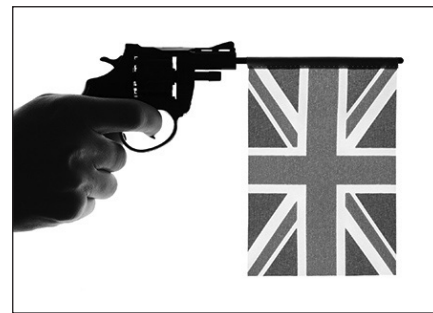


Challenging the legitimate right to violence

David Whyte argues that challenging the violence of public institutions and corporations, means challenging their state-given right to commit violence with impunity



The meaning of violence, if we distil it to its purest form, is the use of physical force to damage or destroy. In legal systems, the term violence is generally used to mean the illegal exercise of physical force or intimidation by the threat of force. Yet legal systems remain so pre-occupied by interpersonal violence: rather than institutional violence, the violence committed by states, corporations and other large organisations.

The place of violence in the architecture of state power is well understood in classical social science. In an essay published in 1919, the German Sociologist Max Weber showed clearly the centrality of violence to the *modus operandi* of the modern state. According to his argument, the modern state is defined by its ability to resort to physical force. The power of the state, for Weber, was defined by its monopoly of the legitimate use of force. In other words, state action and policy always relies upon the deployment of - or the implied threat of - the police, the military, the prison system and so on. Without the legitimate ability to deploy violence, modern states cannot function.

We don't generally think of state power as being founded on violence, nor do we generally acknowledge

that states are only sustained by the potential to commit violence. Even if we do not acknowledge this organic feature of state power the perspicuity of Weber's analysis is borne out by the contributions to this special

section of *cjm*. Yet in all of the recent public discussions about police violence, we may have questioned the conduct of particular officers, but we are yet to question the general right of police officers to resort to violence.

If the debates are framed narrowly in public debate, so they are framed equally narrowly in the criminal justice system. No British police officer has ever been given a custodial sentence for killing a member of the public. Custodial sentences for police officers found

guilty of any form of violence are very rare indeed. Even in the most highly publicised cases where extreme police brutality has been filmed, officers are generally not given custodial

sentences. There remains a structure of legitimacy for state violence that the state itself cannot undermine. The same goes for the deployment of state violence abroad. Rarely do we question the legitimacy of wars by questioning the principle that states

can legitimately involve themselves in military violence abroad. Rather we question the 'legality' of every war and every military engagement, individually and on its own merits. A report by *The Guardian* recently

noted that the British state has been involved in an uninterrupted catalogue of wars for over 100 years. In other words, Britain has been involved in active military

combat somewhere in the world in every calendar year since 1914 (MacAskill and Cobain, 2014).

It is the unchallenged legitimacy of the right of those acting on behalf of the state to resort to violence that makes state violence so difficult to challenge. Anyone who has faced violence at the hands of the police or the military knows what this means in practice: the possibility to challenge violence by a police officer or a member of the armed forces or to seek accountability for that violence is an arduous task, one that will not get anywhere without a prolonged period of struggle, normally involving smear campaigns and often involving public humiliation. Moreover, public faith in the mechanisms that are supposed to provide checks and balances in such cases is dwindling. A string of failures in the Independent Police Complaints Commission (IPCC) and other police accountability mechanisms in the past couple of years have grossly undermined

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Legal systems remain pre-occupied by interpersonal violence rather than institutional violence

their credibility. The chances of military tribunal for soldiers in conflict are low, and again only occur in the most extreme cases where there is indisputable evidence, such as the case of Alexander Blackman.

Writing in the earlier twentieth century, Weber could not have foreseen the scale of the mass expansion of the private profit-making corporations as a key institution in modern societies. Yet, corporations, under license granted by states, are also the authors of institutional violence on a huge scale. Private corporations are, for example, responsible for the bulk of deaths caused by working, and caused by pollution (for a review of evidence, see Tombs and Whyte, 2015). The UN Office on Drugs and Crime has estimated the total number of homicides in the world at around half a million a year.

International Labour Organization data shows that five times as many people are killed by working; and the World Health Organization estimates that more than 14 times as many people are killed by illnesses caused by pollution. Most of those deaths are caused by private, profit-making, corporations.

In the UK, it is likely that 40,000 people are killed by illnesses and injuries caused by work every year (O'Neill et al., 2007); and according to one government estimate, 200,000

people die as a result of respiratory illnesses in which pollution is a key cause (Committee on the Medical Effects of Air Pollutants, 2010).

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Those victims suffer deaths that are every bit as violent as the one-on-one murders and homicides that we are more typically accustomed to reading about in newspapers and crime fiction. Although no company director sets out in the morning to intentionally kill workers or consumers, company directors do very often set out in the morning to make decisions that cut margins, intensify production conditions, cut back on working conditions, or allow unsafe products to be sold. The

violence that results directly from management decisions is more commonly 'pre-meditated' or 'cold-blooded' than many forms of inter-personal violence.

All of this violence is at every turn guaranteed, supported and underpinned by a regulatory relationship. It is a relationship that in its current neo-liberal form has 'freed' corporations from regulatory controls across the board in the past decade or so. Most recently the coalition government has formally instructed safety regulators to stop routine inspections of the vast majority of UK workplaces, including those in highly dangerous manufacturing industries and the docks. Those are industries that the government now

defines, by ministerial dictat, as 'low risk'! As *Hazards* magazine has noted, the industries that the government has removed from regulatory scrutiny account for 53 per cent of officially recorded deaths (O'Neill, 2013). Just as there remains a structure of legitimacy for state violence that the state itself cannot undermine, so states create the conditions that enable corporate violence to flourish.

In order to deal with the problem of violence in contemporary societies, social scientists must refocus their energies on explaining and exposing the right to resort to violence that is inscribed into the social order. Taking institutional violence seriously means challenging the legitimate right of both police and private corporations to commit violence with impunity. ■

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