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Appreciable injury to health - confronting health and safety in Australia's workplaces during the first half of the twentieth century

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'Appreciable Injury to Health' - Confronting Health and Safety in Australia's Workplaces During the First Half of the Twentieth Century

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Abstract: A state's management of workplace safety is one indicator of its integrity. This paper uses historical evidence to demonstrate the past and current resonance of this position. It examines workplace risk and abuse in Australia, and considers the impact of legislation targeting occupational health and safety, including laws effectively protecting vested interests rather than social justice at work. Such interests included capital rather than labour, and male workers rather than female. Historical scenarios suggest how a risk management approach to worker health and safety became embedded in corporate and political culture. Challenging this culture, twentieth century deaths from silicosis and from lead poisoning, and from employment-related asbestosis, illustrate the consequence of employer refusal to eliminate known dangerous materials and processes from the workplace. Drawing on labour and government manuscripts, this analysis identifies OHS risk and abuse, focusing on Australia for the first half of the twentieth century, and with reference to findings and legislation in the UK that informed parties negotiating OHS in Australia. The paper argues that acknowledgement of past abuses, and an understanding of failures to repair abuse, is essential if the state is to properly address current workplace safety crimes.

Introduction

This paper argues that a state's management of workplace safety is a substantive indicator of its social and political integrity. History resonates support for this position. Where capital has refused to eliminate dangerous substances or processes from the workplace for reasons of profit, outcomes have included accident, debility and death. A state which accepts that negligence is deficient in duty of care to its citizens. This argument rests on the power vested in the state, as both government and legislator, to dispense justice in occupational health and safety (OHS). Failure to use that power to rein in employer (workplace) safety crime renders the state complicit in the crime. Moreover, because employer corporations greatly fund the political parties - labour as well as conservative - that implement government, it is reasonable to measure the ethos of a state by assessing the tolerance in workplace safety allowed to those financiers. For example, corporate entity James Hardie Industries notoriously profited from leniency towards its lethal asbestos workplaces for decades.

To make this argument, I focus on the record for the first half of the twentieth century, particularly the interwar years, using historical evidence primarily sourced through labour and government manuscripts.[i] Here the focus for Australia is both national and state (particularly the example of New South Wales). I also reflect on legislation targeting occupational health and safety, including laws effectively supporting vested interests rather than social justice at work. This analysis is enlightened by outcomes in the UK likely to have informed Australian trade union and government officials, and the judiciary, negotiating safety and justice at work. Evidence for the argument is offered through emphasis on industry cases that throw light on corporate, government and union responses to OHS. As Steve Tombs and Dave Whyte argue, there is an advantage to this approach to research in the area of corporate crime: 'a series of discrete case studies can provide an overall insight into the enormous *range* (emphasis in original) of offences in which corporations and organisations can and do become implicated…'.[ii]

What issues arise if we analyse the quality of OHS management? The data reveals matters of ethics and accountability linked to collective responses within historical influences, and to structural factors implicated in cultural and social capital. These influences and factors incorporate OHS and arbitration inspectorates; capital exercising power over labour as resource; areas of social justice; and parallel developments in legislation and ethical paradigms. Issues of power provoke questions - what, in monetary terms, is one individual worth to society? Answers could be sought through analysis of compensation settlements, or conversely the amount a corporation is prepared to pay to avoid proper and public compensation of injured labour. Answers can also be sought in the sheer detail of the tragedies that raise OHS horror. In Australia, the construction industry presents landmark cases: in 1970 Melbourne's Westgate bridge, under construction collapsed killing 35 workers (as one who had just walked off the site reported, 'I turned around and saw my mates falling through the air'). In the 1990s the death of union organiser Mark Allen on a West Australian building site galvanised the union movement.[iii] In 2006 a construction worker on a new Taxation Office building in central Canberra was killed in a fall through a slab floor.[iv]

Fire is responsible for some of the most notorious massed industrial tragedies. Recent cases of workers trapped and killed in their workplaces have included the 1993 Kader Toy factory fire in Thailand (subject of several previous safety warnings) with a toll of 188 workers out of 1146, mostly from one upper floor of 600 workers[v]; the deaths of 50 women in the 1991 Hamlet (North Carolina) chicken processing factory[vi]; and the fire in April 2008 that killed 55 workers trapped in the locked Rosamor Ameublements mattress and furniture factory in Casablanca.[vii] The infamous predecessor to these tragedies was the 1911 Triangle Shirtwaist Factory fire in New York that killed 146 of 500

workers, mostly women, and provoked massed protest marches on workplace safety. David Harvey observes that this early event gained more widespread and proactive public response than Hamlet, which was largely ignored by national US press.[viii] Gender-work victimisation is on-going: Ortega and Emery in their film 'Made in Thailand' (2000), for SweatshopWatch, address 'the commodification of women working in dangerous factories'.[ix] As they show, for many women factories remain the only employment alternative to prostitution, but one that subjects them instead to workplace fire-traps.

Today, policy 'downsizing' of resources means maintenance cutbacks and failures of infrastructure, setting up worker and public dangers despite informed warnings from displaced workers, unions and industry experts. Regarding for example Tasmania's 2006 Beaconsfield gold mine collapse that imprisoned two men underground for a fortnight, evidence in the ongoing coronial investigation into the death of the third miner Larry Knight now shows that workers had overtly feared the mine for years before the 'accident'.[x] Even so, an earlier expert report warning of likely collapse had been shelved. In the event, press and politicians focused on the rescue, not on the death, and Michael Quinlan's official report on the event, likely to have targeted employer negligence, seems to have been muted. In all such cases the challenge and demand for government, moulded by capital, is to protect the lives of workers. However, the perennial that the ruling class corporate state will prioritise profit and protect its own over duty of care to workers prejudices that protection.

There's nothing new about current events, except their currency. Moreover, it is an ongoing absurdity that in the context of a developed heritage of expert understanding on OHS hazards, and when everyday workplace risks can be eliminated by funding and commitment, people are still being maimed and killed at work. Historically, I am mindful of the sheer frustration of the Waterside Workers Federation (WWF) in the late 1930s. A WWF report on accident statistics on the wharves for 1937-38 was prefaced by reference to its submission to the Workers' Compensation Commission's pending 1939 report. For that report P Callahan, for the union, had provided statistical evidence to suggest that 50% of men in the industry 'can look forward to an accident carrying in its seriousness from one week injury to a fatality.' Callahan described this probability as:

> Mute testimony to the greed and rapacity of the shipowner and his absolute disregard of the welfare of the employees in the mad scramble for more and more profits, at the sacrifice of even the most elementary safety precautions … [xi]

What happens after such catastrophic industrial accidents is one barometer of a society's ethics. Who mobilises - workers, or

governance? And over time, have responses changed? In the case of Kader, workers formed the Asian Network for the Rights of Occupational Accident Victims (ANROAV) in their defence against capital. The dynamic is telling. Harvey suggests that we have a less compassionate society now than in the early twentieth century: whereas the Triangle tragedy launched a movement, the 1990s Hamlet fire in one US town was hardly noted. In 1958 Hannah Arendt in *The Human Condition* nailed down a significant social base for power imbalance between humans. Reflecting on the social condition of labourers in ancient societies, she wrote: 'The burden of biological life … can be eliminated only by the use of servants'.[xii] Recall, it is a society's ruling class that has 'servants'. Arendt also distinguished between 'labour' ('labor')and work' as qualitatively separate spheres, with 'labour' requiring only limited intellectual input and reflecting the ethos of FW Taylor's 'scientific management'.[xiii] If those 'servants' who take on the material 'burden' of life now equate to Arendt's 'labour' then we can tease out a worker/employer dynamic which explains how, in the ethos of capital and the state, risk management has been applied to workplace safety. Risk management is that technique described above as 'downsizing', one that consciously builds risk to maximise profits, including the building of safety risks attendant on spending less money on equipment and maintenance. Where those people put at risk have been reduced in status to 'labour' or 'servants', and where that position has been tacitly accepted as a barometer of their worth to society, then the ruling class is able to rationalise even dreadful massed workplace injuries or deaths as collateral damage in capital's drive for profit. Accordingly, the reduced compassion suggested by Harvey might well derive from a late twentieth century devaluing of the worth of the individual worker.

Tombs and Whyte have described OHS abuse as 'safety crimes' facilitated by an ongoing climate of 'underenforcement and undercriminalization'. I have argued that, within Australia over the past decade such factors are consequent upon 'contemporary neo-liberal regulatory polices'.[xiv] Action against safety crimes demands fierce legal sanctions against industrial manslaughter. Sadly, in Australian law there is an almost complete absence of such sanctions. However, even where these exist they may be ineffective unless the state otherwise enforces capital's responsibility, contingent on its economic power, to ensure workplace safety for labour.

Overall then, my focus on the past serves as a tactic to demonstrate through historical precedents to modern 'safety crime' that responses and solutions to moral bankruptcy in this context have been identified - not necessarily resolved - in the past, and hence can suggest strategies for the present. Further, tracing an historical trajectory demonstrates that a state's capacity to tolerate health and safety abuse is socially and politically rooted in the structures of class and capital. The state which would properly address workplace safety and compensation

must confront both political failures in will, and also corporate influences on governance. In today's western and westernised neo-conservative democracies, this is akin to expecting the forces of politics will take on its bankers. The corollary is of course that the state which is asserting virtue in this arena, but that does *not* enforce sound OHS practice is *not* virtuous, and is captive to its bankers.

Failure to take on corporate interests - to protect at risk workers - is addressed for the UK by Tombs and Whyte. In Australia, independent scholar Humphrey McQueen has finalised a major work on safety crime in the building industry, one that roundly indicts construction management and regulation. McQueen shows the entrenchment over decades of risk management - profits over people - on building sites.[xv] I argue that, in Harvey's words, these representations reflect outcomes of 'the geo-political consequences of living under a capitalist mode of production.'[xvi] They inform the political and legal ethics of OHS.

Nineteenth and twentieth century legal context for OHS

In Australia, power to legislate on workplace safety traditionally and constitutionally resides with the states, so that OHS responses reflect cultural differences and different phases of legislative development across the country. The Commonwealth only has the power to legislate on OHS where matters relate to powers on external affairs, or trade and security, as in the Coal Industry Act 1946, the Navigation Act 1912 and the Quarantine Act 1908.[xvii] Overall though, OHS law as expressed in late nineteenth and early twentieth century law - for example as in factories and shops legislation both before and after the 1901 establishment of the Commonwealth of Australia - took a similar pattern across the nation and largely followed UK models.

Hence, the British 1833 Factory Regulation Act and 1844 Factories Amendment Act were foundational to Australian as well as British workplace safety law, establishing the 'traditional' legislative approach for both countries, introducing minimum safety standards into statutes, with supporting regulations, and providing enforcement through an independent inspectorate.[xviii] The 1870s and 80s then saw a growing demand for effective OHS legislation, including from unions, especially to restrict youth hours of work, and later, for women. In Australia the (Victorian) Factories and Shops Act 1885 legislated for 'fencing of machinery, sanitary requirements, powers of inspectors'. This was the basis for workplace health and safety regulation in Victoria for the next century.

In the 1890s, against a background of economic depression,

class struggle and rise of political labour, both South Australia and NSW enacted the British model of Shops and Factories laws. They were followed by Queensland (1900), Western Australia (1904) and Tasmania (1910). [xix] On this, Johnstone observes that:

> Australian Parliaments rather simplistically adopted the British model of factory regulation, and chose not to develop a system more suited to Australian political, economic, industrial and social conditions.[xx]

This awkward fit with Australia's federal political system, including with industrial law and regulation, creates regulatory inconsistencies that can allow perpetrators of breaches to forum-shop for minimal sanctions across industrial law/tribunals. Favourable judicial and political support within those tribunals facilitated employers deflecting legal requirements to install expensive machinery safety equipment.[xxi] It might be noted that this opportunity is not merely historical. Loopholes facilitating evasion were perpetuated by late twentieth century modifications of Australian OHS law, in line with the recommendations of the 1972 British Robens Report, that emphasised codes of practice and mutual responsibility. In contrast with compliance enforced through legal requirement, codes simply suggest ways in which a standard, say on manual handling, can be met. Unlike with a breach of the law, failure to comply with a code might not in itself constitute an offence.

Standards were also softened by the culture established through the nineteenth century 'Factories and Shops' regulatory model that deemed a worker to be healthy unless s/he could demonstrate otherwise. The culture was paternalistic, giving authority to diagnose and fix conditions to the employer. Law was industry specific, reactive and event-focused. Some examples for NSW in the first half of the century included the Mines Inspection Act 1901; Noxious Trades Act 1902; Pure Food Act 1902; Construction Safety 1912; and Mines Rescue Act 1925. Offences were minutely defined in law. The 1936-1937 NSW *Register of Charges and Summons Cases re Offences in Shops and Factories* listed the following amongst breaches for the previous year: 'failure to fence machinery; failure to register factory; occupation of unlicensed factory; steam boiler not inspected; keeping shop open after closing times; fail to prevent metals from electric charge; and failure to apply for certificate of registration within prescribed time'. [xxii] It should be noted that this level of detail facilitates charges and convictions under the law: as I reiterate towards the close of this paper, that late twentieth century shift to codes of compliance as the primary model for OHS regulation does make it more difficult to convict offenders.

The employer's duty of care, as part of the labour contract of employment to provide a safe workplace, was conceded in law from the early twentieth century. This allowed for development of a tort for

negligence, and facilitated damages actions.[xxiii] The path to these concessions allows us to track the strategic divide of industrial and OHS law in the Australian model. Quinlan and Bohle observe that the combined efforts of lawmakers and industrial relations practitioners have supported the effective demarcation of OHS from collective processes in capital and labour. [xxiv] Hence, Factories and Shops Acts could mute expressions of class conflict over critical issues of worker life and death. In line with this, Johnstone notes Carson's argument that "Factory legislation helped to 'defuse' or 'declass' the employer/employee relationship at one of its most critical and socially obtrusive points, [that is] the price being extracted from industrial wage-labour in terms of occupational injury and disease".[xxv]

Impact on workplaces

Notwithstanding Carson's assertions, the post-war period saw trade union demands for a 44-hour week escalate. Tribunal arguments on hours of work emphasised health and safety as well as on wages evidence.[xxvi]

Industrial tribunals were significant to OHS and (until the election of the Howard government in 1996) worked in tandem with the legal system. Thus, when in 1927 the Federal *44 Hours Case* determined a reduction to standard working hours across industries, the decision was based not only on the principle of fair pay for a day's work, but also on the impact on workers' health and safety of extended and unreasonable hours. In the printing industry, for example, 'two clear days away' from the workplace were crucial to the health of workers. Printers' evidence in the case touched on occupational dangers including lead poisoning, and 'nervous exhaustion', factors supporting demands for strictly limited contact hours with dangerous substances.[xxvii] Other industrial cases, such as the earlier (1919) *Clothing Trades Case* which established the female wage benchmark of 54% of the male wage, had also named OHS factors in decisions. So, early twentieth century industrial tribunal processes revealed increasing recognition of cause and consequence of ruling class responsibility at work.[xxviii]

Nonetheless, also in these years the state both tacitly and overtly facilitated ruling class violence against the unemployed. In 1929 miner Norman Brown was shot dead while observing a massed demonstration against the Rothbury (NSW) coal mine lockout. Further into the Great Depression, evictions in the Sydney suburbs of Bankstown, Erskineville and Glebe were carried out with the assistance of armed police. These evictions and accompanying violence were subsequently condoned by decisions in magistrates' courts. [xxix]

Industry case-studies

As foreshadowed at the beginning of this paper, case-studies throw light on the corporate and state managerialism in inter-war

Australian industry. The following paragraphs explore some examples. In the railways, risk management and lack of compassion for workers was endemic. In the NSW Government Railways Refreshment Rooms (the 'RRR', predominantly staffed by women and youth) risks were exacerbated by under-staffing, failure to provide relief staffing, by long and irregular hours of work due to overtime, by split shifts, long shifts, and late and unreasonable hours, and by poor (employer-provided) accommodation.[xxx] (Employer-provided accommodation was a mandatory condition in isolated rural posts). Females were made to staff night-time cafes at stations, often on their own - the Railway Commissioners refused to institute safer opening hours because of the perceived needs of the 'travelling public'.[xxxi] That is, late night theatre travellers demanding refreshment took priority over the safety and comfort of employees. Against a backdrop of developing compensation law, the union exhorted workers to report every accident or safety incident. Dreadful injuries and death resulted from diminished OHS protection. Loss of limbs was common for track workers. Risks also existed off the tracks: Madge Herring was killed in 1926 by a railways truck as she was returning to her shift at Sydney's Central Station Refreshment Rooms. [xxxii] Miss Herring's funeral briefly shut down rail services in Sydney because so many work colleagues attended.

Employers in the printing industry were shown to have been similarly cavalier regarding the well-being of their workers. As a labour and craft intensive occupation, the industry was represented in cities and small towns across the nation, not only in printeries but in the populous network of independent regional newspapers. As was shown in the *44 Hours Case,* employees were exposed to lethal substances and dangerous machinery. This was despite the dangers inherent in, say, the process of 'bronzing' (dusting-off and washing-up of typesetting machines), which had been documented in British industrial testimony from at least 1911.[xxxiii] Driven by trade unions, awards did address hazards but were often ignored by employers. For example, in regard to 'girls' working on bronzing involving: since 1915 the New South Wales award had stipulated a maximum contact with bronzing of 2 hours a day.[xxxiv] In 1924 the union notified a dispute against T. Leigh and Company, Printers, of Sydney for rostering females in the tin-printing department on bronzing work for full working days. Extraordinarily the official response to the claim, expressed through the NSW Industrial Registrar, was that 'the matter does not call for any prosecution'.[xxxv] The union was outraged. Given the clear award breach, the response supports arguments of establishment bias towards employers.

Mining is traditionally a rich field for historians on OHS abuse: one almost inevitable outcome for miners of lead, coal, or tin has been lung disease. Historian Beris Penrose has investigated lead mining between the wars at Queensland's Mount Isa Mines (MIM), where the market created by high demand for lead (for examples, for

communications cables) supported a profitable business. There was concurrently a wide body on knowledge on lead and respiratory poisoning, and its short and long-term consequences for health. Nonetheless, cost-cutting exposed workers to extended contact and risk: in one instance smelter equipment installed in 1931 lacked the standard protective hoods and filters designed to shield workers from lead dust and fumes. Penrose cites a government enquiry two years later observing that 'lead poisoning right from the very beginning of the operation was only to be expected'. [xxxvi] Resisting expert medical testimony, MIM evaded ongoing claims from affected workers by exploiting gaps in compensation law. [xxxvii] Beyond the interwar years, and beyond the callous activities of MIM, lead remained a recognised and insidious hazard, dangers compounded where its presence in modern alloys was not recognised. As the International Labour Organisation (ILO) wryly noted in the 1970s 'the prime hazard of lead is its toxicity'.[xxxviii] MIM's successor, Xstrata, is currently resisting local efforts to protect the town's children from decades of lead seeping into the soil of the town. This stance has been adopted even though medical evidence as far back as the 1940s had documented wider concerns about lead leaching into the town's soil and water ways. Clearly, in the face of threats to profits, proven lessons on health risks take low priority.

In a far different, though similarly iconic occupation, wharfies or waterside workers (elsewhere known as dockers, or longshoremen) faced risks from weight and dangerous cargoes. They also risked leptospirosis (otherwise known as Weils disease, infective jaundice) from what was described as 'fungal slime' in ships holds. Britain's Trades Union Congress (TUC) struggled in the 1930s to have this added to worker's compensation register.[xxxix] During the 1940s in Australia, the union's listed issues for the wharves included 'obnoxious cargoes', tactics for safe handling and unloading of cargoes, and the perennial battles on hours of work, and shifts.[xl]

In construction, accelerating urban expansion and accompanying infrastructure development exacerbated OHS hazards. Peter Sheldon has documented decades of struggle for Sydney's rock choppers and rock miners whose work it was to dig the tunnels for the laying down of rail lines and telephone cables, building foundations, and the sewer.[xli] Physical and respiratory dangers prevailed. For years, and during tribunal hearings to establish awards and limit hours of exposure, workers reported being unable to see their workmates through the clouds of dust - silica - raised by their mining. Construction 'accidents' continue - though is it an 'accident' that kills for lack of return of profit into maintenance and safety devices? In June 2008 two men died when the building platform they were working from collapsed at a high-rise construction site on Queensland's Gold Coast.[xlii] Even aside from hazardous structural factors, modern construction materials now pollute the developed world. In 2001, the post-attack collapse of the World

Trade Centre not only killed and injured people through the physical impact of collapse but also through the buildings' components - that is, through the poisonous byproducts of modern construction.

Into the twenty-first century: overview and conclusion

And what else threatens these populations? Australia is currently in transition, a state shifting from a decade-long neo-conservative government to a centrist labour regime whose social justice ethos is hedged by electoral pragmatism. Accordingly, there has been little talk of workplace safety under this new government. The issue was notably absent from the agenda of Prime Minister Rudd's recent '2020 Summit'. Anti-union legislation under former Prime Minister Howard revealed a state deeming its workers to be engaged, in Arendt's terms, in 'labour', not work, and hence engaged at a level not meriting respect. Industrial law is being reformed under Labor, but managers and bureaucrats who have grown used to fashioning their workplace safety according to the former 'Workchoices' model might find old habits hard to shrug off. Certainly, so far, the Rudd government has not greatly disturbed the climate established under Howard, that allowed ruling class opportunism to erode workplace safety in corporate Australia. Nor has the awkwardness and tension inherent in federal versus state jurisdiction over OHS been tackled, even though events such as the Beaconsfield mine collapse demonstrate the ways in which those tensions and separate regulation can impede OHS justice. Perhaps political pragmatism is unduly tempted to allow old legacies to lie.

How can this happen? In Australia, the absence of a Bill of Rights limits pathways for citizens to defend themselves against state neglect or abuse.[xliii] Until 2004 this limitation was exacerbated for workplace safety by successive Federal governments' failures to ratify the globally recognised standard, ILO Convention 155 (on 'Occupational Safety and Health'). Up until then, as Bohle and Quinlan show, states' rights arguments inherent in the federal system were exploited: Australia remained formally outside this particular global labour justice framework.[xliv] That relative autonomy facilitated complacence in safety management, with implications for input into shifting legislation. In his 1972 report Lord Robens was highly critical of 'reactive' and over specific OHS law such as that listed earlier: I argue though that the specific has a place in such law. This is so because, under an anti-labour regime (as in Australia from 1996 until 2007), regulatory codes and compliance legislation relying on collaborative labour/capital management cannot effectively protect workers.

Further, does a shift from occupation-specific law mute responses and responsibility? Again, cases suggest answers. In 1977 the (Federated) Miscellaneous Workers Union issued a bulletin to its members on aerial spraying of cotton crops, noting that 'modern

pesticides are absorbed through the intact skin as well as by swallowing and inhalation'. Little has changed: in Australia, roadside pesticide spraying of 'weeds' by local government contractors still goes on without warning to passing motorists and residents, and despite their likelihood of inadvertent inhalation or skin contact. Also in 1977, the union called on 'immediate and substantial action' on asbestosis, demanding that James Hardie Industries update factories and equipment, citing the TUC's 1976 proposal for a 'ban on the use of all forms of asbestos'.[xlv] Notoriously, James Hardie resisted any redress for another 30 years, by which time most of the injured from the 1970s had died.[xlvi]

In conclusion, these observations lead to some recommendations on strategies and ethics over workplace safety. Overall duty of care legislation, I argue, must be supplemented by occupation specific regulation, enforced without fear or favour. Effective compliance inspection, with enforceable sanctions against breaches, is critical - its absence signals state abuse of care. Risk management still compromises standards: for example, workplace respiratory threats continue to be conveniently underestimated because airborne pollution, rather than ingestion, remains the measurement of hazard.[xlvii] Accordingly, while legislation and regulation may have been subject to new wisdoms over past decades, people continue to be damaged at work. Historically and now, we are surrounded by the outcomes of flawed or poorly enforced OHS law. A society must challenge the lack of moral agency in any state that fails to ensure the safe workplace.

That challenge, including acknowledgement of past abuses and understanding of the motivations for failures to repair abuse, is essential if the state is to properly address current workplace safety crimes. And here state and capital are complicit in failures to protect workers. As Harvey explains:

> Capitalism perpetually strives … to create a social and physical landscape in its own image and requisite to its own needs at a particular point in time, only … to undermine, disrupt and even destroy that landscape at a later point in time.[xlviii]

So, in order to profit, capital can present an urbane face. It is therefore up to the state to confront the ethical tensions created by the duopoly of capital and governance. Otherwise, governance and governments will continue to be implicated in the moral vacuity of Harvey's disrupted landscape. Where the state permits capital to create that instability, there is no defence against safety crimes.

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[vii] 'Mattress factory fire kills 55' , Reuters, *Sydney Morning Herald*, 27.04.2008, http://www.smh.com.au/news/world/mattress-factory-fire-kills-55/2008/04/27/1209234619177.html .

[viii] Harvey, 1996. 335.

[ix] Moros Ortega, E. and Emery, L. 2000, *Made in Thailand* (film) (2000) for Sweatshop Watch, noted at sweatinfo@sweatshopwatch.org, accessed 16.02.2008.

[x] ABC News, 01.08.2008, 'Beaconsfield inquest hears of ground support concerns', http://www.abc.net.au/news/stories/2008/08/01/2321883.htm?site=local

[xi] Waterside unions are by repute militant and often first target in conflicts between capital and labour - witness as example Australia 1998 depute.

[xii] Arendt, H. 1958 (1998), *The Human Condition*, 2nd edn., University of Chicago Press. Chicago 119.

[xiii] Arendt, (1998), 85-90.

[xiv] Webb, R, 'Climates of Fear', in *Social Alternatives: civil society and Howard government problems*, School of Education, University of Queensland, v27:1, first quarter 2008, 39-45.

[xv] McQueen, H. 2008, unpublished mss.

[xvi] Harvey, D. 2001, *Spaces of Capital: Towards a Critical Geography*, Edinburgh University Press, Edinburgh. 312.

[xvii] There was no law covering OHS for Commonwealth employees prior to Prime Minister Gough Whitlam's 1974 *Code of General Principles on Occupational Safety and Heath in Australian Government Employment* - although note that this was a code, hence advisory rather than enforcing. The Commonwealth enacted OHS law for its employees in 1991. From the 1990s Commonwealth territories - the Northern Territory and the Australian Capital Territory - enacted OHS law.

[xviii] Johnstone, R. 2004, *Occupational Health and Safety Law and Policy: Text and Materials*, Lawbook Co., Pyrmont. [2.45].

[xx] Johnstone, 2004 [2.80].

[xxi] Bohle, P and Quinlan, M. 2001, *Managing Occupational Health and Safety: a multidisciplinary approach* (2nd edn.), Macmillan, South Yarra. 252-256. The authors explain enforcement as 'a process influenced by politics, the administrative tools and resources of OHS agencies, union and employer attitudes, court practices and a host of other factors.'

[xxii] *Register Of Charges And Summons Cases Re Offences In Shops And Factories* 1936-1937, Accession 3/1291/B, State Records of NSW.

[xxiii] Bohle and Quinlan, 2001. 252-256.

[xxiv] Quinlan and Bohle, 1991, 340.

[xxv] Johnstone, 2004, [2.80].

[xxvi] Bennett, L. 1994, *Making Labour Law in Australia: Industrial Relations, Politics and Law*, Sydney: The Law Book Company Limited. 112-114. Bennet gives an overview of shorter hours campaigns up until World War Two.

[xxvii] *Printing Industry vs. Arbuckle Waddell P/L*, Bound transcript of proceedings and rulings. 32. Series B1958, item 1927, National Archives of Australia (NAA). The reference to 'appreciable injury to health' in the title to this papers appears in printers' evidence before the 44 Hours Case.

[xxviii] Bohle and Quinlan, 2001. 80-82.

[xxix] Jollie-Smith, C. Solicitor's Case notes: P15/10/A, Phil Thorne Papers, Canberra: Noel Butlin Archives Centre (NBAC). I have argued elsewhere (Webb, 2008) that this theme of state-supported violence was reflected in Australia's notorious 1998 Waterfront dispute.

[xxx] Press clipping, 31 August 1923, *Labor Daily*, in E89/16, ARU, NBAC.

[xxxi] Correspondence, 27 April 1926, E89/16, ARU NBAC.

[xxxii] *Railways Union Gazette,* 10 October 1926, S28 NBAC.

[xxxiii] Gertrude Tuckwell Collection: Correspondence 20/10, Dangerous Trades, National Union of Printing Bookbinding and Paper Workers, Trades Union Congress (TUC) Archives, University of London.

[xxxiv] As worded in *Industrial Arbitration Act (1912) Printing Trades Group, no. 6 (Female Employees Board) 1915*.

[xxxv] Correspondence to and from Industrial Registrar 1920-1951, T39/40, PIEUA NSW, NBAC.

[xxxvi] Penrose, B. 1997, 'Occupational Lead Poison at Mt Isa', in *Labour History*, no 73, Nov 1997, 123-141.

[xxxvii] *ibid*. 126.

[xxxviii] ILO Encyclopaedia of Occupational Health and Safety vol II L-Z, http://www.ilo.org/public/english/ .

[xxxix] File, Industrial Health 1926-60, MSS292/140/1-142.9/2, TUC Archives, Modern Records Centre, Warwick.

[xl] See file E211/107/, WWF Federal Council: 'Transcripts 1950 *Hours of Work / no 266 of 1950/ in the matter of The Waterside Workers Federation of Australia / Applicant/ and/ the Commonwealth Steamship Owners Association and Others/ Respondents/* NBAC.

[xli] Sheldon, P.1988, 'Job control of Workers' Health: the 1908 Sydney rockchoppers' strike', *Labour History*, no. 55, 1988. 7.

[xlii] ABC Television, 21.06.2008, 'Two killed in Qld building accident', http://www.abc.net.au/news/tag/workplace-accidents/ .

[xliii] Williams, G. 2004, *The Case for an Australian Bill of Rights: Freedom in the War on Terror*, UNSW Press, Kensington.

[xliv] Bohle and Quinlan 2001. 292, 308-09.

[xlv] File 'Industrial Health' WWF, Z125/box 11, NBAC.

[xlvi] Higgins, E. and Wilson, L. in *The Australian*, 28.11.07. 1, 15.

[xlvii] Bohle and Quinlan, 2001. 470-71.

[xlviii] Harvey, 2001, 333.