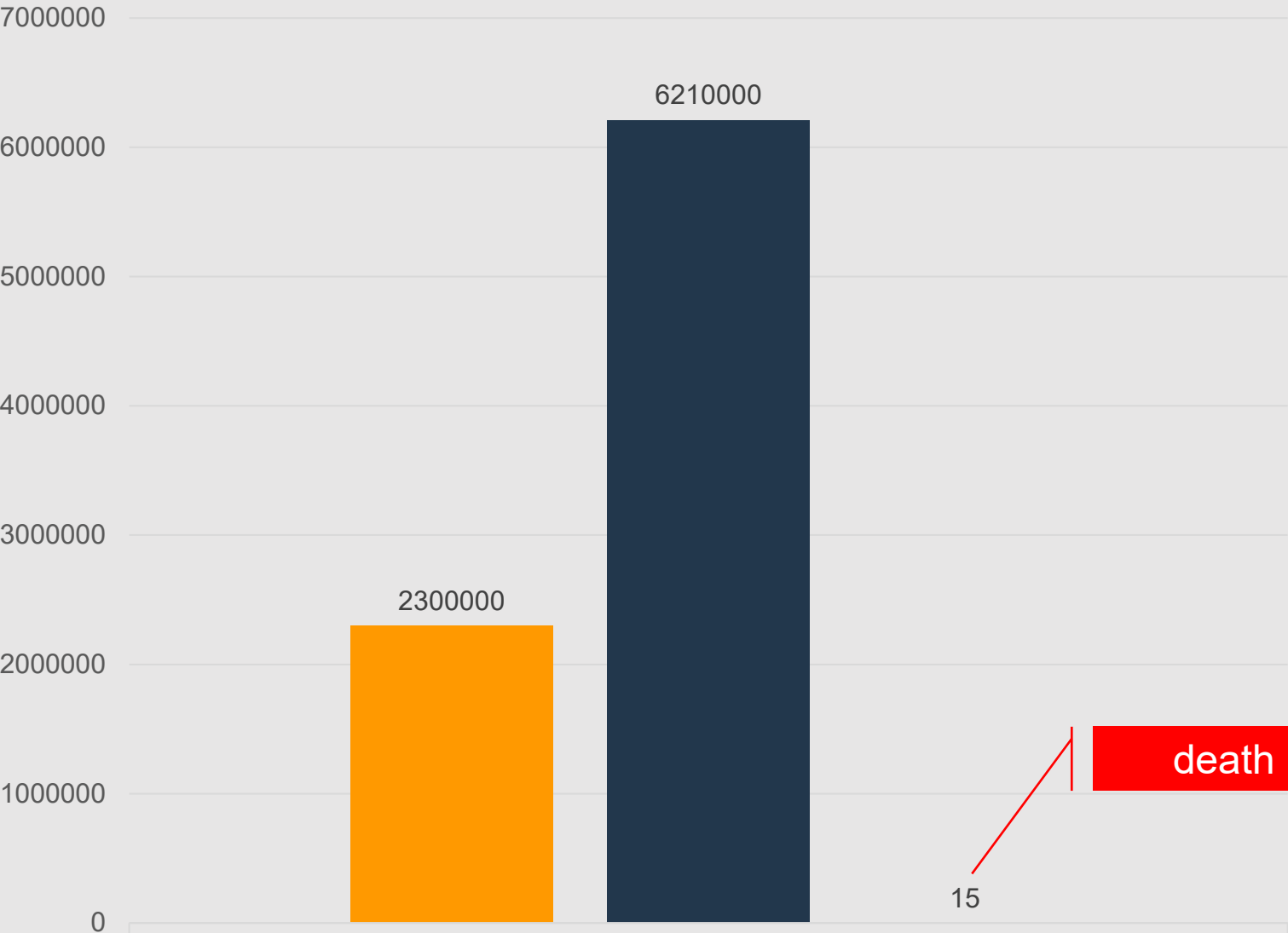


bargain



negotiate

HSE DATA 2015-2016




illness
non-fatal injuries
death

類別 1
2300000
6210000
15

Law	Fines	
New law (HSW)	50-10,000,000	2016 Feb
New Law {CMCH Act)	180,000-20,000,000	2015
Actual Fund	58000	2016 Dec

It is in such a context that some academic criminologists have raised a series of objections regarding the efficacy of the use of fines following the conviction of a corporation and these apply specifically in the context of responding to health and safety offences, even though they are usually made more generally.



A series of objections regarding the efficacy of the use of fines following the conviction of a corporation

1. fines are not proportionate to the offence committed or the harms caused, that is, they are too low.
2. whether heavy fines are an appropriate way to deal with corporate wrong? (PINTO)
3. fines at whatever level do not aid rehabilitation
4. such costs may not at all be borne by the offending company itself... inappropriately borne by employees, through worsening working conditions, cuts to, or deferred increases in, wages, or even potential redundancy; or by consumers, through higher prices; or both.
5. the very use of fines is partly an effect of the fact that the over whelming object of prosecution is the corporation and not its directors or other senior managers... what is known as the 'corporate veil', an effect of corporate personhood and limited liability.

The Ford Pinto

Future productivity losses

Direct \$132,000

Indirect \$41,300

Medical costs

Hospital \$700

Other \$425

Property damage \$1,500

Insurance administration \$4,700

Legal and court expenses \$3,000

Employer losses \$1,000

Victim's pain and suffering \$10,000

Funeral \$900

Assets (lost consumption) \$5,000

Miscellaneous accident costs \$200

Total per fatality \$200,725



Fatalities report

Benefits

Savings:	180 burn deaths, 180 serious burn injuries, 2,100 burned vehicles
Unit cost:	\$200,000 per death, \$67,000 per injury, \$700 per vehicle
Total benefit:	$(180 \times \$200,000) + (180 \times \$67,000) + (2,100 \times \$700) = \$49.5 \text{ million}$

Costs

Sales:	11 million cars, 1.5 million light trucks
Unit cost:	\$11 per car, \$11 per truck
Total cost:	$12.5 \text{ million} \times \$11 = \$137.5 \text{ million}$





corporate veil

limited
liability



a legal
person

corporate
veil

PART 05

Disrupting the Corporation

[W]hen social relations are not working normally (for example because of a conflict between the parties which results in non-cooperation), the way things appear is different and the normal veil of appearances can be seen for what it is, merely a socially contextualized appearance. In such times of crisis and conflict, social structures, individual characters and material objects are often seen for what they really are (in themselves). The normal practical interpenetration which gives their social appearance a natural character is shattered and both substance and social form become available to view (Sumner 1979: 225).



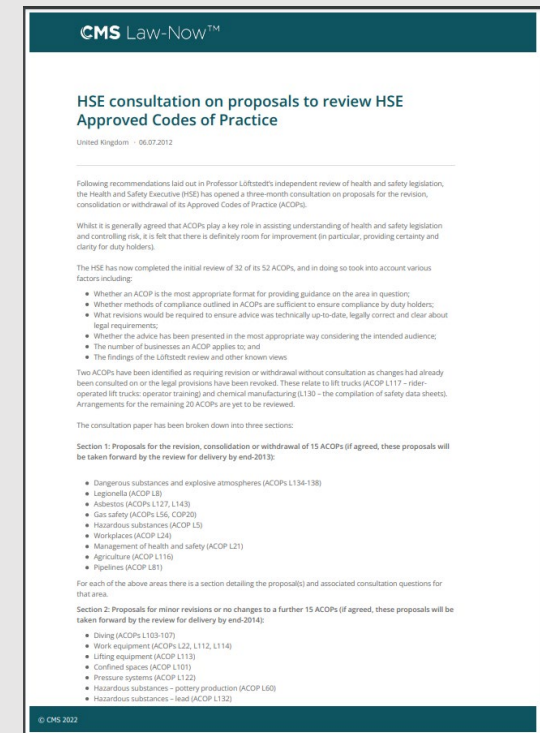
the Macrory Review (Macrory 2006) and an HSE consultation in 2012.



Professor Richard Macrory



Macrory Review



HSE consultation in 2012

corporate probation

A new internal **compliance group** can be put in place much more readily than a new **superego** (Braithwaite and Geis 1982: 310; see also Etzioni 1993: 155)

Moore (1987: 395–396) suggests a form of corporate **incapacitation**, whereby a corporation may be limited in the type of economic activity or regions in which it could legitimately operate.

corporate death penalty



absolute revocation of a corporation's charter, nationalisation, or being put into the hands of a receiver. Moreover, to preserve jobs as well as the goods and services provided by the firm, the assets of the offending company could be sold or otherwise transferred to a new parent company or companies with an established record of compliance with the law.

Coffee's (1981) argument for a system of 'equity' fines



HAZARDS CAMPAIGN

[ZERO
COVID]

The campaign to beat the pandemic.

Resisting Unsafe Work

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FIGHTING OUR CORNER



We deserve better.
Fight back now before it's too late!

UNIONS organising for a healthier future
www.hazards.org/organise

The Regulatory Dance: Understanding Reform Processes in Corporate Crime



Lansdowne Lecture



DR. LAUREEN SNIDER

Emeritus Professor, Queen's University

Abolishing Corporate Crime: The Trump Chapter

Wednesday, 6 March | 6:30 – 8:00 p.m.
David Turpin Building, Room A120

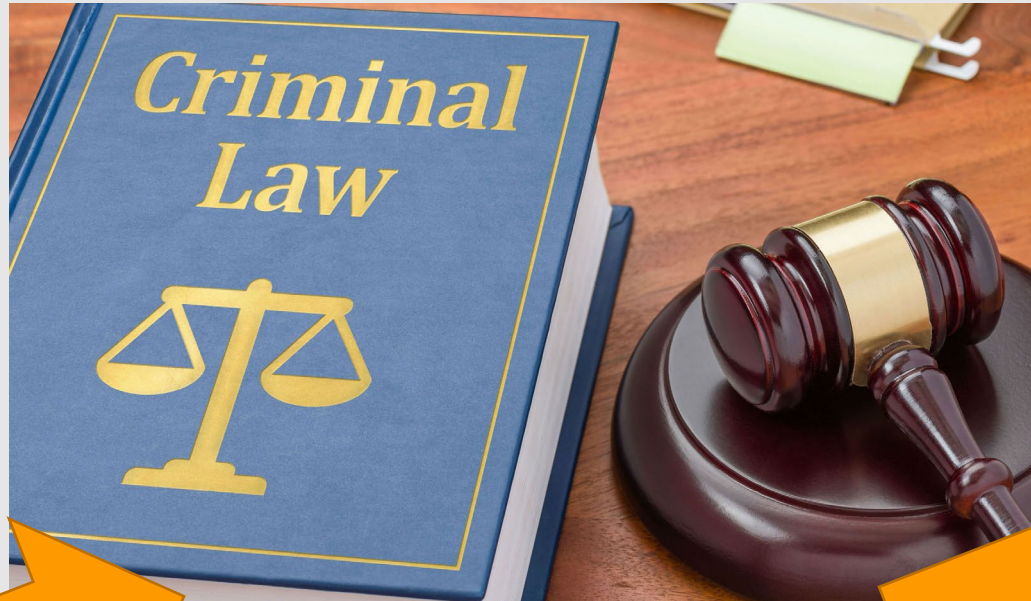
Presented by the [Department of Sociology](#)

Corporate Crime, unlike corporate harm, is inherently political. It must be "named", "shamed", "blamed", and most importantly counted, measured, reported and disciplined by state institutions. By the same token, it can be eliminated by political fiat. From the 1980s on, as governments bought into neoliberal doctrines, regulatory agencies in most capitalist democracies have been variously downsized, privatized, and starved of resources and staff. With the election of Donald Trump, however, this agenda in the United States has exploded. Federal laws protecting workers, the environment and the economy are all threatened—not just with downsizing but with outright elimination. This lecture documents the Trump agenda as it has been practiced thus far in these three areas, then attempts to understand, through critical theory, how and why this has happened.

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criminal law



radical reform

employers
organisations

legal personhood



PART 06

Beyond the Corporation, Beyond Crime, Beyond Criminology?



Beyond the Corporation





BEYOND CRIMINOLOGY

FOCUSING ON IMPROVING CRIMINOLOGY MINDSET TOWARD SUCCESS

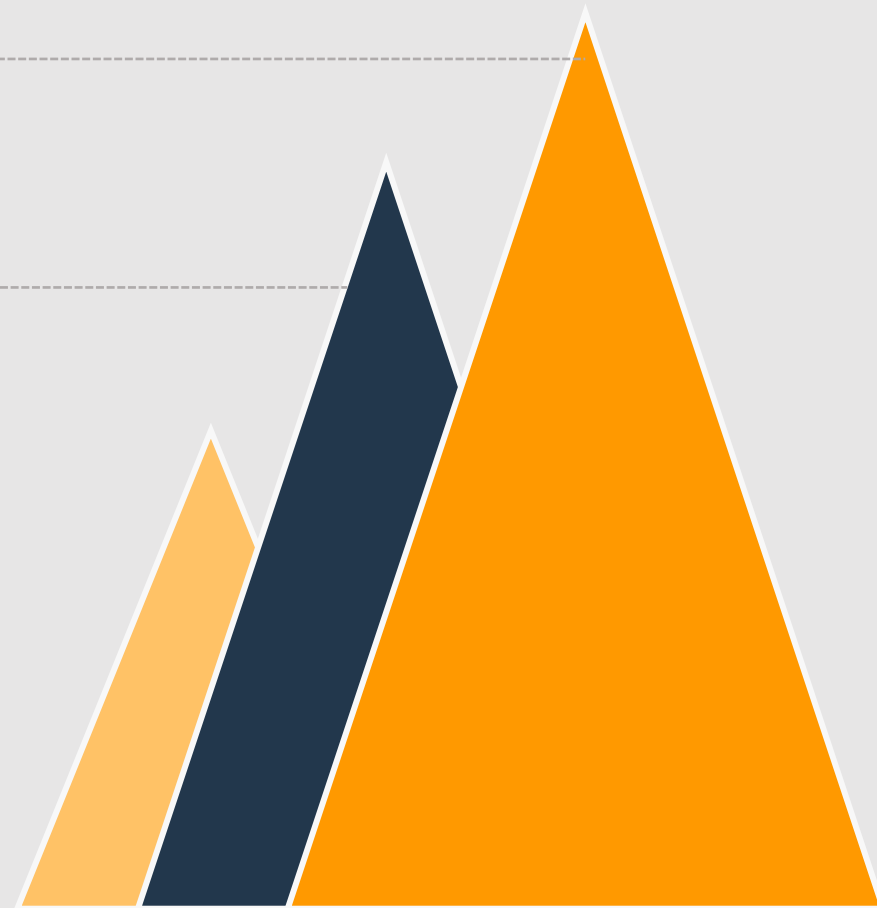
Families Against Corporate Killers (FACK) is a [nonprofit organisation](#) based in the [UK](#) which campaigns on behalf of families bereaved by workplace deaths. It was founded in July 2006 by members of the Bereaved by Work North West support group and the Greater Manchester Hazards Centre.



Two new seminal research programmes

(1) the historical etymology and structural elucidation of the social censures of crime

(2) **zemiology**, the study of social harms and the way societies selectively neglect some and punish others.



Thanks for your Attention