

<b>Institution: Liverpool John Moores University</b>
<b>Unit of Assessment: UoA22: Social Work and Social Policy</b>
<b>Title of case study: Conceptualising, Mapping and Responding to Death and Injury at Work</b>
<b>1. Summary of the impact</b>

This case study documents, maps and conceptualises the incidence of occupational death and injury and state responses to these issues. Tombs’ work has achieved impact through its connection with the Centre for Corporate Accountability (CCA) which was operational from 1999-2009; its utilisation by the Labour movement and campaigning organisations; and its reach to policy-makers at local, regional and national levels. It has generated an alternative understanding of deaths and injuries at work, thus impacting on the policy process concerning these issues. The pathways to impact have been developed through an on-going, long term commitment to disseminating this work beyond academia and to working closely with counter-hegemonic user groups.

<b>2. Underpinning research</b>
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Consistent with the CCSE’s aim to represent marginalised voices within the criminal justice process, Tombs has long worked with, and on behalf of, campaigning organisations (Families Against Corporate Killers and the Hazards movement) and the wider labour movement (TUC, GMB, PROSPECT, UCATT, UNISON, The Trade Union Co-ordinating Group; and the Institute of Employment Rights) to make a sustained contribution to critical public debate on workplace death and injury, including: improvements in legal frameworks, regulatory environment or governance of business entities, and improved provision or access to services.

The underpinning research for this case study has been developed across a number of individual and joint research activities and publications. This research, spanning a fifteen year period, has been based upon a combination of research methods and activities, including:

- Generating original empirical data through semi-structured interviews (for example: with those bereaved through workplace fatalities) to document the poverty of criminal justice and state responses and the realities of double-victimisation;
- Producing longitudinal data and analyses of these related to the enforcement activities of key regulators, notably the Health and Safety Executive and Environmental Health Offices of Local Authorities of England and Wales, documenting the long-term downturn in such activities;
- The collation, reconstruction, and re-analysis of official and publicly available Government data, accessible through a variety of Government agencies – notably to recreate a more accurate annual figure of the number of occupational fatalities so recorded, a figure generated as correction to the limited subset of fatalities reported in HSE’s Annual Statistics publications;
- Undertaking textual analyses of Government and Civil Service policy documents, position papers, minutes of board meetings, internal memoranda, and discussion documents to explore critically the claimed requirements for deregulation.

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This sustained programme of research has proceeded along, and made key contributions in, a series of related strands, as follows:

- A critical analysis of criminal justice policy and practice, with specific reference to state regulation of, and responses to, corporate harms and crimes (Tombs, 1995, 1999, 2007a, 2007b, 2010, 2011);
- A reconstruction of official statistics on occupational fatalities, recovering data collated by HSE but also by a wide range of Government departments and agencies, producing a more accurate annual total occupational fatality figure (Tombs, 1999, 2007a, 2010);
- Specific case studies of the aetiology, dynamics and consequences of relatively invisible corporate crimes, whether a specific occupational death (for example, of Simon Jones), the long term activities of a 'criminogenic' company (Sonae and its Kirkby plant), or an industry (for example, the UK construction and international chemicals industries) (Tombs, 2007a);
- A longitudinal, critical analysis of changes in enforcement activities of HSE, and attempts to understand these in the context of wider political, economic and social processes (Tombs, 1995, 2010);
- A recognition of, and attempts to document, the peculiar experiences of victims of corporate crimes and harms and to consider the policy-implications of these (Tombs and Snell, 2011);
- A conceptual critique of popular and political definitions of both 'crime' and violence (Tombs, 1995, 2007b).

Selected references are provided in section 3. In total, including items at 3, this programme of research has, since 1995, generated: six co-authored books; five co-edited books; one edited special journal issue, 33 articles in refereed journals; 45 book chapters; ten entries in dictionaries and encyclopaedias; and 25 articles in professional and popular journals.

### 3. References to the research

1. Snell, K. and Tombs, S., (2011) "How Do You Get Your Voice Heard When No-One Will Let You?" 'Victimisation at work', *Criminology & Criminal Justice*, 11(3): 207–223.
2. Tombs, S. and Whyte, D. (2010) *Regulatory Surrender: death, injury and the non-enforcement of law*, London: Institute of Employment Rights, ISBN 978 1 906703 10 3, iv+101 pages.
3. Tombs, S. and Whyte, D. (2007a) *Safety Crimes*, Cullompton: Willan, ISBN 978-1-84392-085-4, xviii + 253 pages.
4. Tombs, S. (2007b) "Violence", *Safety Crimes and Criminology*, *British Journal of Criminology*, 47(4): 531-550.
5. Tombs, S. (1999) 'Death and Work in Britain', *Sociological Review*, 47(2): 345-367.
6. Tombs, S. (1995) 'Law, Resistance and Reform: "regulating" safety crimes in the UK', *Social & Legal Studies*, 4(3): 343-365.

The articles all appear in leading, peer reviewed, academic journals. *Safety Crimes* (Willan) appears in a well-recognised academic imprint. *Regulatory Surrender* is published by the Institute of Employment Rights; proposals for publications are approved by its Officers and the text was subject to detailed review by five UK health and safety specialists following initial submission.

#### 4. Details of the impact

The impact of Tombs' work is the product of its long-term, sustained quality, its policy-relevance, and his commitment to disseminate this work beyond academia. The impacts that follow from this are changes in the attitudes, awareness and understandings on the part of organisations of the actual scale of the problem and its effects and the poverty of state responses to occupational death and injury. Most fundamentally, impact is being claimed for how this *body* of work, as opposed to any specific piece of output, represents a long-term challenge to conventional wisdom (5 a-i). The key pathway to impact during this period has been Tombs' association with the CCA. The CCA was established as a charity in 1999, by Tombs and colleagues, to promote worker and public safety. Tombs was Chair of the Board of Directors of CCA from its inception and remained as Chair until it closed, due to financial constraints, in September 2009, when it employed four staff members (2.5 FTEs). The CCA generated approximately £1.6million across its ten year existence. Tombs' role in forming the CCA itself attests to his widely recognised research expertise in the areas which are the subject of this impact statement. Moreover, as a small organisation, Tombs was intimately involved in all aspects of its work.

The CCA's earliest activities were policy-related research, which formed the basis for various campaigning activities. Tombs was involved in producing a series of key research reports for the CCA - on safety law enforcement, directors' duties, and levers for law compliance, mostly funded by trades unions, some by the Health and Safety Executive (HSE). The CCA quickly established its reputation as a key source of research and expertise on matters of occupational safety regulation, and was routinely engaged in formal and informal interventions into law and policy, which included an ongoing engagement with senior civil servants and ministers (5a,b,c,g). The CCA was certainly central in interventions leading to the passage of the Corporate Manslaughter and Corporate Homicide Act, which came into force in April 2008, and, subsequently provided training (recognised by the Law Society) to the law firms involved in prosecuting corporate manslaughter cases derived from their briefing paper on this Act. The CCA successfully campaigned for numerous changes in HSE policy and practice. For example, the CCA argued that prosecutions should not be delayed by inquests, and acceptance of this is reflected in the HSE's 2011 publication 'Work-related deaths: A protocol for liaison' [para 103] (5 a, b, c). Likewise the CCA argued that the maintenance and publication of work related deaths was one basis for accountability, and from 2008 the HSE has published the names and details relating to reported work related deaths (5 a, b, d) (see <http://www.hse.gov.uk/foi/fatalities/in-year-names.htm>). Finally with regard to the CCA, Tombs' work on the problems of state responses to occupational deaths was of significance in establishing the CCA's Work-Related Death Advisory Service (WRDAS) which provided free legal advice to families bereaved from work-related deaths to facilitate the investigation and prosecution processes arising from these deaths. The CCA's annual case load of 40-60 cases indicates significant social impact which earned the charity the Law Society Quality Mark (5 b).

The significance of Tombs' work is reflected in the recognition by Hazards, CCJS, IER, FACK, TUC and various unions that his reconstructions of official occupational fatality data are the 'real' figure, a fact obliquely noted by HSE itself (5 c, d, f, g, h, i). Further, his research work is the standard academic reference point used in campaigning NGO material to highlight how trends towards the 'light touch' regulation of business have in effect 'decriminalised' death and injury at work, while senior regulators consistently recognise the need to defend such trends in the light of Tombs' data and analysis. For example, the HSE discussed specific research outputs at Board level (HSE/10/60 on 28/07/10). Tombs' research has also reached formal policy-making levels. For example, *Crisis of Enforcement* was launched at a House of Commons meeting attended by 55

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people, chaired by Katy Clarke MP (18/06/08), following which an Early Day Motion no. 1855 was tabled by MPs on its content (EDM 1855) on 23/06/08 and Tombs has provided written and oral evidence to relevant Parliamentary Committees, most recently in regard to the 2013 Lofstedt Review of Health and Safety.

More generally, Tombs has a long term working relationship with the Institute of Employment Rights (IER), a think tank for the labour movement, which commissioned and published *Regulatory Surrender* in July 2010, with a launch event involving a debate with HSE's Head of Enforcement and also the Head of PROSPECT (5 f, g, h, i). IER also published "Health and Safety Gone Mad?" in July 2010, a briefing paper for trades unions to use in their health and safety campaigns and in their preparation for, and response to, the Young (2010) and then Lofstedt (2013) reviews of health and safety regulation (5 f, g, h, i). Tombs and Whyte were also commissioned to write a response (published 25/11/10) to the Law Commission's Consultation Paper *Criminal Liability in Regulatory Context*, drawing upon the data and argument within *Regulatory Surrender*, and Tombs has participated in many debates, symposia and conferences organised by the IER (for example, 24/06/08, 13/07/10).

This recognition has generated invitations to write trades union-sponsored publications; to speak at conferences, campaign meetings and members' workshops (the latter, especially, with trades union appointed safety reps), and having his work summarised in trades union press releases, campaign materials and policy statements (5 a-i). For example, Tombs has shared platforms with many senior Labour Movement figures and at key fora, including: the Labour Party Conference with Ken Livingstone and John MacLean (General Secretary, GMB) to speak on *Regulatory Surrender*, 28/09/10, and previously on various aspects of his work with Brendan Barber (TUC); Ian Tasker (STUC); Hope Daley (UNISON); Susan Murray and Rob Miguel (Unite); Neil Hope-Collins, Steve Kay and Mike MacDonald (PROSPECT's HSE branch), and Labour Peer Baroness Donaghy. The Trades Union Co-ordinating Group's briefing paper for its nine constituent unions, *Big Society, Savage Cuts* uses *A Crisis of Enforcement* as its source for its 'Workplace Health and Safety' section, while Alan Ritchie, general secretary of construction union UCATT, claimed in 2008 that it was a "grim wake up call for the HSE...". The GMB's response to the Coalition Government's Review of Health and Safety Legislation ('The Young Review') also draws on *Regulatory Surrender*.

#### 5. Sources to corroborate the impact

- a. Director INQUEST and co-founder of CCA and board member until its closure in September 2009, <http://www.corporateaccountability.org/>.
- b. Founder and Co-ordinator, Families Against Corporate Killers, <http://www.hazardscampaign.org.uk/fack/>
- c. National Officer for Health and Safety, GMB, <http://www.gmb.org.uk/>
- d. Editor *Hazards Magazine*, The Hazards Campaign, <http://www.hazardscampaign.org.uk/fack/>
- e. Former Senior Research Officer with the Law Commission of Canada, (now University of Ottawa). Institute of Public Administration Canada, <http://www.ipac.ca/>
- f. Director, Institute of Employment Rights, <http://www.ier.org.uk/>
- g. Vice President, Institute of Occupational Safety and Health, <http://www.councilforworkandhealth.org.uk/iosh>
- h. Former Chair of HSE Branch, PROSPECT (a white-collar union; its HSE Branch represents HSE staff) <http://www.prospect.org.uk>.
- i. National Health and Safety Officer, Trades Union Congress, <http://www.tuc.org.uk/>.