



## DOCTORAL THESIS

**Resisting state-corporate crime through non-violent direct action: a study of crime-control from below**

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# **Resisting State-Corporate Crime through Non-Violent Direct Action: A Study of Crime-Control from Below**

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I confirm that the word count of this thesis is less than 100,000 words excluding the title page, contents, acknowledgements, abstract, abbreviations, footnotes, tables, appendices and references or bibliography.



# **Contents**

Acknowledgements	viii
Abstract	ix
Acronyms and Abbreviations	x
<b><u>Chapter I – Researching State-Corporate Crime and Resistance</u></b>	<b>1</b>
1.1 Introduction	1
1.2 Conceptual and theoretical framework	2
1.2.1 Illegitimacy in state-corporate practices	3
1.2.2 Censure of state-corporate practices as deviant	4
1.3 ‘Researching through resistance’: methodology and research methods	5
1.3.1 Methodology	5
1.3.2 Multiple case study approach	6
1.3.3 Data collection methods	6
1.4 Introducing the case studies	8
1.4.1 Censure of the UK Government and UEL	9
1.4.2 Opposition to transgenic cotton and stigmatisation of Monsanto in India	10
1.5 Thesis overview	11
<b><u>Chapter II – Conceptual and theoretical foundations</u></b>	<b>13</b>
2.1 Introduction	13
2.2 States and corporations: a criminogenic collusion	14
2.2.1 The state	15
2.2.2 The corporation	16
2.2.3 The criminogenic collusion	18
2.3 Theorising state-corporate crime	20
2.3.1 Integrated theoretical framework	21
2.3.2 Routine practices, symbiosis and ‘regimes of permission’	26

2.3.3 A Marxist understanding of state-corporate crime	28
2.4 The definitional foundations of state-corporate crime	31
2.4.1 The juridical framework: a criteria-based approach	32
2.4.2 The social harm paradigm	34
2.4.3 Organisational deviance: a process-driven approach	36
2.4.4 Legitimacy and social censure	40
2.5 Adopting the concept of resistance in state-corporate crime research	42
2.5.1 Defining resistance in state and corporate crime scholarship	43
2.5.2 Civil society, hegemony and counterhegemony	48
2.5.3 Direct action	50
2.6 Synopsis	53
<b><u>Chapter III – Methodology, data collection methods and data analysis</u></b>	<b>55</b>
3.1 Introduction	55
3.2 Methodology: the Marxist dialectical approach	56
3.2.1 Marx’s dialectical materialism	57
3.2.2 The dialectical approach in state-corporate crime research	58
3.2.3 Researching the crimes of the powerful: a case for activist research	60
3.3 Multiple-case study approach	61
3.3.1 Defining the case study	62
3.3.2 Narrative in case study research	64
3.3.3 Strengths and limitations of a case study approach	64
3.3.4 Multiple-case study design and instrumental cases	66
3.3.5 Research aims and questions	68
3.3.6 Selecting the case studies	69
3.4 Data collection, analysis and ethical considerations	71
3.4.1 Data collection techniques and sampling methods	72
3.4.1.1 Semi-structured interviews	73

3.4.1.2 Interview sampling methods	74
3.4.1.3 The interview process	76
3.4.1.4 Documentary research and triangulation	79
3.4.2 Data analysis, thematic coding and case study narrative	80
3.4.3 Ethical considerations	82
3.5 Synopsis	84
<b><u>Chapter IV – Censure of the UK-Israel arms trade and export of UAV engines</u></b>	86
4.1 Introduction	86
4.2 Setting the context	88
4.2.1 Operation Protective Edge	88
4.2.2 Drones	90
4.2.3 Israeli drone industry	91
4.2.4 UK Arms Export Controls	93
4.2.5 The UK policy toward arms exports and Israel	95
4.3 State-corporate symbiosis between UEL and the UK government	98
4.3.1 UEL’s licences and exports to Israel	99
4.3.2 The Operation Protective Edge and suspension of export licences	101
4.3.3 ‘Regimes of permission’: the policy toward arms exports to Israel	103
4.3.4 The state-corporate symbiosis	107
4.3.5 The AEC in action: licensing defence export to Israel	110
4.3.6 Summary	113
4.4 Censure of UK-Israel arms trade and UEL	115
4.4.1 The ‘Stop Arming Israel’ campaign	116
4.4.2 The rooftop occupation of UEL	119
4.4.3 The state reacts: police response	124
4.4.4 UEL on trial	126
4.4.5 ‘Block the Factory’	129

4.4.6 The civil injunction	132
4.4.7. The success of ‘Stop Arming Israel’ campaign	135
4.4.8 Summary	137
4.5 Conclusion: the UK Government-UEL symbiosis and direct action	149
<b><u>Chapter V – Censure of MMB and the Government of India</u></b>	142
5.1 Introduction	142
5.2 Setting the context	144
5.2.1 Indian agriculture, cotton cultivation and colonial history	144
5.2.2 Agriculture after Independence and the Green Revolution	146
5.2.3 Liberal reforms and the WTO	148
5.2.4 The resistance movement	150
5.2.5 The Gene Revolution	152
5.3 State-corporate symbiosis between MMB and the Government of India	154
5.3.1 ‘Regimes of permission’: the regulatory framework and assessment	155
5.3.2 Enabling the biotech industry: the agricultural biotechnology policy	157
5.3.3 ‘Desired finalities’: the ABP at work and Bt cotton	159
5.3.4 Uncertainty of Bt cotton and the assessment process	161
5.3.5 The introduction and release of Bt cotton	164
5.3.6 Adoption of Bt cotton	167
5.3.7 Summary	170
5.4 Opposition to Bt cotton and censure of MMB	171
5.4.1 Pre-commercial release period (1998-2003)	172
5.4.1.1 ‘Operation Cremate Monsanto’	173
5.4.1.2 The Intercontinental Caravan	175
5.4.1.3 The ‘Monsanto, Quite India’ campaign and ‘seeds of suicide’	177
5.4.1.4 ‘Stealth Seeds’ and faltering resistance	179
5.4.2 Post-commercial release (2003-2009)	181

5.4.3 Eight years after the commercial release (2010-2016)	185
5.4.4 Summary	189
5.5 Deconstructing social harm	191
5.5.1 The current state of the Indian cotton market	191
5.5.2 The costs and returns of Bt cotton	192
5.5.3 The performance of Bt cotton in the Indian context	194
5.5.4 Drought, insect resistance and crop losses	195
5.5.5 The agrarian crisis and Bt cotton: indebtedness and suicides	196
5.5.6 Summary	197
5.6 Conclusion: the censure of legitimate state-corporate conduct	199
<b><u>Chapter VI – Conclusion</u></b>	201
6.1 Introduction	201
6.2 The multiple case study of crime-control from below: illegitimacy and censure	202
6.2.1 The criminogenic potential in state-corporate practices	202
6.2.2 The censure of state-corporate activities	203
6.2.3 Summary	205
6.3 The dynamics of illegitimacy and deviancy in state-corporate activities	206
6.3.1 State-corporate symbiosis, regimes of permission and routine practises	207
6.3.2 Resistance to illegitimate conduct: the process of censure	209
6.3.3 Summary	210
6.4 Last words: the dialectics of state-corporate crime	211
<b><u>Appendices</u></b>	215
<b><u>References</u></b>	235
Primary Sources	235
Bibliography	242

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## **Abstract**

The state-corporate crime research has been marked by an orthodoxy that fetishizes immediately perceptible events or actions, at the expense of understanding the more substantive social processes of state-corporate criminality. This orthodoxy has been changing as scholars from the Marxist tradition are increasingly transcending the empiricist perceptions by giving more attention to relations and processes that cause state-corporate events and imbue them with concrete meaning. This is evidenced in the UK by the work of Penny Green, Tony Word, Steve Tombs, David Whyte and Kristian Lasslett. Unlike the criteria-based approaches, Green's and Ward's process-driven approach recognises that it is not enough for an activity to be objectively illegitimate in order to be criminal, it must also be subjected to judgement. In the case of state-corporate crime, the civil society configurations are one social institution capable of inscribing deviancy labels on illegitimate activities through censure. One powerful means of censure is a longstanding resistance practice of 'direct action'.

This thesis explores how different resistance movements have employed direct action to censure state-corporate conduct as deviant. Yet, to effectively stigmatise state-corporate conduct, it must have illegitimate properties. In the examination of illegitimacy in state-corporate conduct, it is argued, Tombs' and Whyte's concepts "state-corporate symbiosis" and "regimes of permission" are used to tease out the criminogenic potential latent in routine state-corporate practices. Additionally, Lasslett's use of the Marxist dialectical tradition informs us that state-corporate practices are constitutive of much broader relations and processes, constitutive of capitalism. The state-corporate activities that have socially harmful and/or criminal outcome are integral to the function of "social metabolism" and the very existence of the state system as well as organised capital. In this way, state-corporate crime is not an aberration caused by a unique collusion, but by routine and systemic practices. This thesis applies this conceptual insight and a Marxist dialectical method to a multiple-case study, examining two disparate case studies – Case 1 censure of the UK-Israel arms trade and a drone company; Case 2 censure of the biotechnology industry and a biotech-seed company. In so doing, the study advances the view that state-corporate crime, as a phenomenon, comes into *being* through a dynamic, dialectical process.

## **Acronyms and Abbreviations**

ABP – agricultural biotechnology policy  
AEC – arms export controls  
AIBA – All India Biotech Association  
ASHA – Alliance for Sustainable and Holistic Agriculture  
ASI – Association of the Seed Industry  
BDA – Biological Diversity Act 2002  
BDS – Boycott, Divest and Sanction movement  
BSA – British Sociological Association  
BSC – British Society of Criminology  
Bt – Bacillus thuringiensis  
CAAT – Campaign Against Arms Trade  
CAEC – Committee on Arms Export Controls  
CBD – Convention on Biological Diversity  
CCI – Cotton Corporation of India  
CGMFI – Coalition for GM-Free India  
CICR – Central Institute for Cotton Research  
CII – Confederation of Indian Industry  
CPS – Crown Prosecution Service  
DBIS – Department for Business, Innovation and Skill  
DGP – Defence Growth Partnership  
DBT – Department of Biotechnology  
DIP – Defence Industrial Policy  
DIT – Department for International Trade  
DIS – Defence Industrial Strategy  
DNA – Deoxyribonucleic acid  
DSB – Dispute Settlement Body  
DSO – Defence Security Organisation  
ECO – Export Control Organisation  
EPA – Environmental Protection Act 1986  
FAA – Federal Aviation Administration  
FCO – Foreign and Commonwealth Office  
FOI – Freedom of Information  
GEAC – Genetic Engineering Approval Committee  
GMO – genetically modified organism

GURT – gene use restriction technology  
HRW – Human Rights Watch  
IBSC – Institutional Biosafety Committee  
ICAR – Indian Council of Agricultural Research  
ICC – International Criminal Court  
IDF – Israeli Defence Force  
ISAAA – International Service for the Acquisition of Agri-biotech Applications  
ISTAR – Intelligence, surveillance, target acquisition, and reconnaissance  
KRRS – Karnataka Rajya Raitha Sangha (Karnataka State Farmers Association)  
LPA – London Palestine Action  
MMB – Mahyco-Monsanto Biotech Ltd  
MoEF – Ministry of Environment and Forestry  
MOD – Ministry of Defence  
MST – Ministry of Science and Technology  
NBDS – National Biotechnology Development Strategy  
NBRA – National Biotechnology Regulatory Authority  
NGO – Non-governmental organisation  
NSP – National Seed Policy  
NTP – National Textile Policy  
OIEL – Open Individual Export Licence  
OPTs – Occupied Palestinian Territories  
PGA – People’s Global Action  
PHRO – Palestinian Human Rights Organisation  
PIL – public interest litigation  
PPVFRE – the Protection of Plant Varieties and Farmers’ Rights Act 2001  
PSC – Palestine Solidarity Campaign  
RCGM – Review Committee on Genetic Manipulation  
RDAC – Recombinant DNA Advisory Committee  
R&D – research and development  
Rs – Indian rupee  
SAI – Seed Association of India  
SIEL – Standard Individual Export Licence  
SIPRI – Stockholm International Peace Research Institute  
TMC – Technology Mission on Cotton  
TRIPS – the Agreement on Trade-Related Aspects of Intellectual Property Rights  
UAV – unmanned aerial vehicle  
UEL – UAV Engines Ltd

UK – United Kingdom of Great Britain and Northern Ireland

UN – the United Nations

WTO – World Trade Organisation





# **Chapter I – Researching State-Corporate Crime and Resistance**

## **1.1 Introduction**

Orthodox criminology traditionally focused on the street offender as the prototypical criminal. This signified a top-down approach to the study of crime. As a legal construct the concept of ‘crime’ is fraught with power disparities (Sutherland, 1940, 1945). Some have argued that because the legal discourse is constructed by the dominant groups in society, they use the category ‘crime’ as a mechanism of social control against dominated groups (Hillyard and Tombs, 2007; Burton, 2013; DeKeseredy, 2011). As such, the label ‘crime’ has been used by those in positions of power to stigmatise those who are marginalised and isolated. However, there is a growing recognition in the state and corporate crime literature that the criminal property can be affixed on the powerful and their actions from below by civil society (Green and Ward, 2000, 2004; Friedrichs, 2009; White, 2009; Stanley and McCulloch, 2013; Lasslett et al, 2015). Building on these critical traditions of criminological scholarship, this thesis examines how deviancy labels can be inscribed from below to state-corporate practices.

Although, the notions of resistance and crime-control from below have been explored in the state crime literature, they have not been systematically applied to state-corporate crime research. The concept of state-corporate crime denotes the production of crime at an intersection of state and corporate interests (Kramer and Michalowski, 1991; Kauzlarich and Kramer, 1998; Kramer et al, 2002). This concept offers a very important contribution to the general study of crimes of the powerful. Yet, its integrated theoretical model underpinned a criteria-based definitional framework of state-corporate crime, and has been challenged on many fronts (Whyte, 2003; Lasslett, 2014a; Tombs, 2012; Tombs and Whyte, 2015; Lasslett et al, 2015). It is argued in this thesis that the dialectical approach to state-corporate crime, advanced by Penny Green, Tony Ward and Kristian Lasslett offers a more helpful foundation for conducting the inquiry into the fundamental relations and processes that produce and actualise criminal potentialities of states and corporations. Their process-driven approach has inspired literature that explores social processes through which state-corporate practices become labelled as criminal.

To conceptualise the resistance the thesis draws on interventions from a special edition of *Social Justice* (2009) on resistance and state crime, as well as contributions to

Stanley and McCulloch's (2012) volume *Resistance and State Crime*. This critical scholarship argues that studying resistance within state/corporate crime discourse can have an empowering effect on civil society engaged in struggles against the wrongdoings of the powerful. According to these works, emancipatory change and justice is achieved by civil society through some form of resistance. One form of resistance that stands out throughout history is direct action. Indeed, direct action has been employed by social audiences to censure wrongful state-corporate conduct. The use of direct action to stigmatise state-corporate conduct is be one of the focal points of the empirical content on resistance.

Methodologically, this study is guided by Marxist dialectical tradition. It is operationalised through a multiple case study approach, employing a mixture of investigative data collection methods. The essential dynamics of resistance to state-corporate crime are studied within two contrasting historical junctures, to see how different historical trajectories produce different concrete antagonisms and traditions of resistance and how this mediates outcomes. Case Study 1 examines the censure of an engine company, UAV Engines Ltd, for exporting, and the UK Government for licensing exports of engines incorporated into Hermes drones used by the Israeli state in military operations in Gaza. Case Study 2 examines the opposition to transgenic cotton (Bt cotton) introduced by a biotechnology company, Monsanto, and endorsed by the Government of India.

The study aims to, first, understand the historically constituted social processes through which state-corporate conduct becomes defined as deviant; second, identify the fundamental social dynamics that create the historical possibility for these processes to take place at particular junctures. To achieve these aims the study delves also into what makes state-corporate practices potentially deviant. Pursuing these aims the research extends scholarly understanding of different strategies resistance actors can use to more effectively censure deviant state-corporate conduct. By extending academic knowledge about resistance to state-corporate crime this research offers theorised guidance for more effective nonviolent direct action. By immersing resistance in theoretical explanation research can strengthen social processes that stigmatise deviant state-corporate activity (Lasslett, 2012a). A systematic theorisation of resistance can help us uncover the broader, social process resistance is part of.

## **1.2 Conceptual and theoretical framework**

Drawing on the conceptual and theoretical insight proffered by the process-driven approach, it is contended that state-corporate crime comes into *being* when an objectively

illegitimate conduct is stigmatised as deviant. The criminogenic property of state-corporate practices is a latent potential. It is realised when these practices cause harm and/or contravene a normative code of conduct. This potential is concretised when a substantial audience censures concerned state-corporate practices. Exploring the illegitimacy and deviancy, the thesis advances a Marxist dialectal understanding of state-corporate crime and resistance. The dialectical method can help the study see the interacting elements of the studied phenomenon and it immerses the phenomenon in a totality of relations it is part of (Engels, 1946; Jordan, 1967; Harvey, 1993; Bukharin, 2005). In this way, the phenomenon is understood in terms of a broader social process, rather than a reductive set of variables or factors. The boundaries between empirical research and theoretical explanation erected by orthodox state-corporate crime scholarship will be removed, and theory shall be used to bridge appearance with reality. As Lasslett (2014b: 18) posits, the task of theory is to ‘orient consciousness to the empirical richness of offending contexts.’ The result will be a dialectically developed body of theory that can orient our consciousness to accurate representations of concrete reality.

### 1.2.1 Illegitimacy in state-corporate practices

Ideological and legal formations prescribe a set of relations between the state system, organised capital and society; but these relations are negated by the reality of achieving social reproduction under neoliberal capitalism (Lasslett, 2014c; Ward and Green, 2016). Illegitimacy is not always caused by an explicit commission. Rather, all state and corporate activities have a potential to cause some form of social harm (Tombs and Hillyard, 2004; Pemberton, 2007). Oftentimes, social harm or crime is caused by systemic or ‘routine practices’, e.g. production, exchange, investment, labour, employment, trade, regulation policymaking (Hillyard and Tombs, 2007; Tombs, 2012). States and corporations are not conceived here as malevolent agents seeking to cause harm, but as interdependent institutions pursuing ‘desired finalities’, e.g. economic growth, market share or investment (Lasslett, 2014c; see also Barnett, 1981; Kramer and Michalowski, 1991). To achieve ‘desired finalities’ state institutions create, what Whyte (2014) calls, ‘regimes of permission’ to maintain a stable flow of capital, labour and tax revenue.

Furthermore, processes of expanded reproduction tie states and corporations into a symbiotic relationship. Production, investment, labour, taxation, regulation, policymaking trade etc. are processes of ‘state-corporate symbiosis’ (Tombs, 2012). There is a general agreement in the literature that capital accumulation is a powerful impetus of state-corporate symbiosis, and a highly criminogenic force (Tombs, 2012; Tombs and Whyte, 2015; Green

and Ward 2004; Young, 1981). Central to a Marxist understanding of state-corporate criminality is its explanation in terms of the dominant mode of production (Young, 1976, in Pearce, 1976). This requires the analysis of political-economic arrangements within which states and corporations operate.

### 1.2.2 Censure of state-corporate practices as deviant

The principle premise of ontology is that “nothing comes from nothing”, every phenomenon comes into reality through some process of becoming. Crime too has an ontological reality, for it is constructed through concrete social practice, largely omitted by traditional criminology (Hillyard and Tombs, 2007; Burton, 2013). Reality is created in every day to day interactions between human agents, their environment, their institutions etc. For, nothing can exist in the world except in an overarching interrelationship of social forces; social phenomena emerge from complex web of interactions between multitudes of connected objects that have structurally inscribed qualities (Engels, 1946). Dialectical materialism traces the formation of phenomena through mutual conditioning of objects, and ‘through their interaction, the system that emerged and developed historically, and still continues to develop new forms of its existence and internal interaction’ (Ilyenkov, 1979: 168). Social phenomena are produced through interaction of different elements, subjects and objects. An objective event or action is imbued with meaning by subjects that act upon what they observe or experience.

In line with this, it is argued that state-corporate crime exists as a potentiality expressed in accepted norms (Green and Ward, 2000, 2004; Lasslett, 2010a). This potential is actualised through social transactions between deviant institutions and norm upholding agents or agencies, e.g. civil society, the public, state’s legal apparatus or international institution. Not just any transaction, but a material, prohibitive action of human agents. Oftentimes, social actors concretise the deviant potential of state-corporate conduct through resistance. It is a material, social practice that can ascribe meaning and ontological reality to perceived events or conduct. From a dialectical approach ‘state [and corporate] crime is a historical property inscribed on certain practices, through a mediated process of struggle’ (Lasslett et al, 2015: 516). Throughout history, social struggles have asserted values, ideals, rights and norms of conduct against which states and corporations are now adjudicated.

### **1.3 ‘Researching through resistance’: methodology and research methods**

This is a qualitative research study operationalised through a multiple case study approach and conducted by means of investigative data collection methods. Research into crimes of the powerful poses quite different ‘methodological problems in comparison to criminology’s traditional subject matter, street crime’ (Lasslett, 2012a: 144). Social actors, e.g. researchers and activists, who investigate and expose state/corporate wrongdoings operate outside state-corporate power networks (Lasslett, 2012a). Activists and non-governmental organisations often put their liberty, safety and reputation at risk. Finding information about criminogenic state-corporate collusion proves challenging as it involves exhaustive investigative work into institutions that have the capacity to deny access. The reality of this field is that researchers rely on resistance communities or civil society for data. Thus, researchers investigating state/corporate crime must engage with and support resistance communities (Lasslett, 2012a). Due to this ineluctable reality, research into crimes of the powerful and resistance are intertwined.

Additionally, because this study seeks to understand how resistance emerges or occurs, how resistance actors define state-corporate activity as criminal, and how this intersects with state-corporate reaction to resistance, e.g. denial or counter-resistance, civil society is the central source of information. By actively engaging with social movements the researcher expresses not just a wish for a rigorous understanding of the problem, but also an active political commitment to resolve the problem (Hale, 2008). A growing literature base on activist research suggests a plethora of methods for collecting difficult to access data.

#### **1.3.1 Methodology**

This study adopted a Marxist dialectical approach. The emphasis of dialectical method is on observing relations between interconnected phenomena, mutually conditioning processes and objects underpinning communities of resistance and how they censure state-corporate conduct they deem deviant (Lasslett, 2010b; Ward and Green, 2016; see also Engels, 1946; Lukács, 1971; Wallerstein, 1979; Banaji, 2010). From this approach, an empirical content/case is grounded in elementary processes of the totality of social relations, i.e. neoliberal capitalism. The focus of such an approach is on contradictions, interconnections, processes and mutually conditioning relations (Harvey, 1993; Ward and Green, 2016). The empirical content is perceived through dialectical lens to capture how relationships between the state, organised

capital and society create the contradictions and possibilities for state-corporate crime to come into being as a phenomenon – which require both illegitimate state-corporate practice, and organised censure that stigmatises this conduct as criminal. Case studies are methodologically suited to research informed by a Marxist dialectic. The case study approach presents a phenomenon in its entirety, a complex/bounded system with its own processes and interacting elements; and, as part of a larger totality of social relations. A dialectical use of case studies promises a deeper analysis of the process that cause illegitimate state-corporate practices and processes that actualise these practices as deviant.

### 1.3.2 Multiple case study approach

Case studies can advance our understanding of state-corporate crime, in as far as, they are grounded in fundamental processes of totality of social relations, i.e. neoliberal capitalism (Tombs, 2012). Case studies are appropriate for qualitative research where the objective is to explore and understand, rather than confirm or quantify (Yin, 2003; Flyvbjerg, 2006). A case study approach is, further, suited to dialectical inquiry, as it proffers a holistic understanding of processes and dynamics of a phenomenon (Kumar, 2011). Social phenomenon is bound to specific context, setting and historical specificity. Case study research is characterised by its capacity to produce ‘context-dependent knowledge’ (Yin, 2003: 13). A case study can be any form of complex or bounded system, i.e. a phenomenon, situation, demographic, event, period, organisation, institution etc. Case study is not a method, nor a form of research design, it is simply a means of operationalising research (Stake 1995; Gerring, 2004; Flyvbjerg, 2006; Yin, 2009). It is not limited to any one type of data collection methods, it is flexible and intuitive. An abundant variety of sources and research methods were employed. This endowed the empirical content with a sense of real-life events.

### 1.3.3 Data collection methods

The data for the thesis was collected through a wide range of qualitative methods. Data was divided into primary sources and secondary sources. Primary sources consist of first-hand testimonies obtained through interviews and email correspondence with state actors, non-governmental organisations (NGO) actors, activists, and scientists; legal case files and affidavits; grey papers; parliamentary committees’ reports; and government reports. Secondary sources consist of second-hand interviews archived on YouTube; regulatory legislation and policy; NGO reports and data; published research; and media records. Interviewees were identified and selected by means of purposive and snowball sampling

methods (Biernacki and Waldorf, 1981). The researcher implemented semi-structured interviews with open-ended questions (Noor, 2008). The legal case files were kindly shared by NGO participants and government data was obtained through Freedom of Information requests. Documentary data from secondary sources were obtained through internet searches, from NGO participants, government officials and Parliament Library.

The study relied on a broad range of secondary sources due to an environment marked by distrust of outsiders. Due to distrust most state actors and all of the corporate actors refused to participate in the research. The researcher succeeded in establishing trust with NGO actors who assisted the researcher in gaining access to resistance actors. However, this took a substantive amount of time due to the sensitive nature of the issues and cautious attitude of resistance actors to outsiders. Conducting cross-cultural research was another challenging task. Substantial time was dedicated to building an understanding and appreciation of the social context in India and its agricultural context. The researcher spent five months in India establishing trust, learning about the resistance community and familiarising with the cultural and political context. The secondary sources were used to supplement primary data and to corroborate interview testimonies. In so doing, unexpected revelations were reached about the character and influences of resistance campaigns, which otherwise would not have been obtained.

After data was compiled, a multi-stage thematic coding process was undertaken whereby information was organised into themes (Ryan and Bernard, 2003). NVivo – a qualitative data analysis software – was used to analyse crude data, to organise it into digestible excerpts through thematic coding. Overarching themes were broken into nodes with excerpts from interviews and documentary data. In the written output the themes are represented by chapter sections, where each element of the data constitutes only a piece of the puzzle (Bailey, 2007; Baxter and Jack, 2008). Data elements in the analysis output are presented as testimonial accounts and information extracted from documentary sources. Pieces are brought together in a story form which retells events in a sequence, adding to the sequence all the actions, actors, agencies, influences, and motives involved in the events (Elliot, 2005). In this way the empirical cases are set in a context and are presented as real-life events, which are dynamic and involve interaction of numerous components, both objective and subjective.

## **1.4 Introducing the case studies**

The study presents two disparate cases to explore how different trajectories of capitalism have produced very different, contextual struggles; how these struggles led to different traditions of civil society resistance; and, how these traditions of resistance defined as deviant the observed state-corporate conduct. Study 1 is a case of censure by a group of human rights, anti-arms trade, anti-war and Palestine solidarity campaigners of UAV Engines Ltd (UEL) for producing drone engines used by Israel in military operations in Gaza and the UK Government for licensing exports of companies like UAV. Study 2 is a case of opposition by anti-globalisation, Gandhian-nationalist, upper-caste, farmers' movement to transgenic cotton and censure of Monsanto-Mahyco Biotech Ltd (MMB) for causing indebtedness and farmer suicides with biotechnology. A case study approach is not a sampling method, a case study is a whole in itself, a 'context-bound system', therefore case selection is based on a very different rationale (Tellis, 1997; Stake, 1995; Yin, 2003; Flyvbjerg, 2006). Case studies are very effective in testing theory, especially when they are contextually dissimilar (Stake, 1995). Case selection, where 'theory replication' is pursued, will aim for disparity (Tellis, 1997). Thus, the choice of case studies was based on disparity in traditions of resistance and politico-economic context of state-corporate illegitimacy.

Moreover, to obtain the greatest information on a given phenomenon, selected cases cannot be random (Flyvbjerg, 2006). For pragmatic reasons, best cases are ones which involve numerous actors and mechanisms in the studied event, as it expands the sources of information on complex phenomena (Flyvbjerg, 2006). When selecting cases, the researcher should also consider whether selected cases have a strategic value for the studied issue and whether they are paradigmatic, viz. whether they highlight more general characteristics of the phenomenon (Flyvbjerg, 2006). Following these criteria, the cases were intentionally selected to test theory across diverse contexts and settings. Both cases involve civil society resistance to stigmatise illegitimate state-corporate conduct, and they both actualise resistance through direct action campaigns. However, these campaigns take place in different contexts, and so the study seeks to locate how this mediates their construction and execution. Even though the two cases occur in places with historically different trajectories of capitalist development, they are both underpinned by the same fundamental relations. Having two different cases can strengthen the dialectical approach, demonstrating that knowledge about state-corporate crime is context-bound, thus it cannot be reduced to narrow array of factors, but rather must reflect case-specific dynamic.

### 1.4.1 Censure of the UK Government and UEL

The UK was, arguably, the first fully formed capitalist political-economy and the largest global empire in history. The British empire counteracted the contradictions of capitalism through colonialism and imperialism. British colonialism was, historically, a major component of capitalist development and its global pervasion. The unique capitalist trajectory in the UK created a fertile ground for anti-colonial and anti-imperial resistance from within the British working-class and the diaspora of colonised subjects. Mass destruction and loss of human life caused by imperial conflicts in the 19<sup>th</sup> and first half of the 20<sup>th</sup> centuries, economic depression and gross inequality engendered social progress in human rights and welfare. International legal mechanisms were founded to protect human life and rights. In the second half of the 20<sup>th</sup> century, private capital's takeover of the defence industry, the Cold War and decolonisation fomented human rights struggles, anti-war and anti-arms trade movements, human rights activism and peace movements. The UK's trajectory of capitalist development and domestic, as well as global, struggles established anti-war, anti-arms trade, and human rights traditions.

The UK Government and UEL were censured by anti-war, anti-arms trade, human rights and Palestine solidarity activists. UEL was censured because its products were incorporated in Israel's drones used for military operations in Gaza, and the authorisation of defence exports of Israeli subsidiaries, such as UEL, breached UK regulation and international law. According to the resistance actors, because of this relation the Government and UEL were complicit in the Israeli blitz of Gaza in the summer of 2014, 'Operation Protective Edge'. A broad network of activists from War on Want, Campaign Against the Arms Trade (CAAT), Palestine Solidarity Campaign, London Palestine Action (LPA) and Boycott Divest Sanction movement launched a campaign, 'Stop Arming Israel', during the Operation Protective Edge to expose the UK-Israel arms trade. Reports by Amnesty International and CAAT revealed evidence of Israeli Defence Force (IDF) incorporating UEL engines in Hermes drone, considered by the IDF the "backbone" of military operations in Gaza (Milmo, 2014a). As part of the campaign the LPA orchestrated a number of demonstrations and direct actions, most notably a rooftop occupation of UEL on 5-6 August 2014. Direct action was also employed in a follow up blockade of UEL in July 2015, named 'Block the Factory'. Both direct actions resulted in a court trial of the resistance actors, which opened an opportunity to subvert the state's legal mechanism in order to further censure UEL and the Government.

## 1.4.2 Opposition to transgenic cotton and stigmatisation of Monsanto in India

India's integration into the world capitalist system was mediated by British imperialism. India was a highly exploited colony for its raw resources, e.g. cotton lint. The nation gained independence in 1947 through a prolonged struggle rooted in anti-colonial and anti-imperialist resistance, Hindu-nationalist movement, and freedom movement. Three centuries of colonial rule left India in a state of relative underdevelopment. Subsistence agriculture and cash cropping dominated India's socio-economic landscape, and industrialisation took place at a late stage. In the decades following independence, India was grappling low productivity, overpopulation, rampant inequality and effects of industrial development. From the socio-economic turmoil emerged new traditions of resistance, leftist-socialist, farmers' rights and Gandhian-nationalist movements. In the 1990s the Government of India, under the Congress Party, initiated liberal reforms and in 1995 signed India up to the Marrakesh Agreement, which formed the World Trade Organisation (WTO). As a member state of the WTO India was compelled to further liberalise its economy by shifting from Nehruvian-protectionism to neoliberalism. Seeing this change as foreign influence and imposition of Western-corporate interests on India, farmers' rights and Gandhian-nationalist movements began anti-globalisation, anti-liberalism and anti-corporate resistance traditions.

The anti-imperialist and Hindu-nationalist traditions are active today as Gandhian-nationalist resistance to neo-colonial forces of neoliberalism and globalisation. It is in this context that the opposition to transgenic cotton and stigmatisation of Monsanto took place. In 1996 Monsanto, a biotech conglomerate, entered into a joint venture with an Indian seed company, Mahyco, and formed Mahyco-Monsanto Biotech Ltd (MMB). The company introduced transgenic cotton called Bt cotton – commercially known as Bollgard – under Indian Government's policy vision to increase agricultural productivity through industrialisation, export-oriented production and crop technology, e.g. biotechnology. The transgenic cotton was released into commercial cultivation in 2001 after a prolonged assessment period designed in 1986. The Government of India created a regulatory structure to facilitate an environmentally safe development of biotechnological products.

The Gandhi-nationalist, anti-globalisation movement led by a farmers' association Karnataka State Farmers Association (KRRS) and an environmental NGO Navdanya saw the introduction of Bt cotton as a Western, corporate threat to farmers' sovereignty and independence. The resistance movement linked Bt cotton, and thereby MMB, to indebtedness

and farmer suicides. They saw Bt cotton as a corporate ploy to dispossess Indian smallholders of their means of production through monopoly over the seed market. After the release of Bt cotton new resistance movements emerged, mainly Coalition for GM-Free India (CGMFI), from environmental, holistic and conservationist traditions of resistance. According to CGMFI, Bt cotton failed to increase farmers' incomes and, in many cases, caused indebtedness. Another prominent organisation in the resistance, namely the Gene Campaign, took a very different stance on the issue as a research driven NGO. The main concerns raised by the Gene Campaign were biological safety and agronomic performance. According to the campaign the Bt cotton created pest resistance and its agronomic performance was contingent on too many external variables. Overall, MMB was accused of causing farmer suicides and the Government was censured for facilitating the release of Bt cotton.

## **1.5 Thesis overview**

The thesis is broken down into six chapters. Chapter I – Researching state-corporate crime and resistance; Chapter II – Conceptual and theoretical foundations: State-corporate crime and resistance; Chapter III – Methodology, data collection methods and data analysis; Chapter IV – Censure of the UK Government and UEL; Chapter V – Conclusion. This chapter introduced and summarised the conceptual and theoretical premise, methodology and research methods, and empirical content of the thesis. Chapter II sets the conceptual and theoretical foundations of the thesis by reviewing literature on state-corporate crime and resistance. The chapter identifies the lacunas in the main currents of state-corporate crime scholarships, scrutinising the integrated theoretical framework and the juridical approach to defining state-corporate crime proffered by Kramer and colleagues. It then explores how the identified limitations can be addressed with a Marxist understanding and process-driven approach advanced by Ward, Green and Lasslett. Additionally, recent interventions by critical criminologists, Tombs and Whyte, advocate a process-based analysis as a remedy to the orthodoxy of events-based analysis. The chapter, further, reviews literature on resistance, setting the conceptual premises of resistance, identifying gaps and supplementing them with conceptual categories found in literature on different resistance traditions, including anarchism, civil disobedience.

Chapter III details the philosophical underpinning of the thesis, the study design, operationalisation of research and how methodological choices will achieve study aims. It, firstly, explains how the adopted conceptual and theoretical foundations influenced the methodological approach, and how the methodology will advance research aims. The study

was guided by a Marxist dialectical approach, adopted from the Marxist understanding of state/corporate crime and the process-driven approach. It is argued that the dialectical approach captures the structural contradictions underpinning state-corporate practices and resistance as elements of a process through which these practices are realised as crime. Secondly, the chapter delineates the study design, research approach and data collection methods adopted to uncover the process of state-corporate crime and resistance in two real-life cases. There the chapter substantiates the use of multiple case study approach and discusses the choice of investigative research methods. The multiple case study approach facilitates empirical research into disparate cases, where the intention is to apply a single theory to explain the same phenomenon occurring in a different setting. The multiple case study approach affords a comparison into how context, viz capitalist trajectory and tradition of resistance, affects resistance to deviant state-corporate conduct and its outcome.

Chapter IV presents and analyses the empirical findings on the resistance campaign launched to censure defence exports to Israel by a UK based engine company, UEL, and the licensing of these exports by the UK Government. The chapter looks at the contradictory role of the Government as a regulatory and promoter of defence exports by evaluating policy, regulation, export licence data and parliamentary debates on the issue of arms exports to Israel. In so doing, the chapter points the reader's attention to the way regulation and policymaking work as 'regimes of permission' that mediate the symbiosis between the UK Government and UEL. It then analyses interview testimonies of resistance actors and documentary data to explain the censoring process and importance of direct action to resistance. It also evaluates the impact of the resistance and whether it was effective.

Chapter V presents and analyses the empirical findings on the resistance of the opposition to Bt cotton and Monsanto. The chapter explores Monsanto's, alleged, contribution to the crisis of indebtedness and farmers suicides by introducing transgenic cotton and monopolising the cotton seed market. It looks at the role the Government of India played in the commercial release of Bt cotton by reviewing regulation and agricultural biotech policy. The chapter then analyses the resistance to Bt cotton and Monsanto with its many facades, how different elements of the resistance constructed the issue, and how they employed direct action to censure state-corporate institutions. Finally, it evaluates the impact of the resistance and whether it was effective. Chapter VI concludes the thesis by explaining the theoretical meaning of empirical findings. It distils the process of resistance and the social dynamics of state-corporate crime and identifies what makes resistance effective.

## **Chapter II – Conceptual and theoretical foundations: state-corporate crime and resistance**

### **2.1 Introduction**

This study aims to understand the fundamental dynamics that create the possibility for state-corporate crime to come into being. To this end, the thesis explores the underlying structural contradictions that produce the criminogenic potential of state-corporate practices, and organised censure that stigmatises this conduct as deviant. The purpose of this chapter is to review existing literature, identify lacunas and find a fruitful avenue to fill them. In so doing, the chapter explores the concepts and theory that underpin this study. Section 2.2 begins by outlining different explanatory approaches to state and corporate function, and how these approaches influenced the development of a sub-field that looks at state-corporate collusion. The section outlines Weberian, Foucauldian and Marxist approaches developed in state crime literature, and the historical-Marxist approach used in corporate crime literature. There are important overlaps in these tracts of scholarship, which offer insight into substantive structural dynamics that determine how states and corporations function. It then looks at how state-corporate crime literature draws upon state and corporate crime literature to explain the dynamics of criminogenic collusion between states and corporations.

Section 2.3 evaluates three theoretical approaches to state-corporate crime. The first, the integrated-theoretical model devised by Ronald Kramer, Raymond Michalowski and David Kauzlarich. The second, a Marxist understanding advanced by Penny Green, Tony Ward and Kristian Lasslett. The third theoretical approach looks at state-corporate crime as a process latent in ‘routine practices’ and mediated by ‘state-corporate symbiosis’ through ‘regimes of permission’. These concepts were devised by Steve Tombs and David Whyte. Section 2.4 evaluates three definitional approaches to state-corporate crime: juridical framework, social harm paradigm and organisational deviance. The juridical framework – criteria-based approach – is associated with integrated theoretical framework and subscribes to international law as the strongest definitional criteria. The social harm paradigm rejects the legal category of ‘crime’ and calls on criminologists to focus on harms rather than crimes. The organisational deviance – process-driven approach – is rooted in the Marxist dialectical tradition and focuses on the role of social audiences in identifying, censuring and labelling state-corporate criminality. The process-driven approach dovetails with the Marxist dialectical approach.

Section 2.5 explores the recent tract of scholarship on resistance and state crime, prompted by the organisational deviance approach. The state crime literature on resistance was initiated in a special edition of *Social Justice* and further developed by Elizabeth Stanley and Jude McCulloch. This scholarship registered the important role civil society plays in exposing and censuring illegitimate state/corporate conduct. It analyses resistance, not as an abstract category, but a material action with real history. This literature, however, offers mostly a descriptive overview of resistance, it is an analytical category. Therefore, the section will also review Green and Ward's use of Gramscian concepts – civil society and hegemony. These concepts offer the analytical tools required to break down the causes and process of resistance. Lastly, this section delves into direct action and its historical significance for resistance. Conceptual and historical insight on direct action is taken from different political traditions, including anarchism, socialism and civil resistance. Overall, this chapter lays the conceptual and theoretical foundation of the thesis. Foundation that props the methodological approach, empirical work and analysis of the findings. The methodology was informed by the process-driven approach and the choice of research methods was also influenced by a critical criminology approach to state-corporate crime. The concepts developed in this chapter are used to categorise empirical findings and to enrich them with deeper, theoretical meaning.

## **2.2 States and corporations: a criminogenic collusion**

The study of state-corporate crime was initiated in a series of papers presented by Kramer and Michalowski in the early-1990s. Traditionally, state and corporate crime operated as two distinct streams, but Kramer and Michalowski saw the need to analyse them together. They argue that offending of either institution cannot be understood in isolation, as it takes place at the intersection of state and corporate interests (Kramer, 1990; Kramer and Michalowski, 1991). This approach emerged from a conception of states and corporations as interlinked capitalist institutions. Although they appear as autonomous entities, both these institutions are products of capitalist development and operate within politico-economic arrangements of capitalist relations that bind them together. The concept informs us that 'intersection of state-corporate interests often causes large-scale social harms, and that these harms are less likely to be criminalised and punished by the state' (Whyte, 2003: 582). Before exploring the state-corporate crime literature in more detail, the reader is invited to consider theoretical approaches employed in state and corporate crime literature to classify features of the state and corporation, which can be potential sources of deviance.

### 2.2.1 The state

The field of state crime offers insightful theoretical perspectives on the state. The main theoretical currents in state crime scholarship are Weberian, Foucauldian and Marxist. State crime as a distinct field of study can be traced back to Chambliss' (1989) presidential address to the American Society of Criminology, although its antecedents are longer in origin. Chambliss analysed the colonial history of early European states. Tilly (1985) argued that modern nation-state making was a coercive endeavour, it entailed violence, piracy, war, colonialism and expropriation. The three theoretical traditions in the state crime literature inform us of the state's propensity to use force/violence to achieve its interests, the criminogenic potential latent in state's ordinary practices and where this potential emerges from.

One of the leading theoretical canons in state crime literature is the Weberian conception of the state. It focuses on the state's prerogative to use physical force (Cohen, 1996; Funk, 2003; Kauzlarich et al, 2003; Green and Ward, 2004). This focus was informed by the Weberian theory of the state. According to Weber the primary feature of statehood is the 'monopoly of the legitimate use of physical force' (Weber, 1947: 154). According to this perspective, the state does not have to always use coercion to maintain order. The threat of violence, symbolised by the state's coercive apparatus (e.g. police, prison, taxman, military), maintain state power and dominance over the populace (Tilly, 1985; Green and Ward, 2004). Whether authoritative or liberal, in order to exist to populace must recognise and obey the state's authority, and this is partly assured through constant presence of violence exerted on individuals who break the rules established by the powers that be (Weber, 1946). This perspective of the state is very important because it sensitises state crime researchers to the fact states have the capacity and, indeed, an exclusive right to use varied means of violence in order to enforce their order.

The Foucauldian perspective has been used to argue that at the centre of state power lies 'biopower' – techniques used by a state to manage a population (Michalowski, 2010; Rothe, 2010). The Foucauldian power-knowledge nexus employed in state crime literature draws attention to state role as the main architect of law (Power, 2003; Hillyard, 2004; Tombs and Whyte, 2007). It influenced the social harm paradigm, where law is seen to play a dual role; it is a form of social control used to dominate a population and a normalising mechanism, in that it normalises socially injurious state behaviour (Berrington et al, 2003; Tombs and Whyte, 2003; Pemberton, 2007; Burton, 2013). Another Foucauldian concept,

governmentality, has been adopted to point to the state mechanics used to ‘penetrate and discipline a population in ways that individuals self-align their interests to those of the state and become part of the state by reproducing its ideology’ (Michalowski, 2010: 25). Governmentality has been also used to explain mechanics of capitalist states – legislation, infrastructure investment, policing, military intervention, taxation, regulation – used to affect ‘social metabolism’ with a definite end in mind (Lasslett, 2014b; Lasslett, 2014c). However, governmentality reproduces the relations, constitutive of neoliberal capitalism, that hide the criminogenic potential of state practices. The Foucauldian perspective, especially governmentality, alert us to the criminogenic potential in the ordinary, routine state practices.

Another important contribution to the understanding of state crime originates with the Marxist theory. The modern state system has emerged in the historical transition from feudalism to capitalism, and further engendered the promulgation and development of capitalism around the globe through imperialism (Pearce, 1976; Quinney, 1977; Barnett, 1981; Tilly, 1985; Chambliss, 1989; Ward, 2004; Lasslett, 2010a, 2010b 2014b). As feudal relations in Europe gave way to capitalism the states that conformed to the logic of capital accumulation saw greater revenue and increased their power (Ward, 2004; Callinicos, 2007; Lasslett, 2014b). The state is an essential site of struggle and practice which creates the social architecture that capitalism requires to function effectively (Whyte, 2014; Tombs, 2016). In Gramscian theory, the state is an arena of political competition among vested interests, its task is to balance competing social forces through the formation of hegemonic blocs (Bonnanno et al, 1997). Under a hegemonic bloc, the state must continuously legitimise capital accumulation, whilst fulfilling its responsibility to the larger populace (Tombs and Whyte, 2003). This complex relation creates antagonisms between the state system, the society and organised capital, and the interests these groups represent (Braithwaite, 2000; Ward and Green, 2004; Lasslett, 2010b, 2013). These antagonisms cause overt forms of rupture that result in state crime and social harm. This is a very important contribution because it explains how a state’s criminogenic potential arises.

### 2.2.2 The corporation

Just like the state, the corporation emerged in a period of transition from feudalism to mercantile and then industrial capitalism (Slapper and Tombs, 1999; Stephens, 2002). Developing trade, free competition, laissez-faire doctrine and liberal ideology assisted commercial arrangements whereby groups of merchants engaged in joint ventures to increase the capital they commanded (see Shichor, 1989: 69-70). With the rise of overseas trade and

colonialism from the sixteenth century onwards these joint ventures operated in a political capacity in colonial territories, e.g. the East Indian Company. They were given Royal Charters that granted them legal status, governmental functions (e.g. levying of tolls) and authority to administer colonies on a government's behalf (Cullen et al, 1987). By the nineteenth century much of the economic activities were deferred onto large companies that became autonomous, dominant economic entities. Governments of colonial states put in place policies and laws that supported and protected chartered companies. Coleman (1982: 40) describes the corporation as a 'child of the state' for a reason.

Until the nineteenth century incorporation into companies was restricted to royal charters or private acts, which were limited by protectionist states that sought to keep the privileges thereby granted. With the rapid expansion of capital-intensive enterprises during the industrial revolution incorporation into companies, without charters or private acts, was instituted by the Joint Stock Companies Act 1844 in the UK. Corporations have, thereby, become legal entities with legal rights and obligations of a natural person. Corporations also have personhoods – in the US they are protected by the Fourteenth Amendment – which means they can be held liable and can be treated as having *means rea* identified with the owners or managers (Clifford, 2014: 46-9). While some see profit maximisation as the *raison d'être* of organised capital (Chamberlain, 1973; Jacoby, 1973; Young, 1981; Shichor, 1989; Bonanno et al, 1997; Stephens, 2002), others argue that corporations simply seek stability and growth (Clinard and Yeager, 1980; Bozeman and Straussman, 1983; Braithwaite, 1985). Whether a corporation pursues prestige, stability and growth Clinard (1983: 18) maintains that its 'paramount objective is maximisation of profits and the general financial success...' as its survival depends on this. These motives are part of intricate dynamics that cause corporations to engage in deviant conduct.

Corporations may not necessarily bear malice on the society, but the drive for growth, market share expansion and profit maximisation often result in significant harm (Barnett, 1981). Corporations operate under contradictory conditions where, on the one hand, they are expected to observe the law, and, on the other, some of these expectations frustrate capital accumulation (Henry, 1982; Whyte, 2007; Yeager, 2007). Only when legitimate means to achieve corporate goals are unavailable, it is argued, will a corporation resort to illegal means. Tombs and Whyte encourage critical criminologists to look beyond the organisational level and examine corporations as economic structure of underlying social relations. The existence of corporations depends on the fundamental functions of production, mobilisation and valorisation of capital (Tombs and Whyte, 2007). As institutions of economic production and distribution corporations are subject to relations and processes of the capitalist market

economy (Shichor, 1989; Bonanno et al, 1997; Snider, 2000; Tombs and Whyte, 2003). These relations and processes are expressed in temporal regimes, industrial capitalism, corporatist-Fordist model and currently neoliberalism. As articulations of the underlying regimes of social relations, corporations embody their drives and antagonisms. Ascendency of neoliberalism in the past fifty years spawned a culture of egotism, irresponsibility and indifference, and elevated profit seeking as the highest social value to the detriment of other considerations, e.g. human rights, health and safety, environmental safety (Burton, 2013: 16-18; see also, Tombs and Hillyard, 2004; Whyte, 2007; Tombs and Whyte, 2007). As such, corporations have evolved into privileged legal entities with criminogenic propensity.

### 2.2.3 The criminogenic collusion

State-corporate crime, as Kramer (1990: 1) put it back in 1990, is a 'harmful result of an interorganisational relationship between business and government.' In later interventions the definition was refined to 'illegal or socially injurious action that results from a mutually reinforcing interaction between policies and/or practices of institutions of political governance and institutions of economic production and distribution' (Aulette and Michalowski, 1993: 169; see also Kramer and Michalowski, 1991: 4; Kramer and Michalowski, 2006: 20). They hold that states and corporations are functionally interdependent, offending of one happens with implicit or explicit assistance from the other, whether by commission or omission (Aulette and Michalowski, 1993: 173). The concept is grounded in a specific understanding of capitalism. They hold that 'social relation through which capitalism functions blend the practices, interests and institutional arrangements constitutive of state and corporations in complex and contradictory ways' (Lasslett, 2014a: 85). State-corporate crime, itself, is an outcome of interplay between pressure for goal attainment, availability of legitimate means, and presence of social control (Kramer et al, 2002; Kramer and Michalowski, 2006).

An important distinction has been drawn between state-initiated corporate crime and state-facilitated corporate crime (Kramer and Michalowski, 1991: 6). The former refers to organisational deviance by a corporation either at the direction of, or with tacit approval of, the government (Kramer et al, 2002: 271). The latter refers to the failure of government regulatory institutions to control deviant business activities, either because of direct collusion between business and government or because they adhere to shared goals whose attainment would be hampered by aggressive regulation (Kramer et al, 2002: 271-2). For Kramer et al state-corporate crime is either initiated or facilitated by a state. Lasslett (2010c), however, expanded upon this concept pointing to state crimes that have been initiated or facilitated by

corporations (see also, Tombs 2012: 174). Corporate-initiated crime may occur when a corporation uses its economic influence to induce states to take deviant action (Lasslett, 2010c). Corporate-facilitated state crime occurs when corporations facilitate or provide the means for states to commit crimes (ibid). These are important developments that help us understand how instances of state-corporate crime occur.

By studying state crime in conjunction with corporate crime Kramer and Michalowski sought to, as Gregg (2007: 475) puts it, ‘breach the conceptual wall between economic crimes and political crimes underscoring the social reality that there is neither political nor economic: there is only political economy’ (see Michalowski and Kramer, 2007: 201). Political and economic spheres of social organisation are interwoven together, and so institutions representing these social spheres are also interwoven. State-corporate crime points our attention to the interdependence between political institutions and institutions of economic production and distributions (Kramer 1990; Kramer and Michalowski 1991; Kauzlarich and Kramer, 1998). Governments rely on the private sector for the provision of investment and jobs, as well as revenue needed for the economic base upon which rise legal, political and ideological superstructures. In turn, the private sector depends on the government to manage and stimulate steady flows of capital, investment and labour.

Kramer et al (2002: 270) contend that corporations developed with the help of legal and political infrastructure provided by states, and in turn states in private production systems rely on private enterprises to create goods, services, jobs and revenue (see also Kramer and Michalowski, 2006: 23). On a similar front, Barnett (1981: 4) made an analogous observation a decade earlier,

Large corporations are assumed to pursue profit, growth, and market share expansion subject to constraints imposed by markets and the state. State or legal regulation of corporate behaviour is in turn assumed to be constrained by the need to promote capital accumulation and to satisfy diverse economic interests.

That is not to say that the state is the subordinate executive of corporate interests, nor is the corporate sector the only means of satisfying diverse economic and social needs. Rather, states and corporations collude because goals they pursue can be achieved only through mutual assistance. State-corporate relationship is determined by the politico-economic conditions they are found in, and thus are subject to contradictory nature of these conditions (see Harvey, 2003: 89-91). As Kramer et al (2002: 267) postulated,

The world is currently shaped by decisions in pursuit of capital accumulation made by relatively few individuals. It is toward these decision makers and the political-economic arrangements in which they operate that the concept and theory of state-corporate crime is directed.

The above excerpt reveals another important observation made by Kramer, Michalowski and Kauzlarich. The circulation and valorisation of capital is the lifeblood of capitalism, and its accumulation is the driving force of state-corporate relationships (Barnett, 1981; Tombs and Whyte, 2003; Rothe, 2010). Elsewhere in the literature capital accumulation is identified as a catalytic motivation and a highly criminogenic force (Matthews and Kauzlarich, 2000). It is assumed that, because corporations are profit driven organisations and states need to constantly expand economic base upon which rise political, legal and ideological superstructures, the motivation to accumulate material wealth is a directing principle. Young (1981) notes, in this regard, that capital accumulation is the dominant factor in corporate and state crime. Kramer et al (2002) treat state-corporate crime as a consequence of capitalism, arguing that capitalist relations produce criminogenic potentialities which states and corporations execute.

This section explored how the literature has defined the criminogenic properties of states and corporations. According to the literature, the state's criminogenic properties lie in its monopoly over the legitimate use of force and the structural antagonisms constitutive of capitalism (Chambliss, 1989; Cohen, 1996; Kauzlarich et al, 2003; Tombs and Whyte, 2003; Hillyard and Tombs, 2004). The corporate crime literature characterises corporations as profit driven organisations, which place capital accumulation above other considerations, e.g. human rights, health and safety, environmental safety (Chamberlain, 1973; Jacoby, 1973; Shichor, 1989; Slapper and Tombs, 1999). That is because as a form of organised capital the corporation must constantly reproduce itself by valorising invested capital, and this, sometimes, presupposes conduct that contravenes accepted rules or norms. The state-corporate crime literature sees capital accumulation as the primary drive of state-corporate criminality. Both institutions depend on each other to fulfil their interests and functions (Kramer 1990; Kramer and Michalowski 1991; Kauzlarich and Kramer, 1998). To gain a better understanding of what causes the deviant collusion between the state and the corporation attention needs be given to the theoretical approaches in state-corporate crime literature.

### **2.3 Theorising state-corporate crime**

Thus far, the chapter reviewed the ways in which states and corporations have been defined in the criminological literature. Attention was then turned to how state and corporate

crime approaches influenced the development of the state-corporate crime concept. This section examines the theoretical approaches advanced in the state-corporate crime literature. It begins by evaluating the integrated-theoretical framework developed specifically to theorise state-corporate criminality. The integrated theoretical model has been the dominant framework since its introduction by Kramer and Michalowski's (1990) at the American Society of Criminology paper. It was later revised by Kauzlarich and Kramer (1998), and since was employed in numerous case studies by other scholars in the field, most notably Christopher Mullins and Dawn Rothe. The core tenants of the integrated theoretical model have been encoded more comprehensively in Kramer et al (2002). The integrated model has been subjected to critique, particularly, by scholars who advocate a Marxist understanding of crimes of the powerful.

The section points to the limitations of the integrated framework and proffers approaches taken by Lasslett, Whyte and Tombs as a remedy. According to these critical scholars, the integrated framework is limited by its empiricist analysis on surface level features of state-corporate crime and focus on events or 'discrete acts' rather than the processes that cause deviant state-corporate conduct (Whyte, 2003; Lasslett, 2010a, 2014b; Tombs, 2012; Whyte, 2014; Tombs and Whyte, 2015). To address this drawback in theory, Whyte and Tombs contend that the state-corporate crime research should focus on the routine practices of states and corporations, and the criminogenic potentiality hidden in them. They further suggest a Marxist approach can be more effective where empiricist approaches are limited. Lasslett gives an important insight on the Marxist dialectic that offers a scientific vantage point to the study of state-corporate crime. It can help the study penetrate the immediately perceived characteristics of state-corporate crime and tease out the hidden relations that cause it. A Marxist approach is not proposed as a theoretical model exclusive to state-corporate crime research, rather as a way of thinking about a complex social reality, deconstructing that reality and making it comprehensible to human consciousness.

### 2.3.1 Integrated theoretical framework

The integrated theoretical framework synthesises differential association theory, organisational theory and political-economy approach – each corresponding to a different level of analysis (micro, meso and macro) – to explain causal mechanisms behind state-corporate crime (Kramer and Michalowski, 1990; Kauzlarich and Kramer, 1998; Kramer et al, 2002). Differential association theory (micro), originating with Edwin Sutherland, advances the view that criminal behaviour is learned through interaction with others who

engage in such behaviour (Sutherland, 1940, 1947; Matseuda, 1988). Organisational theorists (meso), drawing on Merton's strain theory, hold that crime is inherent in the very structure of an organisation (Clinard and Yeager, 1980; Braithwaite, 1985). That is because organisations are concerned with performance and goal attainment. Unavailability of legitimate means to achieve goals may cause strain and thus impel an organisation to employ illegitimate means. From political-economy perspective (macro) organisational crimes 'arise from particular forms of social relations associated with the processes of capital accumulation' (Kauzlarich and Kramer, 1998: 147). Internal contradictions of politico-economic systems can create criminogenic pressures on organisations to employ illegitimate means to achieve goals.

Kramer et al (2002: 273) explain how these three levels merge to produce state-corporate crime in the following way:

The structure, dynamics, and cultural meanings associated with the political economic arrangements of any society will shape the goals and means of economic and political organizations, as well as the constraints they face. The organizational level of analysis links the internal structure of specific economic or political units with the external political-economic environment on one hand, and with the way in which the work-related thoughts and actions of the individuals who occupy positions in those units are conditioned by the requirements of the positions they hold and the procedures of the organization on the other hand.

The three levels of analysis, outlined above, are linked with three catalysts for action referred to as: a) motivation or performance emphasis, b) opportunity structure, and c) the operationalisation of social control (Kauzlarich and Kramer, 1998; Kramer et al, 2002). It incorporates features of anomie, organisational theory, Merton's strain theory and differential association theory. The first catalyst suggests that the emphasis on goal attainment by politico-economic structures, organisations or individuals may compel individuals and even entire organisations to pursue deviant course. The second catalyst refers to the availability of legitimate or illegitimate means for goal attainment. The likelihood of crime occurring increases in organisations 'where the allocation of means by the internal structure is inadequate relative to the organisation's goals' (Kramer et al, 2002: 275). The final catalyst represents existing restraints on organisational deviance. When social control is strong in a society, organisations will develop culture of compliance with laws and regulations. It follows that individuals working in such organisations will have strong personal morality that would go against engaging in organisational deviance (*ibid*). Criminogenic catalysts for action and levels of analysis are then organised across vertical and horizontal axis in a table format (table 1). State-corporate crime occurs when these catalysts for action and social forces fuse together in unique situations.

Table 1: the integrated theoretical framework (Kramer et al, 2002: 274)

Level of Analysis	Catalysts for Action		
	Motivation	Opportunity Structure	Operationality of Control
Institutional environment (history, political economy, culture)	Culture of competition Economic pressure Organizational goals Performance emphasis	Availability of legal means Obstacles & constraints Blocked goals/strain Availability of illegal means Access to resources	International reactions Political pressure Legal sanctions Media scrutiny Public opinion Social movements
Organizational (structure and process)	Corporate culture Operative goals Subunit goals Managerial pressure	Instrumental rationality Internal constraints Defective SOPs Creation of illegal means Role specialization Task segregation Computer, telecommunication, and networking technologies Normalization of deviance	Culture of compliance Subcultures of resistance Codes of conduct Reward structure Safety & quality control procedures Communication processes
Interaction (face-to-face interaction, individual action)	Socialization Social meaning Individual goals Competitive individualism Material success emphasis	Definitions of situation Perceptions of availability & attractiveness of illegal means	Personal morality Rationalizations & techniques of neutralization Separation from consequences Obedience to authority Group think Diffusion of responsibility

The integrated theoretical model has been effectively applied in a number of case studies. Harper and Israel (1999) employed the integrated model to explain social and environmental harms caused by Australian mining company, Broken Hill Pty Co Ltd, in Papua New Guinea. They were able to identify economic and organisational pressures which led the mining company to take a harmful course of action *vis-à-vis* the local ecosystem and communities who depended on that ecosystem. Similarly, Matthews and Kauzlarich (2000) studying the case of ValuJet flight 592 crash identified it as state-facilitated corporate crime because the Federal Aviation Administration (FAA) of the US government failed to enforce federal regulations that may have prevented this accident. They reasoned the issue originated with the organisational development of the FAA as regulator of airline safety and promoters of the airline industry. The interplay of goal emphasis and blockage of goals led to regulatory inadequacy which caused the crash of ValuJet.

Bruce and Becker (2007) drew on the integrated model to identify the causes of the state-corporate harms at the Paducah Gaseous Diffusion Plant. According to the study, the company, Lockheed Martin, caused substantial environmental damage by mishandling radioactive waste and falsified environmental reports. The US government facilitated this by failing to enforce regulation. They concluded that the state facilitated the corporate crime by prioritising economic development over the environmental safety, while the company

prioritised profit maximisation. They found the organisational goal seeking to be the primary impetus of state-corporate crime. Additionally, they used Kauzlarich et al's (2003) 'complicity continuum', which categorises motives of behaviour into four heuristic archetypes (table 2), to classify the US government behaviour. Bruce and Becker (2007) contend that these models are very useful to identify motives of state-corporate crime and classify the illegitimate conduct.

Mullins and Rothe construct an integrated theory of violations of international criminal law, which is an extension of causative forces identified by Kramer et al (Mullins and Rothe, 2008a; Rothe and Mullins, 2010). This expansion of the integrated model explores four catalysts of action (motivation, opportunities, controls and controls) at four levels of analysis (international level, macro-level of the states, meso-organisational level and micro-individual level). Crime, Mullins (2009: 19) explains, 'is produced by combination of motivation and opportunity elements influencing social actors' decision-making processes, those processes are then further influenced by extant constraints and controls before an action is or is not committed.' The levels of analysis serve as theoretical dimensions used to analyse catalysts of action. The focus is on emergence of strain when means of attaining socially and organisationally emphasised goals are blocked.

Table 2: *Complicity Continuum* (Kauzlarich et al, 2003: 247)

OI	OE	CI	CE
<b>OMISSION-IMPLICIT:</b> INEQUALITY EXTRACTION OF SURPLUS VALUE AVOIDABLE HUMAN SUFFERING ARCHETYPE: SOCIAL STRATIFICATION AND INEQUALITY	<b>OMISSION-EXPLICIT:</b> BUREAUCRATIC FAILURE REGULATORY DYSFUNCTION ARCHETYPE: CRASH OF VALUJET 592	<b>COMMISSION-IMPLICIT:</b> FUNDING UNETHICAL EXPERIMENTS FUNDING CORPORATE DESTRUCTION OF CULTURES AND COMMUNITIES ARCHETYPE: U.S HUMAN RADIATION EXPERIMENTS	<b>COMMISSION-EXPLICIT:</b> GENOCIDE NUCLEAR WEAPONS THREATS WAR IMPERIALISM ARCHETYPE: THE HOLOCAUST

Lasslett (2014a) pointed out the integrated model resembles a Mertonian approach in that all organisations have a deviant disposition due to inbuilt drive for goal attainment. Whatever the goal – profit maximisation, growth, clientele service, fulfilment of government-imposed quotes – it is the emphasis on them that produces crimes. Mullins and Rothe (2008b: 9) asserted that this model provides an 'analytical acuity' which allows 'a precise pinpointing of key forces and how they interact within a specific criminal event.' The interplay of goal emphasis, the unavailability of legitimate means, blocked goals and competitive environment creates criminal potentialities of corporations and states. Integrated model clearly articulates

key criminogenic factors that are particularly useful in cataloguing case studies of state-corporate crime. Green and Ward (2004) employed the integrated model to examine three case studies. Although, they found it a useful topography to locate specific criminogenic factors involved in the production of crime events, they found it does not account for the politico-economic structures in which states and corporations operate.

Lasslett (2014a: 90), launching a Marxist critique, acknowledged the integrated model as a 'useful heuristic device', which pinpoints immediately perceived practices that have criminal potential. However, it obscures 'substantive social forces' that construct 'immediately perceived realities' (Lasslett, 2014c: 18). In other words, the integrated theoretical model offers only descriptive accounts of criminogenic factors but does not explain concealed social processes. That is because integrated models are grounded in empiricist orthodoxy, which 'erects problematic boundary between empirical research and theoretical explanation, so that the former process involves describing immediately perceived criminal practices, while the latter distinct task is devoted towards identifying their cause' (Lasslett, 2010a: 212). Empirical research and theoretical explanation are not two separate tasks, but rather theory should be used to orient consciousness to the empirical content. As stated in the introductory part of this thesis, the task of theory is to bridge appearance with reality, which is not always obvious. Lasslett (2013: 119) is critical of scholars who 'treat appearance as a foundation of science'. For, they only skim surface appearances and treat it as fundamental, explanatory factors.

C. Wright Mills (1959) called this type of scholarship 'abstracted empiricism', a bureaucratic social science that lacks theory. What is presented as law of causation, is a mere tautology, an 'abstracted generalisation' (see Lasslett, 2010a). While integrated theoretical models generate variables that locate apparent 'causes' of crime, they conceal less evident, yet fundamental, social realities. The integrated framework does not fully utilise the explanatory power of theory. Theoretical concepts are used to mediate empirical richness that appears as a disjointed clump of criminogenic factors, thus unveiling fundamental social processes. Marxist theory offers a means of uncovering the elusive relations and processes with an eye for latent contradictions within them. However, to be effective Marxism must be applied with the correct method, namely materialist dialectic. In Ilyenkov's (1979: 114) words 'materialist dialectic interprets concreteness of theory as a reflection of all the necessary aspects of the objects in their mutual conditionality and internal interaction.' The Marxist dialectic to looks at states and corporations as mutually conditioning elements that are part of a larger totality of relations constitutive of capitalism. There are important Marxist contributions within state crime study that informed the methodology of this thesis. Whilst,

the integrated theoretical model offers a helpful starting point, Lasslett, Whyte and Tombs proffer a more substantive analysis of state-corporate criminality, grounded in understanding of the capitalist relations.

### 2.3.2 Routine practices, symbiosis and ‘regimes of permission’

Tombs and Whyte scrutinised the orthodox state-corporate crime research for its focus on ‘discrete acts’ or ‘moments of rupture’, arguing it obfuscates the systemic analysis of structural causes of state-corporate criminality that was originally envisioned by Kramer and colleagues. The focus centred on ‘discrete acts’ characterises states and corporations as isolated and oppositional entities that are brought together only by unique circumstances (Tombs, 2012). States and corporations are ontologically bound together by the same historical progression of capitalist development. The corporation was created by and is maintained through state activity for mobilisation of capital, and in turn corporations are key sources of goods, services, taxation and employment (Whyte, 2014). The integrated framework eschews an important critique of systems that facilitate deviant state-corporate conduct (Tombs and Whyte, 2015). According to Tombs and Whyte, a shift of analytical attention to ordinary, routine practices of states and corporations – regulation, policymaking, production, exchange, trade, investment, labour-supply, employment, taxation, infrastructure investment – can reveal the systemic relations and processes that create the criminogenic potential of states and corporations.

Firstly, what appears, at a glance, to be a ‘moment of rupture’, an anomalous event caused by a deviation from normal conduct is better understood as an ongoing process perpetuated by routine, systemic practices integral to state system and organised capital (Tombs, 2012; Whyte, 2014). From this approach state-corporate crime is not just an omission, an accident, a corporate misdemeanour. Rather, it is actively produced by states and corporations pursuing, what Lasslett (2014c) called, ‘desired finalities’ – e.g. tax revenue, corporate profit, reducing costs of production, decreasing unemployment, electoral support, market share, international trade (Tombs and Whyte, 2009). Approaching state-corporate crime in this way has a profound, theoretical implication because the consideration of systemic practices integral to states and corporations in production of crime or social harm opens the subject matter to the analysis of social relations and processes that underly state-corporate practices.

Secondly, what has been termed “collusion” is not an anomalous case of deviant state-corporate interaction, but systemic interdependencies, both institutions reproduce one another. Contrary to the belief that in the neoliberal era multinational corporations replaced the state as the most powerful agencies, Tombs and Whyte (2009) argue that the economic influence of corporations increased the power of some states and reshaped the way governments stimulate the reproduction of organised capital. In the period of transition to neoliberalism, i.e. privatisation of markets, there emerged government regulation which, rather than restrict, promoted and facilitated free-market activity (Whyte, 2003; Tombs and Whyte, 2009; Tombs, 2016). Government regulation and policymaking mediate the interrelationships between the state and private capital. The state relies on organised capital for means of economic production, provision of services and commodities, employment etc. Yet, capital cannot exist without state support. State institutions create the legal, administrative and market infrastructure that permit incorporation into organisations and private investment, govern labour and commodity circulation, and form rules of surplus-value extraction (Tombs and Whyte, 2009). Such intricate interrelationship presupposes a more complex process in production of state-corporate crime, than state initiated or facilitated corporate crime.

To explain this complexity, Tombs and Whyte introduced concepts of ‘state-corporate symbiosis’ and ‘regimes of permission’. They went against Gramscian understanding of the state as a “policeman” because it places the state in a binary opposition to organised capital (Whyte, 2014). According to Tombs (2012) the neoliberal state is bound to the free-market and is ideologically committed to values of capital accumulation. The neoliberal order engulfs states in an international competition of capital attraction and mobilisation, as source of goods, services, employment etc. (Tombs, 2016). This dependency draws the state into a symbiotic relationship with the corporate sector, hence ‘state-corporate symbiosis’ (Tombs, 2012). The process of symbiosis reproduces the state system and organised capital. In Tombs (2012: 184) words, the concept ‘points to a complex of long-term processes’, rather than ‘discrete acts’. Whyte (2014) explored the way states enable capital accumulation by creating, what he called, ‘regimes of permission’. Lasslett (2014c) pointed out that economic, executive, social and legal environments through which capital production and circulation occur are structured by states. Whyte (2014: 242) postulated,

Governments establish the juridical and administrative framework for corporations, transport and communication infrastructures and organize diplomatic relationships with states to enhance opportunities for import, export, investment and so on. States help to constitute capital, commodity, commercial and residential property markets...constitute labour markets; regulate the employment contract; constitute economic enterprises through specifying rules of liability, often specifying the rules of incorporation and so on.

The reproduction of organised capital is facilitated or permitted through state created regimes. These regimes are configured through activities integral to state system, i.e. regulation, policymaking, legislation etc., and they mediate the relationships with corporations. The state must facilitate private economic transactions, i.e. finance, industry, manufacture, trade, labour, consumption etc. to achieve ‘desirable finalities’, e.g. economic growth (Lasslett, 2014c). Achieving desired ends are imperative to social metabolism. The analysis of symbiosis and regimes of permission can help us see beyond ‘moments of rupture’ and transcend the liberal isolation of the political from the economic towards an understanding of the symbiosis between the public and the private sector. The neoliberal ideology intensified this symbiosis through which deviant conduct is permitted and normalised (Tombs and Whyte, 2015). Therefore, deviant state-corporate conduct, and systemic antagonisms that generate them, become increasingly difficult to capture.

A Marxist approach can be effective in the analysis of the less salient, yet particularly harmful, effects of deviant state-corporate conduct. It can be especially helpful when the analytical focus is given to systemic processes and relations hidden behind immediately perceived phenomena of state-corporate crime (Lasslett, 2010a, 2014b). Tombs and Whyte encourage analysis of state-corporate crime as a process emanating from systemic relations that tie states and corporations together. To this end, they advocate the use of Marxist theory to tease out these systemic relations. Moreover, the Marxist dialectic is designed to capture interactions between actors, agencies, events etc. involved in the production of social phenomena. Indeed, Marx’s dialectical method and theory can help frame events, as a historical sequence that articulates a vast coming together of forces; rather than a conjunctural outcome of certain interactions. Having explained where the analytical attention should be given, viz. systemic processes of state-corporate symbiosis and routine practices, more consideration ought to be given to the theoretical approach Tombs and Whyte argue for.

### 2.3.3 A Marxist understanding of state-corporate crime

The most fallacious, yet the most common, ‘method in the realm of social phenomena is to tear out individual minor facts and juggle with examples’ (Lenin, 1974: 272). This approach was labelled in Mills’ seminal work, *Sociological Imagination*, ‘abstract empiricism’. A type of positivist research that isolates individual facts from their structural specificity and attributes causal dynamics to their characteristics. This tendency has been observed in state-corporate crime research (Tombs and Whyte, 2009; Lasslett, 2010a; Whyte,

2014). An alternative approach is the Marxist dialectical method. Here, the chapter outlines how this alternative, methodological approach was implemented in research.

To begin with, though Marx's theory is not new to criminology, only a few have applied Marxist analysis in a substantive fashion to research state/corporate criminality. Marxist criminologists such as Richard Quinney, Frank Pearce and William Chambliss have sensitised criminology to the class-based nature of crimes of the powerful. Green, Ward, and Lasslett have further developed, what could be called, a Marxist dialectic of state and corporate crimes. Criminologists and sociologists guided by Marxism direct their efforts at developing concepts that can help us 'uncover the reality behind the appearance which concealed it' (Pearce, 1976: 52). Broadly speaking, from a Marxist perspective, crimes of the powerful are an expression of specific historic conditions; an effect of systemic contradictions of the dominant mode of production which mature to overt forms of rupture causing social harms. Young (1976: 14) stressed in the Forward to Pearce (1976):

The task of Marxist criminology is to move beyond the oscillations between vulgar materialism and idealism characteristic of bourgeois thought. Central to our concern is the explanation of law and criminality in terms of the dominant mode of production and the class nature of the society.

Quinney (1977) shared this view arguing that the basis for a Marxist understanding of crime lies in the understanding of the material condition of the society. A Marxist understanding of state-corporate crime, thus, would proceed by way of explaining fundamental relations and processes that states and corporations are part of. These relations are constantly evolving, developing, and correspond to the particular stage of the development of social conditions which determine the limits of interaction between objects (Pearce, 1976; Chambliss, 1989). The dialectical method allows Marxism to see these relations and process in their totality, wherein all things are interconnected and in a state of constant development. Quinney (1977: 32) posits in this regard:

...dialectical method allows us to comprehend the world as a complex of processes, in which all things go through a continuous process of coming into being and passing away. All things are studied in the context of their historical development. Dialectical materialism allows us to learn about things as they are in their actual interconnection, contradiction, and movement.

Quinney, however, employed Marxist theoretical categories to empirical data without having firstly 'mediated this data through a process of dialectical inquiry' (Lasslett, 2010a: 216). Marxist categories should not be held up as the causes of state crime, while 'empirical richness and variation is reduced to epiphenomena' (Lasslett, 2013: 124). Instead theory

should be employed to look at more fundamental relations, and practices they espouse. Phenomena, such as state-corporate crime, are products of these relations. Lasslett (2010b: 4), devising a Marxist ontology of criminality, notes that corporations ‘face specific range of options that arise out of the relations of capitalism, which they will have to choose from in order to realise their historically constructed goal of capital valorisation.’ Similarly, the range of options available to states to fulfil historically ordained goals is constructed through capitalist relations.

A Marxist dialectic of state-corporate criminality, thus, should focus on elementary relations and complex structural dynamics constitutive of the present mode of production. These substantive relations and processes, however, are observable only indirectly and partially, through the medium of ‘sense-perception’, as effects they produce (see Lasslett, 2010a: 213-14). Sense-perception grasps only obvious effects, while less obvious relations and processes remain hidden, thus they require theoretical mediation. Marxist theory, however, is equipped with conceptual categories that give a more profound meaning to the immediately perceived empirical data.

Lasslett (2012b), through the case of human rights violations in Bougainville in the 1980s, demonstrates the use of Marxist theoretical categories to enrich the analysis of empirical facts. This analysis of state/corporate crime is situated in a specific spacio-temporal context where capitalist relations are expressed through idiosyncratic socio-cultural and political arrangements (Lasslett, 2014b). The challenge, Lasslett (2014b: 185) asserts, ‘is to understand how these relations can function through diverse ensembles of institutions and political forms, and the conjectural intricacies, tendencies and contradictions, that rise from these particular articulations of capitalist development.’ In Bougainville’s case a copper mining company, Bougainville Copper Limited, was implicated in serious crimes intended to suppress resistance against mining. The company Bougainville Copper Limited, Lasslett (2013: 131) explains, is ‘an expression of’ capital’s ‘accumulatory processes’. Accordingly, mining requires large outlay of constant capital that is absorbed through company’s variable capital (labour) over a certain period of time (*ibid*). In a competitive climate the company had to generate above average rate of profit, which was frustrated by a social struggle that destabilised the investment climate. In response, the state used force to suppress the struggle (*ibid*). By employing Marxist categories, Lasslett demonstrates the criminogenic potentialities of capital valorisation articulated through the mining company.

Of course, the difficulty Marxist state/corporate crime researchers face is the absence of theoretical categories in Marxism that capture productive relations and associated social

practices out of which capitalist states emerge (Lasslett, 2014b). Another critical challenge is the issue of capitalism's 'uneven and combined development' (Trotsky, 2011). Despite its global character, capitalism is manifested through diverse socio-cultural contexts across regions and countries (Lasslett, 2014b). State-corporate crime research must, thus, explain the phenomenon within the totality of relations it is part of. The Marxist dialectic considers the internal contradictions, the totality of relations and the processes they generate, as the source of social phenomena (Ward and Green, 2016).

This entire section evaluated the current theoretical approaches to state-corporate crime. It pointed out the limitations of the leading model, the integrated-theoretical framework, namely it focuses on events arising from unique circumstances and situates the causes of criminal conduct in organisational goal seeking. It was then proposed that a shift in analytical focus to process of state-corporate symbiosis and systemic practices has a potential to overcome the drawbacks of integrated framework. Furthermore, to tease out the relations and processes of state-corporate crime hidden under the surface appearance of empirical perceptions, the analysis should be informed by Marx's dialectical method. The next section reviews the approaches to defining state-corporate crime.

## **2.4 The definitional foundations of state-corporate crime**

Heretofore, the chapter presented how the scholarship theorised and explained the phenomenon of state-corporate crime. Different approaches have given attention to various features of states and corporations in attempt to locate what causes these institutions to act illegitimately, and under what circumstances. The integrated-theoretical framework focuses on unique circumstance, events they create and organisational goal seeking as the key causes of state-corporate crime (Kauzlarich and Kramer, 1998; Kramer and Michalowski, 2006; Mullins and Rothe, 2008b). Whereas, Tombs (2012) and Whyte (2014) propose a shift in analytical focus to processes and relations that cause criminal events. Lasslett (2014c) advances a more systemic analysis of the relations that give rise to the state and organised capital employing a Marxist dialectical approach. Now, the chapter turns the reader's attention to the matter of defining state-corporate crime. Establishing a definitional framework for what constitutes *crime* when inquiring into state-corporate crime is no easy endeavour. There is a disagreement about what type of practices or actions should be labelled as crimes.

Three definitional frameworks have been distinguished in the literature: the juridical framework, the social harm paradigm and organisational deviance (Rothe and Mullins, 2010;

Iadicola, 2010; Lasslett, 2014a). The juridical framework is based on international law and has largely dominated the field, though some have repudiated it as state-imposed definitions of criminal behaviour. The social harm paradigm, pioneered by Paddy Hillyard and Steve Tombs, broadens this definitional framework to include structural violence and harms that do not fall under legal definition of crime. In a way, these two approaches present a dialectical relationship between two contradictory statements in the state/corporate crime field. In some respect, this contradiction is resolved by a third proposition, organisational deviance approach. Advanced by Green, Ward and Lasslett, organisational deviance considers social exchanges that actualise the potentially criminal character of certain state-corporate practices. Its focus is on criminal labels imposed on state and corporate offenders, and their practises, by social audience through different forms of opprobrium.

#### 2.4.1 The juridical framework: a criteria-based approach

The juridical framework is a criteria-based approach which is closely associated with the integrated theoretical model. Lasslett (2014) observes that integrated model works best when there is an explicit definitional criterion of crime. Such criteria are provided by a legalistic distinction between deviant or undesirable and illegal practices. Much of the traditional state/corporate crime literature relies on a legal prism to identify criminal state-corporate conduct. From this approach, broadly speaking, crime, both state and corporate, is defined as conduct that is proscribed and punishable by law (Braithwaite, 1985; Chambliss, 1989). Sharkansky (1995) averred that state action or behaviour cannot be labelled as criminal unless it violates a state law (see Rothe and Mullins, 2010: 24)

Schwendinger and Schwendinger (1970) have argued that in democratic states commitment to human rights is an important prerequisite of state legitimacy. In this regard, they called for definitions of state crime based on violations of basic human rights. They proposed that crime should not be limited to state-sanctioned behaviour, but more broadly to violations of fundamental rights necessary for realisation of human well-being. Influenced by the Schwendingers, Henry (1982) highlights that transgressions of the powerful are less likely to be criminalised, therefore legalistic approach to state behaviour is rendered vain. However, Schwendingers' appeal to human rights has been criticised by Cohen (1993) as a 'moral crusade'. Cohen (1993) insisted on a stricter application of human rights restricted to 'gross violations', such as: genocide, state terrorism, torture, wars of aggression etc. Owing to this disagreement state/corporate crime criminologists began to use international law for firmer definitional framework. Chambliss (1995) moved on from his previous contention about state

crime constituting acts, in a broad sense, defined by law as criminal (Chambliss, 1989), to one where he views violations of international agreements and principles as the most compelling definitions of state/corporate crime.

International law has been adopted by advocates of the integrated theoretical framework. They found, in international law, expression of emancipatory values and rights organised into specific standards that classify socially injurious practices of states and corporations as crimes (Kramer and Michalowski, 2006). Kramer and Michalowski (2006), for instance, defined the invasion of Iraq as a state crime in so far as it was done in violation of international agreements and without the UN's legal consent. Mullins and Rothe expanded upon a criteria-based approach arguing it offers the strongest foundation for defining state/corporate acts as crimes (Mullins and Rothe, 2008b; Mullins, 2009; Rothe and Mullins, 2010). The value of using international law rests on legally codified normative standards, such as human rights, and is designed to address state behaviour. Mullins and Rothe (2008b: 84) specify that international law fulfils two functions: the normative (defining crime) and the punitive (punishing crime). It sets parameters for defining an act as criminal and specifies punishment as well as conditions of prosecution of offenders. In Rothe's and Mullins' (2008) view international law adds legitimacy, clarity and precision to definitions of state/corporate crime.

This juridical framework has been challenged by Hillyard and Tombs (2007) on the grounds that it accepts a state-sanctioned perception of crime as a matter of fact, but seldom questions the discursive origin of 'crime'. They are concerned that overreliance on legalistic definitions of crime may deflect criminology's attention from state and corporate behaviour which is socially injurious, but not considered a crime in a legal sense (Hillyard et al, 2008). Criteria-based criminologists, too, have registered the juridical framework's blindness to the fact that law, both domestic and international, does not recognise many state and corporate harms as crimes (Kauzlarich et al, 2003; Mathews and Kauzlarich, 2007). State-corporate crimes that are less ostensible because they are produced by the routine practices, integral to the state and organised capital are excluded from juridical framework. Mathews and Kauzlarich (2007: 49) acknowledged that law conserves power relations constitutive of class-based society, while it criminalises behaviour of one group in a society, harms of another are ignored.

Additionally, the criminal justice system fails to constrain criminal state and corporate behaviour in a meaningful and effective way. Since states dominate legal discourse, at national and international level, there is always the danger that states will normalise and legitimise

their own deviant behaviour and of their partners (Matthews and Kauzlarich, 2007). Therefore, some have broadened the juridical framework to incorporate social harms, by identifying harm as a common quality of all crime (Kauzlarich et al, 2003). Some have criticised the use of legal definitions in state/corporate crime research because it is viewed as a form of ‘social control’ (Hillyard et al 2008; Pemberton, 2007; Burton, 2013). Others do not see the contradiction between state-sanctioned definitions of crime and state-corporate produced harms (Mullins and Rothe, 2008b; Mullins, 2009). That is because, the label crime implies that an act is harmful or injurious. Therefore, to them, there is no need to move away from legal definitions of crime.

One of the key issues with criteria-based approach is that there is no basis upon which to treat state-sanctioned norms as neutrally derived. Yet, many socially harmful state-corporate practices are excluded from legal definitions of crime. Indeed, if we are to develop research into state-corporate crime as a scientific discipline, we cannot allow the state to define our field of inquiry. McDowell (2013) stresses that definitions of the crimes of powerful need to move beyond legal categories and include social harm as the focus of inquiry. The next section considers this in more detail by evaluating the social harm paradigm.

#### 2.4.2 The social harm paradigm

To begin with, from a broadly Marxist standpoint, social harm is used with reference to practices that ‘thwart basic welfare interests... in those elements of freedom and well-being that are necessary for human beings to function effectively as purposive agents’ (Ward, 2004: 85). The notion of social harm extends the subject matter of state-corporate crime research beyond preordained definitions of crime to practices that are socially injurious yet are legally permitted. Its principle aim is to help the field of state/corporate crime breakout from the narrow confines of criminal law, criminological orthodoxy and state-sanctioned definitions of crime (Hillyard et al, 2008). The social harm paradigm is part of an alternative discourse, arising out of criminology’s oppositional agenda (Berrington et al, 2003: 131). The social reality of crime, as represented by the dominant legal discourse, perpetuates the preconceived notion of crime associated with the street offender (Hillyard and Tombs, 2004). Social harm, on the other hand, enunciates people’s experience of practices resulting from systemic state and corporate practices. Therefore, it allows a much wider investigation into who or what might be responsible for harm done.

Exponents of the social harm paradigm repudiate legal foundations as a valid definitional criterion for state/corporate 'crime'. The argument follows that because the legal discourse is constructed by states it is unlikely that states will criminalise their own, and their partners' conduct (Tombs and Hillyard, 2004; Tombs and Whyte; 2007; Hillyard and Tombs, 2007). Instead, Hillyard and Tombs sought an approach that would move away state-sanctioned definitions of crime. Henceforth, this approach charts instances of routine practices that are not criminal per se, but by their nature and effect are highly harmful and thus ought to be labelled as criminal. Due to the top-down nature of legalistic sources of state/corporate crime definitions, Tombs and Hillyard (2004) saw a fundamental contradiction between the category 'crime' and actual social harms resulting from state-corporate behaviour. While some of these practices are captured by the criminal law, a great many escape criminal labels. Tombs and Hillyard (2004) hold that this is because law is constructed by state institutions to secure the system which keeps the ruling class in dominant position.

From a Foucauldian perspective, Hillyard and Tombs (2004) considered the social harm paradigm as a resistance to the legalistic approach. Foucault (1978: 101) wrote that 'discourse can be both an instrument and effect of power, but also a hindrance...a point of resistance and a starting point for an opposing strategy.' Critical scholars have a task of resisting accepted truths, what Foucault calls 'regimes of truth', produced through dominant criminological and legal discourses (Berrington et al, 2003; Hillyard, 2004; Hillyard and Tombs, 2007). Some have argued that the presence of legal discourse – which is dominated by the state – in state/corporate crime research signifies state influence over criminology's subject matter (Tombs and Whyte, 2003). Hence, Hillyard seeks to change this by developing a new field of study called *zemiology*<sup>1</sup>. It is a nascent concept concerned with the study of harm rather than crime.

To Hillyard and Tombs (2004 :24) the use of the 'crime' category excludes routine practices which are not reducible to actions, motives and intentions of individuals. They argue that legal definitions of 'crime' pay too much attention to 'discrete acts', articulated by Tombs (2012), but ignore harmful activities inherent in institutional and structural arrangements. They state, 'by its focus on the individual, the structural determinants which lead to harmful events – such as poverty or deprivation – can be ignored' (Hillyard and Tombs, 2004: 18). Whereas, the social harm paradigm shifts the focus from 'discrete acts' to routine systemic practices, inherent in the stable functioning of the system (see Tombs, 2012). Pemberton (2007) makes an important conceptual distinction. He suggests 'social' denotes the context

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<sup>1</sup> Zemiology comes from the Greek *zemia* meaning 'harm'

that produces harm. Then, crucial to the category 'harm' is an understanding of prerequisites for human well-being. Harm, thus, denotes acts or practices that impede human wellbeing. In view of this, the social harm approach implies a study of social relations, and the effects they produce (Pemberton, 2007; Hillyard and Tombs, 2008). Social harm refers to a state and/or corporate conduct that compromises human safety, wellbeing and ability to satisfy basic human needs. In a way, social harm refers to practices that are not illegal *per se*, but the effects of these practices are of criminal nature.

Criteria-based scholars have criticised the social harm approach for lack of precision. Rothe and Mullins (2010: 26) charge the social harm paradigm with inconsistency, in that it uses 'a more amorphous and relativistic definitional rubric.' They see the broadness of the social harm approach as a weakness, as anything can be defined as a state crime, if there is any risk of deprivation or injury. Yet, the concept of 'social harm' is employed in a diverse range of academic disciplines to practices that are not proscribed by domestic or international law but have harmful effects. The broadness of this concept allows criminologists to measure people's experiences of state/corporate acts.

Hillyard and Tombs (2004: 20) averred, 'the field of inquiry is (partially) defined by people's understandings, attitudes, perceptions and experiences rather than preordained by states.' Analysis of harm produces greater understanding of what is likely to have an adverse effect on human well-being. Additionally, practices may not be categorised as criminal, but by their harmful nature provoke social opprobrium. Although, Hillyard and Tombs give perfunctory attention to the role of social audience in defining state/corporate produced social harms, it lacks a more cogent conceptual grounding. Lasslett (2010b: 14) proposes that a shift to a discipline based on social harm can 'foster examinations of heterogeneous harms produced by specific spacio-temporal antagonisms generated by global capitalism'. Ultimately, the study of harms, rather than crimes, may be more compatible with a process-driven approach discussed below.

### 2.4.3 Organisational deviance: a process-driven approach

Organisational deviance, or a process-driven approach (Lasslett, 2014a), is ingrained in Marxist dialectical tradition. The advocates of this framework have sought to establish an ontology of state crime, professing the view that crime events have to be constructed before they come into social reality (see Hillyard and Tombs, 2004: 10; Lasslett, 2010b: 2). Accordingly, conduct norms only generate the potentiality of an act or event to be defined as

criminal, that potentiality must be then actualised through some form of social exchange (Green and Ward, 2000; Ward and Green, 2000; Lasslett et al, 2015). This social exchange denotes censure enacted by a social audience in response to state-corporate practices that breach normative code of conduct. In the popular labelling theory Becker (1973) contended that certain types of behaviour become deviant through labels collectively affixed to them by society. Likewise, Green and Ward (2000) recognised that state/corporate conduct that contravenes codified norms or certain commitments becomes defined as deviant by a social audience who ascribe deviancy labels on them.

Historically, sections of society who have limited or no access to formal organs of institutional power have informally proscribed state/corporate conduct perceived as illegitimate, through social struggle (Green and Ward, 2000; Ward and Green, 2000; Lasslett, 2012b). According to the process-driven approach, the criminal property of state/corporate conduct is a potential expressed in normative codes of conduct and formal rules (Ward and Green, 2000; Green, 2016). This potential is realised through structured social exchange, in other words when a substantial audience censure and stigmatise state/corporate conduct as deviant through a material activity (Lasslett, 2014a; Lasslett et al, 2015). As such, state-corporate crime's *being*, as a criminological/legal concept and social phenomenon, is a process (Lasslett, 2010b). A process that has an objective and subjective moments, which Green and Ward (2000) articulated through concepts of illegitimacy and deviancy. Illegitimacy refers to activities which contravene an objective rule or norm, and deviancy denotes a form of judgement that condemns illegitimate activities (Ward and Green, 2000; Green and Ward, 2004; Lasslett et al, 2015). One of the kernel conditions for state legitimacy in democratic nations is a commitment to human rights.

Green and Ward (2000: 109) stated that 'in most contemporary states, the values on which the legitimacy of a state practice depends will include, *inter alia*, the state's real or nominal commitment to human rights.' Human rights encapsulate elements of freedom and wellbeing that human beings need to exist as purposive agents (Schwendinger and Schwendinger, 1970; Ward, 2004). When states acquire legitimacy through public consent, they are expected to abide by human rights, which impose limits to legitimate conduct. Departure from these limits may attract censure. Internal contradictions inherent in the capitalist system often create rifts that cause states and corporations to exceed the norms they profess to follow (Lasslett, 2014b). Illegitimacy informs the social audience that an action violated a certain rule. How a deviancy label is inscribed on state-corporate conduct will have a varying impact in terms of delivering stigma. One of the core aims of this study is to understand how civil society mobilises through direct action to inscribe stigmatising labels on

state-corporate conduct. Therefore, state-corporate practices become criminal when they are objectively illegitimate and are subjected to social opprobrium.

Building on the process-driven approach, Lasslett draws on Marx's dialectical theory to construct an *ontology* of state/corporate crime. He contended that human beings, as conscious social actors, concretise social reality by acting on objective phenomena they create and observe (Lasslett, 2010b). In Marxist dialectical philosophy an object or a phenomenon has an ontological reality. The *being* of a phenomenon, viz. its existence, has a reality that is material and *concrete* (Engels, 1946; Jordan, 1967; Ilyenkov, 1979). In a Marxist dialectical sense, concreteness does not refer so much to the empirical reality of objects, but to 'the important fact that phenomena never exists independently of other 'things', rather it is always part of a larger totality of relations and processes, which inscribe it with definite characteristics' (Lasslett, 2010b: 3). In Ilyenkov's (1982) words 'each individual separately taken thing comprises its own essence potentially, only as an element of some concrete system of interacting things, rather than in the form of an actually given general feature' (cited in Lasslett, 2014a: 72). Social reality consists of definite relations between people, and between people and objects. These relations mediated social metabolism and inspire processes that create various phenomena with their own characteristics and modes of existence (Lasslett, 2010a). Human beings, as creative social actors, infuse phenomena they observe and experience with meaning and definite characteristics.

In the *Thesis on Feuerbach*, Marx wrote 'the chief defect of all hitherto existing materialism is that the thing, reality, sensuousness, is conceived only in the form of the object or of contemplation, but not as a sensuous human activity, practice' (cited in Lasslett, 2014a: 73). Similarly, empiricist research fetishizes events and acts, but gives less attention to the relations between interacting agents that produce state-corporate events and ascribe criminal properties to them. From a dialectical approach, a *thing* expresses definite relations and processes, it does not exist in/by *itself* (Lukács, 1971; Engels, 2010a). Therefore, for Marx capital was a "thing" and a process based on relations between human beings and objects (Marx, 1976, 1981). Equally, *events* are constituted by relations and processes. A state-corporate crime event is constituted by interactions of censoring actors with offending institutions, media, legal apparatus and broader social audience. In this way, state-corporate crime is a process, rather than just an event.

Acts and actors obtain the property of being criminal when a significant audience: '1) accepts a certain rule as a standard of behaviour, 2) interprets the act as violating the rule, and 3) applies significant censure to such violations' (Lasslett, 2010b: 4, see also, Green and Ward

2004). From a dialectical standpoint, norms of conduct to which state-corporate institutions concede were established by past social struggles, and they are the standard today for determining legitimacy (Green and Ward, 2004). What today is recognised as illegitimate state and/or corporate behaviour is a result of yesterday's struggles for justice, emancipation, rights etc. As a process, state-corporate crime is a potentiality actualised through material practice, with concrete relations between social actors. This potential exists in 'normative limits upon which rule is legitimated', and it is actualised when an audience acts upon norms through material practice and applies judgement (Lasslett, 2012a: 127). Illegitimacy and censure are interlacing processes through which state-corporate activity can be inscribed with a criminal property. However, how this happens and with what outcome must be studied through empirical inquiry.

The process-driven approach has not escaped scrutiny. In Rothe's (2010) view organisational deviance is too nebulous concerning eligible censoring audience, and what might be legitimately labelled as crime. The argument follows that a process-driven approach does not furnish state/corporate crime research with clear definitional criteria. Kauzlarich et al (2010) argue that the focus on subjective deviancy labels privileges one social audience over another. Due to plurality of opinions in most nations, defining state/corporate crime is not as simple as listening to the loudest voice. Kauzlarich et al (2010: 244) are concerned with the inclusion and exclusion of some voices, and 'Who is a valid labelling audience?' Subjective constructionist definitions tend to ignore the phenomena itself in favour of deconstructing the response and reaction (Kauzlarich et al, 2010; Rothe and Mullins, 2010). Notwithstanding, Lasslett (2014a) contends that this is an empirical question, which should be addressed by looking at historical struggles.

The process-driven approach offers conceptual tools that distinguish processes through which state-corporate practices can acquire criminal properties (Ward and Green, 2000; Green and Ward, 2004). This approach calls for an empirical inquiry into how a social audience reacts to illegitimate state-corporate activities to apply deviancy labels. Contrary to Rothe, Mullins and Kauzlarich's critique, it is not about finding which particular audience has the right to determine what kind of activities are illegitimate. The question is a historical and a concrete one. The point of empirical enquiry is to find out whether a social audience was successful in inscribing stigma at the levels necessary to qualify a state-corporate practice as criminal. This is what the thesis tries to achieve. Like all other phenomena, state-corporate crime cannot be defined in abstract terms, removed from historical context and concrete, material existence/being. We can certainly distinguish that certain conduct breaches international law or human rights. Crime's ontological *being* is historically constituted through

structurally situated social praxis, configured from below through resistance. The civil society is but one social organ through which state-corporate conduct can be sanctioned.

To establish how state-corporate conduct can obtain the quality of being criminal the study looks at ‘concrete historical struggles of resistance’ (Lasslett, 2041a: 74). In different contexts civil society has developed diverse traditions of resistance. The empirical inquiry, thus, situates the analysis of censure activities in historical specificity of resistance trajectories. To establish how state-corporate conduct obtains the quality of being criminal the study looks at history. The findings may not be definite, but we can approximate the processes through which illegitimate conduct can become criminal. Investigation of struggles of resistance is important to understand these processes. Resistance is the material, social practice that has been observed to inscribe state-corporate conduct with criminal qualities. Resistance concretises the criminogenic potential observed by social actors in some state-corporate conduct. However, we need to be able to identify and define resistance. Resistance is a broad concept, and it is not a simple case of subversive practice. Not all subversive acts can be regarded as social praxis that inscribes phenomena with definite characteristics and meaning. Therefore, the chapter explores in more detail how resistance has been defined and conceptualised.

#### 2.4.4 Legitimacy and social censure

Legitimacy, Beetham (1991) contends, is not solely a case of ‘legal validity’, as legal theorists might argue, for there are moral questions and dilemmas which are concerned with justification of law itself. From a moral philosophical perspective, legitimacy is a much broader concept, which encapsulates not what the law proscribes, but what it ought to proscribe. However, the role of social scientist is not one of solving legal disputes or moral conundrums, but rather an explanatory one (Beetham, 1991). Though, Max Weber’s conceptualisation of legitimacy as *Legitimitätsglaube* (a belief in legitimacy), is one that is most commonly used in social science, Beetham (1991) subjected it to much critique. According to him, ‘belief’ alone is not sufficient to social-scientific explanation of legitimacy. Legitimacy is a property conferred on power, institution or organisation through actions which express consent of a populace (Beetham, 1991). Thus, even though legal validity and moral philosophy are factors involved in legitimacy, the research here is interested in that which can be empirically evidenced through actions of social agents, which express that something is legitimate or illegitimate.

A social scientist ought to assess legitimacy against the normative standing of the power arrangements that the law validates; in turn, these arrangements are assessed not against universal criteria, but against those that pertain to a society in question; and, actions expressing consent are assessed against conventions of a particular society, not ideal conditions. As such, legitimacy is founded on three conditions, '1) conformity to established rules; 2) the justifiability of the rules by reference to shared beliefs; 3) the express consent of [a populace] ...' (Beetham, 1991: 102). The fact that legitimacy is crucial to unhindered operations of the state and organised capital, this conceptualisation can help us understand when and how a state-corporate conduct qualifies as illegitimate. What is required for this thesis, is not just an explanation of the criteria for legitimacy of power, but a further understanding of the conditions of illegitimacy in state-corporate conduct and the process through which this property is actualised/concretised. A valuable insight into these matters can be found in the works of Colin Sumner on social censure.

According to Sumner (1990), censure of certain conduct as crime is founded on the political-economy, culture and value system of a society. The focus of orthodox criminology on the street offender, Sumner (1990) argued, is an effect of criminologists' reliance on official government statistics in the past. Whereas, most serious areas of crime, e.g. war crimes, human rights violations, corporate crime etc. was largely overlooked. Certainly, in a capitalist society, the class which dominates economic production and institutions of political power has the capacity to assert its censure in the legal and cultural domains of society (Sumner, 1990). Simultaneously, it has access to all the necessary institutions (legislature, courts, police) to enforce its censure. Sumner (1990), however, recognises the potential, in class-based societies, for oppositional censure by subordinate groups, subalterns, social movements and class movements. Such oppositional groups often clash with the ruling class in the courts, the streets, work places etc. applying censure from below.

Censure is a historically significant practice, which 'expresses, constructs and contains' the historic struggles for justice and rights (Sumner, 1990: 29). This perspective captures the thesis that crime's being is historically constituted (Green and Ward, 2004; Lasslett et al, 2015). In other words, what qualifies as state-corporate crime, is conduct that has been condemned and defined as criminal by past struggles. In a more recent intervention, Sumner (2012) emphasised that censure is no longer a prerogative of the dominant group in a society. For, it has a political dimension, in that it is not just the state that has the tools and the ability to censure certain act as deviant or indeed criminal. This does not, however, mean that anything that is subjected to social censure becomes immediately deviant or criminal. For, censure or labelling a state-corporate conduct as deviant may occur because of vested interests

or certain prejudices of a group performing social censure (Sumner, 2012). Thereupon, it is important to approach even the censuring of state-corporate conduct critically.

In addition, Sumner and Sandberg (1990) emphasise the need to consider the ideological composition of social censure, and its historical roots. The ideological and historical composition of censure can explain what the police, courts and legislature define as deviant (Sumner and Sandberg, 1990). Sumner (199) builds this conceptualisation on the Marxist theory of ideologies, arguing that social relations produce specific ideologies, and in a capitalist society where class divisions persist specific ideologies persist in individual consciousness. Some of these ideologies will be hegemonic and supportive of the state and organised capital, but there is also a presence of counter-hegemonic blocs (Sumner and Sandberg, 1990). For example, the paramilitary style of policing in the 1970s and the 1980s, which targeted groups like the miners in the UK or blacks in the US is predicated upon ideological censure of minorities resisting inequality (Sumner and Sandberg, 1990: 164). Equally, the censure of state and corporate conduct is predicated by specific counter-hegemonic 'mode of life' that expresses opposition to the status quo. It is precisely this conception of social censure that this thesis adopts, and one which dovetails with Green and Ward's conceptualisation of civil society and Lasslett's conception of resistance.

## **2.5 Adopting the concept of resistance in state-corporate crime research**

The previous sections examined how states and corporations have been characterised in the literature, how state-corporate crime was conceptualised, and the definitional approaches. This section builds on the process-driven approach, conceptualising the social praxis involved in actualising state-corporate crime through the concept of resistance. The first comprehensive application of the concept of resistance to the study of state crime was introduced in the special issue of *Social Justice* (Rothe, 2009; Friedrichs, 2009; White, 2009; Iadicola, 2011). Following these important contributions, Elizabeth Stanley, in collaboration with Jude McCulloch, published a primer entitled *State Crime and Resistance*. This new tract of scholarship was, in part, influenced by Green and Ward's call to consider the roll civil society plays in exposing and censuring deviant state conduct. Building on this, Stanley and McCulloch's (2012) volume examined civil society configurations that resist illegitimate state conduct. This scholarly tract provides germane definitions of resistance for state-corporate crime research.

Resistance is conceptualised here as a material, social practice of censure. The study aims to understand the role of resistance practices in inscribing wrongful state-corporate conduct with criminal properties. Throughout the contemporary history of successful social struggles resistance has been oftentimes configured through varied forms of direct action. It is a form of tangible, physical practice intended to bear material, and often immediate, effect of social mobilisation. The section begins with an overview of the definitional criteria of resistance and its conceptualisation in state crime literature. It then examines Gramscian concepts of hegemony, counterhegemony and civil society adopted to theorise the process of resistance. Finally, the section outlines what is direct action, what are its historical roots, and how the idea of direct action has been conceptualised in anarchist, leftist/socialist and social movements literature.

### 2.5.1 Defining resistance in state and corporate crime scholarship

The term resistance denotes social acts of dissent to practices perceived by civil society as illegitimate, and thus deviant. Although, there is no fixed and precise definition of resistance, several academics have identified its defining features. Resistance can be passive or active, offensive or defensive, continuous or intermittent, reactionary or progressive (Friedrichs, 2009). Whatever its form, resistance demonstrates four defining features: opposition, intention, communication and transformation (Stanley and McCulloch, 2012: 4-5). Opposition is understood as the active element of resistance, which includes creative or assertive acts against what is perceived as unjust or deviant. Intention refers to conscious activity or human agency involved in opposition, for an act to be defined as resistance it has to be conducted intentionally and consciously. Communication signifies that actors engage in resistance to communicate that an action or event is deviant or wrong. Transformation refers to the way people understand their ability to instigate or stop change, whether it is changing a socio-economic system, a legal landscape, holding a company or a government institution responsible, stopping or preventing a harmful process. Similarly, Brighenti (2011: 66) observed that 'resistance always implies a transformative drive', transforming what is into what 'resisters' believe ought to be. Resistance may range from individual level to organisational, state and international levels (Rothe, 2009). Stanley and McCulloch (2012: 4) averred,

Resistance ranges from the small, silent and personal through to the multitudinous, spectacular and momentous. The scope of activities that might be defined as resistance is broad. It may be violent or nonviolent, passive or active,

hidden or open, verbal or physical, spontaneous or strategic, local or global, and frequently a combination of some or all.

The essence of the meaning of resistance is weaved through synonymous notions, e.g. people power, non-violence, satyagraha, civil disobedience etc. (Nepstad, 2013). Examples of resistance may include, WikiLeaks formed by Julian Assange to expose US state criminality; refusal by US soldiers to follow orders during Vietnam War; Standing Rock protests against the oil pipeline in Dakota, USA; safeguarding biological resources from international patent regimes by indigenous communities in India; or keeping a culture alive by Amazon tribes despite colonial violence. In the broadest sense of the meaning, resistance can be used in reference to a transformative drive that communicates opposition to state-corporate practices perceived as harmful by a social audience. Resistance, thus, can be anything that manifests these four, or either one, features.

Resistance is also understood as an alternative way of doing politics, outside of the state-sanctioned arena where the elite and the ruling class have the upper hand (White, 2009; Stanley, 2012). As such, resistance allows civil society to voice their disapproval of state-corporate practices by alternative means of political engagement where they can gain an advantage. In Stanley and McCulloch's (2012: 9) words, 'the master's house cannot be dismantled with the master's tools.' While there are international and domestic mechanisms of control, e.g. International Criminal Court, Tribunals, International Court of Justice, international law, regulation etc. they do not address the system from which state-corporate crimes emerge (Friedrichs, 2009; Iadicola, 2011; Stanley and McCulloch, 2012). Effective strategies of crime control from below go beyond apparatus of the state.

Resistance is politically, socially and culturally innovative. According to Stanley (2012), when a legal range of actions is unavailable, resisters are forced to forge their own tools of resistance, becoming ever more creative. Marx ([1871] 2010a: 328) famously wrote, 'the working class cannot simply lay hold on the readymade State machinery and wield it for their own purpose. *The political instrument of their enslavement cannot serve as the political instrument of their emancipation.*'<sup>2</sup> Effective resistance tends to occur outside of state-sanctioned means of action. As such, another defining element of resistance is that its methods are characteristically subversive.

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<sup>2</sup> The full citation can be found in the second draft of Karl Marx's Address to the General Council of the International Working-Men's Association in May 1871, *The Civil War in France*.

Studying environmental activism, White (2009) identified spontaneous resistance (limited focus) and organised resistance (expansive focus), each with several dimensions. Spontaneous: victim exclusive, local, material relief, top-down leadership, rectification, appeals to authority, actions motivated by loss, victim focus. Organised: outsider inclusive, global, abstract principles, democratic/participatory forms of engagement, transformation, self-governance, action motivated by future, victim interests linked to New Social Movements and wider struggles. Although, these dimensions are induced by White (2009) from observations of environmental activism and justice, they can be extended to other fields of struggle to characterise and define resistance. In broad terms, resistance may be identified as a struggle for justice or relief (White, 2009). The defining features are a helpful set of tools for identifying resistance. They are not to be treated as checkboxes, for resistance is dynamic and multidimensional, not all of these defining features may be present and resistance to state/corporate crime is not fully understood. Thus, a deeper analysis of its dynamics, the processes and relations that cause it, are needed to explain why and how it happens.

Following White's (2009) analysis of environmental activism, resistance is context-bound (culturally, socially, nationally), related to consciousness (transnational New Social Movements or local grass-roots groups), and determined by social experience (as victim, activist, citizen, observer). When studying resistance, the researcher should consider who defines the issue, who leads the struggle, how the issue is perceived and how the struggle is shaped. In another contribution, White (2012) finds that a central dynamic of resistance to state-corporate crime is the dichotomy between the narrow 'national interests', 'private interests' and broader 'social interests.' Private-corporate interests often come into conflict with broader, social interests, and states sometimes advance private interests under the guise of national interests, which are in fact narrow state interests (White, 2012). It is when these interests encroach on broader social interests that a social audience rises to censure and resist actions in pursuit of private and national interests.

When considering what motivates resistance, or what is the 'impetus for action' (White, 2009), there are several possible factors that have been identified in the literature. These are, first-hand experiences of victims and eyewitnesses or motivating ideals/values of observers (White, 2009; Friedrichs, 2009). Resistance to state/corporate crime is often influenced by principles and values, such as liberal ideals or universal rights (Rothe, 2009; Friedrichs, 2009). It can also be a material response to a situation wherein state and corporate actions harm human life or the environment. Resistance is not solely about narrow interests of a group, a defined population, a state or a capitalist enterprise, it contests fundamental issues within global structures of power relations (Stanley and McCulloch, 2012). Hence, resistance

tends to express accepted principles and values. It raises moral, as well as legal, conundrums, and questions established norms of state and corporate behaviour (Stanley and McCulloch, 2012). In this sense, resistance is more than dissent or subversive activity. It expresses values upon which norms of conduct are found. Rothe (2009) contends that resistance is based on shared and collective conceptions of humanism, ethical conduct and justice. Resistance is further, then, characterised by the principles and values it is based on. It is intended to preserve common values shared by a broad populace.

The leading theoretical approach adopted in the resistance literature is a Foucauldian perspective of power-resistance nexus. According to this perspective, power is an infinite relation characterising all human exchanges, and resistance is an integral part of this relation (Stanley and McCulloch, 2012; Stanley, 2012; Nadarajah and Sentas, 2012). Power produces resistance, and resistance opens power to reformation and change. Foucault (1978: 95) famously wrote that ‘where there is power, there is resistance, and yet, or rather consequently, this resistance is never in a position of exteriority to power.’ From this perspective resistance is simply a natural effect of power relations embodied in the state and corporation (Stanley and McCulloch, 2012). Although, true, the assertion that power and resistance are mutually reinforcing does not add analytical value to this study.

Works by Charles Tilly, Sidney Tarrow and Doug McAdams on contentious politics are frequently cited in research that considers social movements. Contentious politics is a concept used with reference to a phenomenon dating back to 18<sup>th</sup> century Europe, which saw the advent of social movements struggling for democracy, workers’ rights, civil rights, equality, sovereignty/independence etc. (Tilly, 1978, 1981; Tarrow, 1996, 1998; McAdam et al, 2001; Tilly and Wood, 2009). It denotes, but is not exclusive to, collective actions such as, protest, demonstration, strike, civil disobedience and revolution. By contentious politics, McAdam et al (2001) mean episodic, collective interaction between makers of claims and their objects, primarily a government. In Tarrow’s (1998: 3) words, ‘collective action becomes contentious when it is used by people who lack regular access to institutions, who act in the name of new or unaccepted claims, and who behave in ways that fundamentally challenge authorities.’ From this approach, “resistance” can be understood as a form of claim-making by a social movement on a government.

According to the contentious politics literature, mobilisation of collective action is enabled when: internal and/or external factors create a political opportunity; social movements mobilise forces in response to emergent opportunity or create one; the struggle is framed in a way that resonates with the interests, values and beliefs of individuals; and, repertoires of

action are available to the movement, for effective claim-making (Tilly 1978; McAdam, 1982; Tarrow, 1998, 2005; Tilly and Wood, 2009). Notwithstanding, there are some important criticisms to be registered. The contentious politics literature is quite ambiguous as to what political opportunity is and how it affects mobilisation (Meyer and Staggenborg, 1996). It is unclear as to what forms an opportunity for action, whether external forces or internal movement dynamics (Gamson and Meyer, 1996). The external, causal forces of contention are limited to political environment, which is unhelpful in explaining what causes resistance to certain state-corporate conduct (Kriesi et al, 1995; Klandermans, 1997; Goodwin and Jasper, 1999). Similarly, to the 'integrated theoretical framework', contentious politics may orient a researcher to a particular set of interactions that are contentious and the internal dynamic of mobilisations. However, it does not offer analytical tools for understanding the substantive social processes that produce opposition and resistance communities.

Engagement in resistance to state-corporate deviance cannot be simply analysed as an effect of frames formed by a central organisation, which organise experience and direct a groups' perception of an event (Diani, 1996; McAdam, 1996; McAdam et al, 2001). This thesis attempts to grasp the elementary processes through which resistance actors acquire consciousness that is fundamentally opposed to deviant state-corporate conduct. Consciousness that corresponds to a specific mode of life experienced by resistance actors. This cannot be achieved by focusing on a movement's internal dynamics. It can be achieved by analysing resistance in a greater whole, as part of a process wherein social actors interact with the objective world in a conscious and productive way. Such insight, however, can be found in the literature on civil society and hegemony.

A more precise and strategic approach must be honed, one that explains the social process through which state-corporate events acquire criminal properties. The thesis contends that the Gramscian approach offers concepts which concretise the relations between censoring actors and offending institutions – civil society, hegemony and counter-hegemony (Ward and Green, 2000; Green and Ward, 2012). The Gramscian concept of counter-hegemony can be useful in explaining how resistance communities arise, how values expressed through resistance develop, what these values are and how they motivate resistance actors to censure wrongful state-corporate practices. This is important to the study because to understand the process of resistance we need to know how and wherefrom resistance communities emerge, what motivates them to mobilise and censure some state-corporate practices, and why they perceive routine practices as wrongful.

### 2.5.2 Civil society, hegemony and counterhegemony

As pointed out in the previous sections, civil society has been identified in the literature as one of the strongest counterweights to the crimes of the powerful and an important source of norms that define state/corporate criminality (Green and Ward, 2004). Civil society organisations tend to be the frontrunners of social struggles, they mobilise resistance, orchestrate protest actions, and define the issues of resistance (Grewcock, 2012). Civil society configurations are important for a sociological understanding of resistance to state-corporate crime. Gramscian theory provides a meaningful explanation of the role civil society plays and how it emerges. In Gramscian theory civil society refers to the level of superstructure where ideology is produced and diffused; the ensemble of institutions, organisations and actors through which hegemony and counterhegemony is exercised (Mouffe, 1979). Civil society fulfils a dual role, on the one hand, civil society promulgates the capitalist ideology embodied by economic and state institutions; on the other, it stands outside the hegemonic order and sometimes challenges it (Green and Ward, 2012). It occupies the space between the hegemonic and counterhegemonic social structure.

The concept of civil society refers to associations independent of the state and capable of articulating norms against which the legitimacy of state/corporate actions is judged (Green and Ward, 2004, 2012; Grewcock, 2012). These include NGOs, pressure and activist groups, associations, movement organisations etc. The mass media, academic and scientific institutions, parliamentary parties etc. are also part of the civil society, though their role is more ambiguous (Ward and Green, 2000). The civil society produces opinions, values, ideologies and norms that influence government and corporate conduct; it also shapes and reshapes cultural and political structures (Green and Ward, 2012). Civil society legitimises the *status quo*, where hegemonic rule prevails; but equally it can prohibit certain activities when they violate law or shared moral values (Ward and Green, 2000; Green and Ward, 2000, 2004, 2012). The hegemonic rule refers to the ideological dominance, whereby the ‘ruling class’ rules the society by disseminating its ideology (Gramsci, 1992). This is achieved, largely, by institutions that appear independent of the state.

The independent institutions which exercise ideological leadership consist of the ensemble of educational, religious, political, associated institutions (Ward and Green, 2000). It is their intellectual leadership that promulgates a set of ideas, values and beliefs that support the *status quo* and legitimise state power. Gramsci, also, understood that ‘the apparent legitimacy and popular consent enjoyed by the hegemonic state are inherently unstable and

can very quickly be undermined in situations of class conflict where fundamental class antagonisms are brought to the surface, sometimes violently...’ (Ward and Green, 2000: 81). Civil society has the capacity to challenge and even undermine state power. In this sense, civil society can subject the state, as well as economic institutions, to social opprobrium by the very rules the state claims to uphold. However, only when they violate or are seen to violate these rules. Green and Ward (2012) emphasised that while civil society strengthens the democratic state, it can curtail authoritarian, corrupt and democratic imperial states.

In Gramsci’s dialectical conception of history, human beings are shaped by social structure, and simultaneously are the subjects that reproduce, challenge and create new social relations (Gramsci, 1992). Hegemony imbues social actors with consciousness that supports capitalism and social relations that come with it (Boggs, 1976). However, the internal antagonisms of capitalism give rise to counter-hegemonic blocs (Carroll, 2007). According to the Gramscian perspective,

as the oppressed strata reach awareness of limitations imposed by class society and struggle to redefine and transcend those limitations, they take the initiative and begin to move towards emancipation precisely as their needs, demands, perceptions expand and then explode beyond the old structural boundaries that have contained them for so long (Boggs, 1976: 32).

The dominant class exerts hegemonic rule with a variety of social forces (institutions, associations, ideas, values), giving rise to a ‘historic bloc’ (Cox, 1993). It reproduces the hegemony of the dominant class, but it also opens space for counter-hegemonic influences and activities (Gramsci, 1992). Civil society takes up this role, where contradictory relations of capitalism are manifested in the activities of states and corporations perceived as wrongful the civil society has the capacity to challenge them.

Notwithstanding, civil resistance is conceived as more than a simple expression of counter-hegemonic ideas. It is a social practice, and the counter-hegemonic ideas shape individuals’ consciousness, guiding their actions. Gramsci (1992: 352) wrote,

man does not enter relations with the natural world just by being himself part of the natural world, but actively, by means of work and technique...these relations are not mechanical. They are active and conscious. They correspond to the greater or lesser degree of understanding that each man has of them.

Marx held that social life is practical, and consciousness develops out of humans’ practical existence. In the *Thesis on Feuerbach*, Marx (2010b: 7) wrote that ‘in its reality [the essence of man] is the ensemble of the social relations.’ Building on this, Gramsci (1992)

explained that humans acquire consciousness through the ensemble of social relations they are part of. Their material existence shapes the form of consciousness which then influences their actions. Lukács (1971: 60) theorised that a ‘mode of life’ social actors experience shapes their consciousness. According to Lasslett et al (2015) the ‘mode of life’ experienced by resistance actors engenders counter-hegemonic values and practices, whereas the ‘mode of life’ the state-corporate actors experience elevates capital accumulation.

Resistance actors are conscious and active agents. Human beings not only understand the relations they are part of, but they further create and innovate the activities through which they enter relations with one another, though collectively (Gramsci, 1992). Consciousness and social practices are shaped to a degree by history and culture, traditions that are bequeathed by previous generations. Resistance communities, too, inherit traditions of action from previous social struggles. One of the means of resistance that has been adopted and employed by many social movements is direct action. The notion of direct action has a long lineage in various political traditions, both in the core nations and the periphery. As a material form of resistance, direct action is given more attention in the next section where it is defined and conceptualised.

### 2.5.3 Direct action

Direct action is one of the core subject matters of this thesis. It is a form of action used throughout the history of social struggle to make a tangible, immediate change. Whether it is, for instance, Ploughshares activists damaging US aircraft to protest the Iraq War or Greenpeace activists scaling a Russian drilling platform to draw attention to the hazards of oil drilling in the Arctic. These direct, active forms of resistance are, quite literally, a type of social praxis, whereby ideas and values induce action to achieve change. However, the literature on resistance has not put the notion of direct action into close scrutiny, and how these repertoires of action are used to imprint stigma on the practices of the powerful. Hence, the purpose of this section is to define and conceptualise direct action. The notion of direct action is important to the thesis because the empirical cases revolve around instances of direct action employed to censure state and corporate conduct. Additionally, despite its significance in the history of social struggle, direct action has been given little attention in the academic literature on resistance and social movements.

‘History’, Stanley and McCulloch (2012: 5) asserted, ‘does not repeat itself, although injustice does’. Each struggle against injustice is contextually unique (*ibid*). Having said this,

resistance actors may employ learnt tactics or strategies, adapt them to their struggle and refine them; they act upon principles or values established through previous struggles; and, influence the norms of behaviour. In every struggle, agents of resistance act in learnt ways and their actions are motivated by established principles, values and norms. These principles, values and norms were established by and inherited by previous, successful struggles. With every new struggle, however different and unique to context, human agents adopt the traditions bequeathed by previous generations in a continuous struggle for justice. Marx (2010c) theorised that men make their own history under prior existing circumstances, transmitted from the past. In a letter to Pavel Vasilyevich Annenkov, Marx wrote:

The productive forces are the result of man's practical energy, but that energy is in turn circumscribed by the conditions in which man is placed by the productive forces already acquired, by the form of society which exists before him, which he does not create, which is the product of the preceding generation (Marx and Engels, 2010d: 96).

The same process can be observed in the practical energy of struggles for justice, emancipation, rights etc. Ways of thinking about and acting upon observed injustices are inherited from the previous generations. That is, repertoires of action are bestowed on today's resistance communities by past social struggles.

Direct action has long been fostered in diverse political traditions that have been raised around capitalism and social struggles, e.g. anarchism, trade unionism, socialism, environmentalism, libertarianism etc. With democracy and liberalism nestling in Europe and the US, the 19<sup>th</sup> was marked by revolutionary literature growing in the bosom of capitalism. It was then that civil resistance was established as a 'consistently consequential political force' (Schock, 2013: 278). In *The Kingdom of God is Within You*, Leo Tolstoy promoted nonviolent, passive resistance as a remedy to war and institutional corruption, e.g. conscientious objection and refusal to follow orders. In *Resistance to Civil Government*, Henry David Thoreau promoted civil disobedience as open resistance to unjust laws on the grounds of conscience, e.g. refusal to pay taxes. Thoreau refused to pay taxes because they supported slavery (Schock, 2013). De Cleyre (2004) wrote in *Anarchism and American Traditions* and *Direct Action* about the civic responsibility people have to assert justice against unjust governments through civil disobedience and direct action. Mahatma Gandhi encouraged through his revolutionary pamphlet, *Hind Swaraj or Indian Home Rule*, civil disobedience and passive resistance to British Rule, that is rejection of colonial authority and refusal to follow British laws. In these traditions resistance is defined, quite simply, as a sustained effort that challenges power, force, policy, regime etc. (Gregg, 1960; Nepstad, 2008, 2013; Roberts, 2011). Direct action can refer

to varied repertoires or resistance, e.g. occupations, blockades, strikes, squatting, mass protests, industrial sabotage, marches and civil disobedience.

The use of direct-action dates as far back as c. 411 BC, when Greek women, exempt from the right to vote, withheld sex from their husbands to end the Peloponnesian War (Moore and Shepard, 2013). In 449 BCE Roman plebeians organised a strike demanding political rights from the Senate (Schock, 2013). In 1930 Mahatma Gandhi led the *Salt March*, an act of civil disobedience against a British law that deemed the production of salt by indigenous communities illegal (Roberts, 2011). Modern acts of resistance were immersed in nationalist, labour and civil rights struggles, e.g. Hungarian resistance to Austrian rule from 1849-67, the trade union movement from mid-19<sup>th</sup> century, the Suffragists in the early-20<sup>th</sup> century, the Egyptian general strike against British occupation in 1919, Indian independence movement 1915-47, the Civil Rights movement in the US 1954-68 (Gregg, 1960; Franks, 2003; Nepstad, 2008, 2013; Schock, 2013; Moore and Shepard, 2013). Direct action was a prominent element of resistance in all these struggles.

Central to direct action is rejection of political authority and hierarchy structures, viz. capitalism, and, moreover, performative and practical activity (Franks, 2003). Hence, it is associated with anarchist and socialist political traditions. Direct action is a practical means of achieving resistance objectives (Sharp, 1974; de Cleyre, 2004; Thoreau, 2008). For example, if an anti-arms campaign's objective is to stop arms production at a factory, an occupation and decommissioning the means of production is a proactive and a practical means to the objective (Nepstad, 2008; Moore and Shepard, 2013). In contrast, indirect political action appeals solely to intermediaries, such as elected representatives (Moore and Shepard, 2013). It is the weapon of those who are positioned outside of the institutional power (de Cleyre, 2004). Direct action, however, never occurs in isolation, it is most effective in combination with other tactics and as one element of a sustained resistance (Moore and Shepard, 2013). Yet, it is often the trigger of resistance movements, for example the Montgomery bus boycott in 1955 was sparked by Rosa Park's refusal to give up her bus seat. De Cleyre (2004: 54) postulated,

It is by and because of the direct acts of the forerunners of social change, whether they be of peaceful or warlike nature, that the conscience of the mass becomes aroused to the need for change...Direct action is always the clamourer, the initiator, through which the great sum of indifferentists become aware that oppression is getting intolerable.

Friedrichs (2012) found that the uprisings in Tunisia, Egypt, Libya, Bahrain, Syria and Morocco, starting in January 2011, were essentially inspired by a single act of *self-sacrifice*. A young Tunisian, whose means of earning money were curbed by the policy, self-immolated in a public act of defiance. His self-sacrifice ignited a popular uprising that led to the ousting of country's president, Zine El Abidine Ben Ali. Sacrifice of one's liberty, safety, or life is a distinctive feature of direct action. Nepstad (2008) explained that being arrested, charged with aggravated trespass or property damage and trial is an integral part of actions in the Ploughshares movement.

In brief, direct action has a long lineage in several political traditions and there is a lengthy history of direct-action use in social struggles. These traditions consider direct action a repertoire of resistance available to communities or individuals who do not have access to formal means influencing change, e.g. political or legal institutions (Franks, 2003; de Cleyre, 2004; Nepstad, 2008; Moore and Shepard, 2013; Schock, 2013). It can be defined as performative and practical activity (Franks, 2003), a social praxis of counter-hegemonic blocs. Resistance actors performing direct action put their ideas and values into action. Direct action, wherever used, is intended to galvanise people to enforce a change for the better (de Cleyre, 2004). The inspirational/galvanising element of direct action is self-sacrifice (de Cleyre, 2004; Friedrichs, 2012). Sacrificing one's safety, liberty or life is an integral part of direct action. It is this broad conception of direct action that informs the analysis of resistance activities and repertoires of action observed in the empirical cases.

## **2.6 Synopsis**

This thesis critically examines how civil society can inscribe deviancy labels on harmful and wrongful state-corporate conduct through resistance, particularly direct action. To this end, it situates state-corporate conduct within a broader political-economic structure, and by situating direct action campaigns within a historical context of resistance traditions. This chapter reviewed scholarly literature out of which the research aims and questions emerged. These questions were informed by state-corporate crime scholarship which draws our attention to the criminogenic character of state-corporate power under neoliberal capitalism (Kauzlarich and Kramer, 1998; Kramer et al, 2002; Rothe and Mullins, 2009; Tombs, 2012; Whyte, 2014), and the social process through which state-corporate conduct is defined as deviant (Ward and Green, 2000; Green and Ward, 2004; Lasslett, 2010a, 2010b, 2014a). The latter is informed by Marxist criminological traditions, mainly the dialectical method and the Gramscian theory of civil society. It influenced a tract of literature that

considers the important role mobilisation or resistance from below plays in actualising the criminogenic potential latent in state-corporate practices through social opprobrium (Rothe, 2009; White, 2009, 2012; Friedrichs, 2009, 2012; Stanley and McCulloch, 2012; Green and Ward, 2012). The method these scholars use to understand the historically constituted processes of state-corporate crime is Marx's dialectic.

The orthodox, positivist state-corporate crime literature sees the main impetus of state-corporate crime in the pursuit of organisational goals, and the primary goal these powerful institutions seek is capital accumulation (Kramer et al 2002, Kramer and Michalowski, 2006; Bruce and Becker, 2007; Mullins and Rothe, 2009). The Marxist approach situates the criminogenic potential of state-corporate institutions in the routine practices employed to achieve 'desired finalities' (Tombs and Whyte, 2009; Tombs, 2012; Lasslett, 2014c). Whereas, integrated theoretical framework focuses on 'discrete acts', the Marxist dialectical approach seeks to penetrate the surface appearances of social phenomenon and extract the systemic relations that produce phenomena such as state-corporate crime (Lasslett, 2010a, 2010b, 2014b, 2014c). In so doing, it extends the definitional criteria to routine practices that are not illegal *per se*, but which have socially harmful effects, nonetheless.

Building on the process-driven approach we can situate the process of resistance within broader social relations and processes of capitalism. This can be achieved through Gramscian concepts of hegemony, civil society and counter-hegemony (Ward and Green, 2000; Green and Ward, 2004, 2012; Grewcock, 2012). Drawing on literature from different political traditions, e.g. anarchism and socialism, direct action is defined as a performative and active practice of challenging what is perceived to be unjust and affecting change with immediate results (Gregg, 1960; Frank, 2003; de Cleyre, 2004; Thoreau, 2008; Moore and Shepard, 2013; Schock, 2013). One of the most important contributions of the approaches advanced in this chapter is the philosophical traditions of Marx's dialectical materialism. The dialectical thinking devised by Marxist theorists offers a very important scientific vantage point that informed the methodological approach of this study and influenced the choice of research methods.

## **Chapter III – Methodology, data collection methods and data analysis**

### **3.1 Introduction**

This is a qualitative research study operationalised through a multiple-case study approach. Chapter II outlined the conceptual and theoretical foundations of the thesis, which informed the research aims and questions. These foundations originate from the literature advancing a Marxist dialectic and the process-driven approach. The emergent aims are to identify the elementary social dynamics that create the potential of illegitimate state-corporate conduct occurring at particular historical junctures; and, to understand the historically constituted social processes through which illegitimate state-corporate conduct acquires the property of crime. In pursuit of these overarching aims, the previous chapter scrutinised the empiricist approach of orthodox state-corporate crime research, and advocated for a dialectical framing of relations, processes and state-corporate crime events. The positivist state-corporate crime research fetishizes ‘the data of sense-perception, i.e. empirical data, while the power of [theoretical] thought to illuminate less evident social realities is inverted and instead employed to generate general categories’ (Lasslett, 2010a: 212). These categories are, then, treated not as conceptual representations of reality, but as variables characterising isolated elements of empirical data.

The research study, thus, adopted Marx’s dialectic as the underlying methodology. The explanatory power of the dialectical thought lies in the study of contradictions between opposites, and interactions between phenomena within a complex whole or a totality of relations (Lasslett, 2010b; Lasslett et al, 2015; Ward and Green, 2016). Guided by the dialectical thought, the research sought to design research in a way that would present the phenomenon of state-corporate crime as a totality in itself, with interacting objects and subjects that create the phenomenon, but also immerse it in the larger complexity of the social whole (see Harvey, 1993). The research was operationalised through qualitative case studies, because they facilitate the presentation of empirical data as interacting parts of a whole, the case itself being the whole. Simultaneously, the case can be immersed in the relations and processes of a larger complex system, viz. capitalism. The data collection methods were selected with this in mind. In other words, the research approached the data as pieces of puzzles that were subsequently connected through analysis in the case-building process.

The chapter begins with an outline of the Marxist dialectical method and its application to state-corporate crime research in Section 3.2. This section closely examines the methodology to demonstrate how it informed the research design and the choice of research methods. Section 3.3 outlines the multiple case study approach, why it was employed, and how it was operationalised. The section includes a statement of study aims and questions that guided the research process. The closing remarks outline the project's purpose (aims and objectives) and the rationale for case selection, explaining how and why the two case studies were chosen. Section 3.4, then, delineates the data collection methods, data analysis techniques and ethical considerations. It details the sources of data sets, how information was collected, and how it was broken down. Lastly, this section discusses research challenges and ethical considerations, and how they were resolved.

### **3.2 Methodology: the Marxist dialectical approach**

Critiques of positivist state-corporate crime scholarship called for an approach that conceives state-corporate crime as a process mediated by systemic practices (Tombs, 2012; Whyte, 2014; Tombs and Whyte, 2015). In furtherance of this, the thesis advances the Marxist dialectical method. It shifts the focus from data of sense-perception to historically determined social relations and processes, hidden behind events and actions. The point is to identify the processes that create the possibility of state-corporate crime and those processes through which this possibility is actualised (Ward and Green, 2004; Lasslett, 2010a, 2014c; Tombs, 2012). Events and actions, just like “things” for Marx, express definite relations and processes (Marx, 1976; Engels, 2010b). The causes behind state-corporate events and actions are to be found in these elementary dynamics. Howbeit, they cannot be grasped with sense-perception, they must be mediated through cognition. It is not enough to extract abstract generalisations from crude, empirical data; it must be broken down into constitutive elements and analysed in its historical specificity.

Empirical research has its purpose, as sensuous beings we experience the world through organs of sense-perception, as information enter the human mind it is given meaning through notions and concepts (Lasslett, 2010a). Notwithstanding, by itself, sense-perception does not produce nuanced understanding of social phenomena (*ibid*). It can reveal empirical facts with definite characteristics, but in order to understand their meaning and significance to the phenomena we study they must be mediated theoretically through cognition. Pioneers of the dialectical method encourage away from inductive generalisations, common to empiricism. Rather than fetishizing empirical facts, dialectics offers a method by means of

which theory and concepts are applied to enrich data of sense perception (Lasslett, 2010b). This is achieved by looking at interactions between individual facts, drawing connections between them, identifying the social relations that underly them, the processes they induce, and then categorising these relations and processes through theoretical concept (Jordan, 1967; Ollman and Smith, 2008; Levins, 2008). This research attempted to capture these dynamics through dialectical thinking.

### 3.2.1 Marx's dialectical materialism

Hegelian thinkers, most notably Karl Marx, were some of the first philosophers to challenge positivism. Hegel initially, attempted to synthesise rationalism and empiricism which conceived the world in 'thought-reality dualism', reducing knowledge creation to one or the other (Reuten, 1998). Following Immanuel Kant, Hegel wished to transcend the dichotomy between the two, however, without abandoning either. The dialectic was a natural outcome of Hegel's logic. He saw in opposite positions only partial representation of a complex reality. However, Marx contended that Hegel turned the dialectic on its head by placing it in the realm of ideas, rather than concrete facts (Marx and Engels, 2010). Hegel's dialectic was, inadvertently, idealist. Marx, then, 'rectified' Hegelian (idealist) dialectic by grounding it Feuerbach's materialism. In so doing, the dialectical theory of totality in process was turned 'right side up again' (Marx, 1976: 19), and was transformed into a materialist science of historical motion, 'dialectical materialism'.

Hegel proclaimed that 'truth is a whole', but the whole cannot be grasped empirically, we can only perceive its elements (Levins, 2008: 32). The solution to this is found in the movement of consciousness from the abstract to the concrete, systematically concretising the abstract with empirical facts (Ilyenkov, 1979). But the whole cannot be grasped by reducing it to single empirical facts, e.g. objects, acts or events. Everything exists in relation of mutual dependence; the Marxist dialectic is a philosophy and, indeed, a science of 'internal relations' (Bukharin, 2005: 109). It looks, not at things or objects, but at relations between things and the processes these relations generate; it 'comprehends things and their representations, ideas, in their essential connection, concatenation, motion, origin and ending' (Engels, 2010a: 23). Capitalism, for example, is so omnipresent that it cannot be observed directly; it was observed by Marx through specific elements he theorised using concepts of value, surplus-value, commodity, exchange etc. (Ollman, 2008). Similarly, when one considers a specific case, event or instance of state-corporate crime, it is difficult to make sense of it as a whole. The elements that make up the case can be recorded empirically. Empirical data does not present

itself in entirety, but as disjointed parts. It is up to the researcher to excogitate interconnections between the parts and present the whole.

In *Anti-Duhring* Engels (2010) offers one of the clearest articulations of the Marxist dialectical method. There, he advanced Heraclitus' conception that everything is in state of constant change, coming into being and passing away. He stated that 'when we consider...the history of mankind...at first we see the picture of an endless entanglement of relations and reactions in which nothing remains what, where and as it was, but everything changes, comes into being and passes away...' (Engels, 2010a: 21). Thus far, only one tenet of dialectical philosophy has been identified, viz. 'the determination of the thing itself...through the entire totality of the manifold relations of this thing to others' (Lenin, 1976: 220). The other central tenet of dialectics is that the development of all phenomena comes about through 'contradictory forces and tendencies' (Lenin, 1976: 221). The law of the 'unity of opposites' states that motion (development and being) of a phenomenon is fostered by internal contradictions, 'the conflict of different forces and tendencies reacting inside a given phenomenon...' (Jordan, 1967: 229). The source of existence of a phenomenon lies within it. A phenomenon comes into being through its internal relations and processes, interaction between mutually conditioning objects and contradictions that set it into motion.

### 3.2.2 The dialectical approach in state-corporate crime research

By considering a phenomenon as a totality of relations, one breaks it down into its primary parts, i.e. objects, actors, processes, events etc. Lenin (1976: 357) postulated that 'the splitting of a single whole and the cognition of its contradictory parts is the essence of dialectics', in as far as this is done to comprehend the totality. Albeit, these parts are not the end goal, for 'dialectical thinking prioritises the understanding of processes, flows, fluxes and relations over the analysis of elements, things, structures and organised systems' (Harvey, 1993: 34). Sense-perception is not able to grasp the totality of diverse interconnections, but with the right tools we can approximate them in thought. We cannot, as Bukharin (2005: 95) wrote, 'perceive the endless diversity of nature...but we can think about it.' First, we need to identify the parts that are perceived as empirical detail; and, then, we can analyse them together to understand the entire phenomenon. Engels (2010b) theorised that until we explain the details of the whole picture, we cannot understand the picture;

In order to understand these details, we must detach them from their natural or historical connection and examine each one separately, its nature, special causes, effects, etc. This is, primarily, the task of natural science and

historical research: branches of science which the Greeks of classical times, on very good grounds, relegated to a subordinate position, because they had first to collect the material (Engels, 2010b: 21-2).

Trying to comprehend elusive processes of capitalism and its laws of motion Marx had to, firstly, study ‘the molecular social bonds, before conceptualising how they form part of more complex social compounds’ (Lasslett, 2013: 119). Marx’s *Capital* was a dialectical investigation of capitalism’s laws of motion. In the process of dialectical analysis Marx concretised simple abstractions – commodity-form, value-form, wage-labour, money etc. – as expressions of bourgeois relations of production (Ilyenkov, 1979). To flesh out the laws of motion of capitalism Marx used the ‘power of abstraction’ to isolate the parts from the whole. Thus, he analysed capitalism at two levels, ‘at the level of individual enterprise (Lenin’s ‘economic unit’) and at the level of the social totality of enterprises’ (Banaji, 2010: 59). *Capital Volume I* deals with the analysis of single capital as an isolated entity, where labour-process as a value-producing process and capital accumulation as a process of capital valorisation are characterised as motion of individual capital. The other two volumes, particularly *Volume III*, deals with the ‘laws of motion of capital’ at the level of ‘social capital’ (Banaji, 2010: 60). Before presenting the totality of capitalist relations, in entirety, Marx abstracted and analysed its elementary parts, starting with the commodity.

The objective is to apply dialectical thinking to state-corporate crime research. Firstly, dialectical thinking is concerned with relations and processes hidden behind things they structure. Secondly, it looks at the totality specific relations and processes form. In this totality we can observe the dynamic interconnections between things, objects, events and actions. The subject matter of analysis in this thesis are *events*. Just like a ‘thing’, an event is produced through relations between various objects, subjects, processes etc. These relations are the key to understanding the phenomenon as a whole, but first the research had to collect the empirical material, the empirical detail about the criminogenic features of state-corporate conduct, how this conduct produces events that are perceived as illegitimate and how this conduct comes to be defined as criminal. This study looks at the use of direct action by resistance communities to inscribe deviancy labels on state-corporate conduct. To obtain the right material the study drew on previous research as an example of what type of information is needed to explain a case of state-corporate crime. To investigate these processes the research was operationalised through a multiple-case study design.

### 3.2.3 Researching the crimes of the powerful: a case for activist research

The term “activist research” denotes commitment to addressing and transforming the researched social issue, and not just documentation and understanding of a phenomenon. The focus of activist research is on issues related to some form of human struggle, it is conducted in cooperation with subjects of the struggle and with the intent to transform said struggle (Hale, 2001). In other words, it is research driven by praxis, whereby theory is put into practice in order to solve social problems, rather than driven solely by the quest for understanding. This relationship between theory and practice has, perhaps, been articulated no clearer than in the *Thesis on Feuerbach*: ‘The philosophers have only interpreted the world in various ways; the point, however, is to change it’ (Marx, 2010: 8). Karl Marx and his counterpart, Fredrich Engels, sought to produce an intellectual tradition that could challenge the status quo and bring about a revolutionary change.

Drawing on the above, this thesis accepts that research should not be exclusive to ‘scholarly speculation about being’, but rather it should seek to affect change and improve human experience (Nabudere, 2008). Of course, social science – like all science – is concerned with knowledge that can be applied, whether to policy, programme, legislation, development or social progress (Greenwood, 2008). Notwithstanding, this may take a very different form in research concerned with state-corporate deviance and social struggle, where subjects are diverse resistance communities. In a case like this, to borrow from Hale (2001: 15), ‘the assumption is that one or more groups of people – especially those with whom particular affinities have developed – are interested in receiving the knowledge we have produced, in forms that will be useful to them.’ This requires that the research findings are articulated in a meaningful and useful manner, that is, useful to those with whom the researcher engaged and cooperated throughout the process.

With the above proviso, this research was conducted in cooperation with the individuals and groups who contributed their testimonies and expert knowledge of the case studies. This cooperation was achieved through engagement and information sharing with the participants and NGOs. More specifically, the research findings were shared with the participants and used in one significant event organised by Navdanya and La Via Campesina. In Case Study 1, the researcher shared with NGOs involved in the research – Campaign Against the Arms Trade (CAAT) and War on Want – information on export licences of UAV Engines Ltd. obtained through Freedom of Information releases. The releases contained details of eight engine models and export destinations, which were important to the work

CAAT does and were included in CAAT's database of export licences granted by the UK Government to defence industry exporters. War on Want and Stop Arming Israel Campaign were able to use this information to confirm that UEL does indeed manufacture and export engines incorporate in armed drones.

In Case Study 2, the cooperation was achieved through participation in an international event held in Den Haag, organised by La Via Campesina in liaison with Navdanya and numerous other movement organisations from across the globe, International People's Tribunal of Monsanto. The Tribunal was held over two days, wherein delegates, victims and experts offered testimonies about the numerous wrongdoings committed by Monsanto across the globe, to a panel of expert judges from the International Court of Justice. The purpose of the Tribunal was to ascertain legitimate grounds to charge Monsanto with crimes against humanity. In parallel to the Tribunal, La Via Campesina held series of lectures, workshops and seminars where delegates, experts and victims shared knowledge and information which formed a larger report on the crimes committed by Monsanto. The researcher participated in the Tribunal and several workshops, as well as seminars, reporting on the research findings on Indian farmers' experience of Bt cotton. The report included a brief into the promises made by Monsanto and cotton producers' lived experience of Bt hybrids. Accordingly, the Bt cotton proved non-viable in the Indian context, and indeed, harmful where farmers lost crops due to failure of Bt technology to protect the yield potential from insects. It is on the basis of cooperation and engagement with participants that this research fits into a broader spectrum of "activist research".

### **3.3 Multiple-case study approach**

The choice of case study approach was influenced by the methodological perspective adopted in the research. This research required an approach wherein, the empirical content is not the sole objective, but rather a means of attaining an understanding of deeper dynamics that cause state-corporate crime; where data can be presented with interconnections between various elements of phenomenon; where the phenomenon is looked at as a whole and part of a greater totality (Stake, 1995; Yin, 2003; Flyvbjerg, 2006). The rationale for a multiple case study approach relates back to the overarching aims of the study. The research was conducted into two different cases to see how illegitimate state-corporate conduct becomes defined as criminal in contexts with different historical trajectories of capitalism. By studying how social movements employ direct action in different contexts – one in the UK and the other in India – and in different fields of social struggle – anti-arms trade campaigning and opposition of

globalisation – the research could inquire how trajectories of capitalist development and traditions of resistance shaped the outcome of these struggles.

### 3.3.1 Defining the case study

A case study is ‘an empirical inquiry that investigates a contemporary phenomenon within its real-life context’ (Yin, 2003: 13; see also Flyvbjerg, 2006; Baxter and Jack, 2008). Social phenomena contain processes and relations that are, often, concealed. By means of a case study a social scientist can show how these relations and processes play out in real life experience of human beings. Case studies are used when ‘an empirical inquiry must examine a contemporary phenomenon in its real-life context, especially when the boundaries between phenomenon and context are not evident’ (Yin, 1981: 98). It is also an ideal approach to research ‘when a holistic depth investigation is needed’ (Tellis, 1997: 1). There are manifold definitions of a case study, some that treat it as a method or methodology (Fidel, 1987; Stake, 1995; Yin, 2003), and others that describe it, quite simply, as a research design or a strategy (Yin, 1981; Gerring, 2004). The case study can be broadly defined as an empirical investigation ‘informed by the interpretive paradigm’ (Sarantakos 2005: 212), which seeks to explore social phenomenon in its context.

Wynsberghe and Khan (2007: 90) defines the case study as ‘a [transdisciplinary] heuristic that enables the circumscription of the unit of analysis...and...involves the careful delineation of the phenomena for which evidence is being collected (event, concept, program, process, etc.).’ The case study is not the end goal, but a device or a vehicle used to uncover the dynamics hidden in it. It is the preferred method when research tries to answer questions ‘how’ and ‘why’, particularly in a ‘real-life context’ (Yin, 1981). In Fidel’s (1984: 274) words, case studies attempt ‘on the one hand, to arrive at a comprehensive understanding of the event under study but at the same time to develop more general theoretical statements about regularities in the observed phenomenon.’ Stake (2005: 438) emphasised that ‘case study is not a methodological choice, but a choice of what is to be studied.’ The case study approach offers methodological guidance on the design of empirical inquiry, and guidance on research methods with a broad range of data collection techniques.

Stake (1995) distinguishes between intrinsic, instrumental or collective (multiple) case studies. An intrinsic case study isolates the case with no expectation of generalisation to similar cases. Yin (2003) adds three more useful dimensions: descriptive, exploratory or explanatory. An intrinsic case study is one wherein the case itself is of specific interest, rather

than a phenomenon or a hidden dynamic. An instrumental case study is used to gain insight into an issue or to refine theory. The case is of secondary interest and facilitates understanding of something hidden in the case. Though, the case is looked at in depth, its context anatomised, and events detailed, it serves as a means of excavating hidden meaning (Stake, 1995). The multiple case study uses a variety of cases to explore a specific issue, concept or condition and commonly involves a wide geographical scope, and it can be used to replicate theory and draw comparisons. The descriptive case study describes a phenomenon in its real-life context, it also describes participants experiences in the context of events; exploratory case study explores phenomena that have no clear set of outcomes; explanatory case study explains causal dynamics of a phenomenon in real-life context (Yin, 2003).

Baxter and Jack (2008: 551) suggest an instrumental case study works well when coupled with a multiple case study design. The special feature of the instrumental case study is the analysis of phenomenon across settings (Stake, 1995). It allows a theoretical analysis of the same phenomenon in different contexts. Drawing on this typology, this thesis adopts the instrumental, multiple case study approach with an explanatory dimension. The inquiry is framed around social issues, i.e. harms caused by states and corporations, and social censure; it seeks to refine concepts of state-corporate crime and resistance; it attempts to further advance a Marxist approach to the study of state-corporate criminality; and, it attempts to deduce theoretical insight with broader application than the cases themselves.

When building a case study, the researcher considers, in order: research questions; proposition(s); unit(s) of analysis; the linkages between the data and propositions; and, criteria for interpreting the findings (Yin, 1994). Research questions concern the phenomenon studied, they, then, guide the proposition and inform what the case (Baxter and Jack, 2008). The unit of analysis is the case itself. When selecting a case, the researcher makes important decisions about what kind of information is needed, where are the sources of that information and what is the most optimal means of obtaining it (Baxter and Jack, 2008). A case study approach involves the iterative-parallel strategy, which refers to research that is intuitive in character, rather than pre-structured and determinate, each stage of the research informs the next with emerging design and the research itself is a dialectical process (Stake, 1978; Seawright and Gerring, 2008). Case study designs do not have a set reporting format, the final report can take any structure and form, depending on the investigator's experience (Tellis, 1997). Notwithstanding, guided by a dialectical tradition the final report of the empirical findings was narrated as a story with sequences of events, descriptions, explanations and linkages (Yin, 1981; Lewis, 2003; Flyvbjerg, 2006; Seawright and Gerring, 2008). The distinct feature of a narrative report is that it presents the findings as a context-bound whole.

### 3.3.2 The narrative in case study research

Case studies produce, what Flyvbjerg (2006) called, ‘context-dependent knowledge’. As such, case studies feature complex descriptions, which are holistic and involve interconnected variables; the writing style is narrative and comparisons are implicit (Stake, 1978). Description is a natural outcome of a case study, to describe is to categorise, and when categorisation is informed by a rigorous theoretical analysis, then it can generate a much richer and meaningful understanding of social reality (see Tombs, 2012). Through a narrative, case studies retain the essential characteristic of real-life events. Social reality does not present itself as a set of ordered categories, rather it is dynamic, ambiguous, and constantly changing. Case studies are expansionist rather than reductionist, proliferating rather than narrowing down (Yin, 2003). Descriptions do not make the study ‘descriptive’, as they are accompanied by evaluation, explanations and theoretical analysis (Flyvbjerg, 2006). The linking of the empirical data to the research questions and propositions are not always explicit in case study designs. When the final report follows a narrative form, the data tells the story. Because the empirical content of the case is context specific, the data itself does not offer explanations of the studied phenomenon (Tellis, 1997). It is the task of theoretical mediation to enrich empirical data and explain what is happening.

According to Flyvbjerg (2006: 21) ‘a thick narrative is a sign that the study has uncovered a particularly rich problematic’. This may be thought as a weakness, however a ‘rich problematic’ means that understanding of the phenomenon requires a deeper, more thoughtful explanation. A narrative in a case study forms a *story*, wherein sequence of events, actions, objects etc. are presented as a whole, in a way that each element is understood through its relation to the whole (Elliot, 2005). Narratives connect events and give them meaning so as to present a fuller picture of the phenomenon. A narrative framework is chronological – it represents sequences of events – and all events are meaningful (Elliot, 2005). A narrative inquiry depends on the social context in which the events happened (Fidel, 1984). Events cannot be separated from their contextual and historical specificity. Without the social context respondents’ accounts would hang in a vacuum.

### 3.3.3 Strengths and limitations of the case study approach

The key strength of case study research is the wide spectrum of available sources and data collection techniques, which supports research validity (Tellis, 1997; Sarantakos, 2005; Flyvbjerg, 2006; Baxter and Jack, 2008; Kumar 2011). Case studies retain the essential

characteristic of real-life events (Flyvbjerg, 2006; Gomm, 2008). The focus of the case study is on 'direct and verifiable life experiences', the respondents are treated as 'experts' and not simply 'sources of data' (Sarantakos, 2005: 2012-16). The common criticisms of case studies are found on the empiricist derision of qualitative research. The first, case study findings cannot be generalised to a population across variety of cases (Yin, 1993). The second, case studies are vulnerable to subjective bias, its results lacking in objectivity, validity and reliability (Flyvbjerg, 2006). The third, findings produced by a case study can be ambiguous and indeterminate (Gerring, 2004). Lastly, a case study approach is said to lack scientific rigour because of flexibility, researcher's and participants' subjectivity, and intuitive approach (Fidel, 1984; Stake, 1995).

In response, case studies, firstly, do not seek to produce inductive generalisations across a demographic, nor to enumerate frequencies (Yin, 2003). The main purpose is discovering unique interactions, events and cause-effect connections as well as verifying a theory, not generalizability (Bryman; 2008). Having said this, unlike experiments or surveys, case studies can produce analytical generalisations rather than statistics, by replicating an analytical approach across multiple cases (Yin, 2009; Shakir, 2002). Secondly, the question of subjective bias is not unique to a case study approach or qualitative research, it is something that all research methodologies deal with. There are several ways in which case study research assures greater objectivity and to mitigate subjective bias. For example, the use of multiple sources of data to corroborate evidence and interviews with actors from a broad spectrum of opinion (Baxter and Jack, 2008). Additionally, heterogenous sampling assures that accounts and testimonies reflect a spectrum of views, evidence and perspectives. Yet, it is accepted that personal impressions will always subjectively influence the research (Yin, 2003). Objectivity is the merit of exploration.

The third criticism can be answered with classical philosophy. In *Novum Organum*, Bacon (1886: 391) insisted that 'the human understanding, from its peculiar nature, easily supposes a greater degree of order and equality in things than it really finds; and although many things in nature be *sui generis* and most irregular, will yet invent parallels and conjugates and relatives, where no such thing is.' Bacon held that the idea that things and phenomena occur as human mind constructs them is highly erroneous. Reality is complex and dynamic, while 'human understanding is prone to abstraction, and supposes that which is fluctuating to be fixed...it is better to dissect than abstract' (Bacon, 1886: 394). On a similar front, Nietzsche (1974: 335, italics original) argued that 'above all, one should not wish to divest existence of its *rich ambiguity*.' The purpose of research is, not to simplify social reality,

but to enrich empirical data with meaningful representations that penetrate the empirical appearance and presents reality in its dynamic and concrete form.

Lastly, scientific rigour is established through focus, coherent design and clearly stated research questions that guide the research process (Stake, 1995; Yin, 2003; Baxter and Jack, 2008; Seawright and Gerring, 2008). Research questions are developed through an extensive literature review, these questions then guide the inquiry into a particular case and the kind of information the researcher seeks (Yin, 1994; Stake, 1995). Case study research starts with a general issue or phenomenon, and then establishes that phenomenon in the context of the case through research (Lewis, 2003). Additionally, case study research achieves scientific rigour by using multiple data sources, which corroborates facts and verifies findings. Case study research, however, does not require the same level of planning as other research methodologies (Fidel, 1984). The research is guided as much by what the researcher sees in the field as by the conceptual and theoretical frameworks. Case studies afford a lot of space for flexibility, adjustability and adaptation to changing circumstances. These are the kinds of matters that must be bore in mind when designing research and building case studies.

### 3.3.4 Multiple-case study design and instrumental cases

In this thesis, the analysis focuses on events, practices and process. It tries to understand how state-corporate crime events occur – what are the specific practices that produce them – and how do they acquire the quality of being criminal – through what social practices are they defined as deviant/criminal. To investigate this empirically the research employed a multiple-case study design and used an instrumental case study approach to both cases. In Yin's (1981: 101) words, 'multiple-case designs are appropriate when the same phenomenon is thought to exist in a variety of situations.' The same phenomenon was studied in different contexts. However, the successful use of multiple-case study design requires that individual cases follow within-case design (Yin, 1981). The individual cases followed the instrumental design, wherein a case is used to reveal more than is empirically perceivable (Tellis, 1997). As Stake (1995) defined it, an instrumental case is of secondary interest, it facilitates empirical understanding of a phenomenon and testing the explanatory power of a theory.

Multiple-case study design allows the researcher to identify complementary elements of the phenomenon by analysing it across settings or contexts (Baxter and Jack, 2008). Comparison in a multiple-case study is implicit, rather than explicit, as comparison is not the

objective, but rather follows a ‘replication logic’ (Tellis, 1997: 5). The researcher should be able to replicate the analysis across different case studies. The core aims of the study are to understand the phenomena of state-corporate crime and resistance. Nonetheless, the case study context is important to understanding how different trajectories of capitalist development, and associated traditions of resistance, mediate the outcome of censure through direct action. The contextual divergence of case studies strengthens the theory.

Case studies are structured around the context of a case, but what is being examined is determined by the research questions (Lewis, 2003). Following the instrumental multiple-case study design the two cases state from the outset what is the phenomenon studied and follow similar structure that explores the same type of processes and practices, only articulated through different forms (Lewis, 2003). The topics investigated through the cases are steered by the stated research questions. Pursuing the research questions (see section 3.3.5), the cases follow a similar structure: 1) they outline the historical context of the case exploring the trajectories of resistance traditions and background of state-corporate crime events, 2) document the state-corporate practices (regulation, policymaking, business operations) that produced the events which were censured and stigmatised as deviant, and 3) document direct action campaigns and resistance process through which censured state-corporate practices were stigmatised as deviant. This structural sequence guided the data collection process and the analysis.

The type of research questions has a major influence over the design of the research. According to Sjoberg et al (1991) “what” questions signify an exploratory or descriptive study, whereas “how” questions are used in explanatory studies. A study can contain both types of questions, which would signify that the study seeks to explore and explain (Yin, 2003). In designing a case study research the researcher must establish research questions early on, as they will steer the strategy. The types of research questions, i.e. “what” and “how”, led to an exploratory-explanatory strategy. The cases explore the historical trajectory of resistance communities in the cases and the historical specificity of state-corporate practices; they then explain how these practices produced harmful events and explain the social process through which these practices were defined as deviant. Subsequently, the research questions determine the choice of units of analysis, e.g. individuals, groups, communities, organisations, institutions, nations, civilisation, economic system etc. (Sjoberg et al, 1991). The units of analysis in these cases are the resistance communities (i.e. activist groups, social movements, non-governmental organisations and associations), organisations (i.e. capitalist enterprises) and states.

The design, strategy and units of analysis all influence the choice of interview participants or samples. Participants are individuals who are integral to the case itself, for example through engagement in events explored in the study or expert knowledge on certain topic (Sjoberg et al, 1991). Thus, sampling in the instrumental multiple-case study design is strategic and purposive. Moreover, the research questions and strategy guided the researcher in determining what type of information was needed (Seawright and Gerring, 2008). Once the type of information sought is established, the researcher can then start to identify the relevant sources and techniques of data collection (Baxter and Jack, 2008; Stake, 2005). The sources and data convergence techniques are outlined in Section 3.4. Before outlining the research methods employed to collect empirical data, one must consider the research aims and research questions that guided the study.

### 3.3.5 Research aims and questions

In line with the conceptualised dimensions of state-corporate crime, this study aims to understand the relations and processes that create the possibility of illegitimate state-corporate conduct, and those social processes through which illegitimate state-corporate conduct acquires the quality of being criminal. These overarching aims are achieved by analysing censure of socially harmful and illegitimate state-corporate practices through direct action campaigns. The study explains the causal dynamics of state-corporate crime events by analysing practices constitutive of neoliberal capitalism. These overarching objectives are accompanied by the following subsidiary aims:

- Conceptualise the social metabolism, social practice and tactical repertoires through which state-corporate practices are censured and defined as criminal.
- Empirically document how social audiences censure state institutions and corporate entities who engage in harmful practices that contravene fundamental conduct norms.
- Theorise the causal dynamics of state-corporate practices by appropriating Marxist categories to develop a richer analysis of criminogenic factors of state-corporate symbiosis.

The aims and objective were achieved by answering four research questions:

1. How do resistance communities from different historical trajectories of social struggle mobilise, strategise, and inscribe deviancy labels, practically using direct action?
2. What were the particular features of state-corporate practices that triggered a response from civil society and social opprobrium by resistance communities?
3. How did censure configured through direct action affect the targeted state-corporate conduct?
4. How did state-corporate institutions counter resistance to reduce the impact of censure, and what were the outcomes?

### 3.3.6 Selecting the case studies

Selection of cases, according to Seawright and Gerring (2008), should be based *inter alia* on methodology and theoretical propositions, not merely pragmatic rationale. Case selection is, also, guided by study aims, research questions and subject matter/issues (Yin, 2003; Stake, 1995; Patton, 2002). Issues that the research explores can serve as criteria for selecting specific cases (Patton, 2002). Before deciding on the cases, the researcher must ensure that all the issues of interest are present in the cases. In multiple-case study design, where theoretical replication is intended, the selecting process must consider the difference in setting and context (Shakir, 2002). Cases must have divergent setting in order to effectively replicate theoretical analysis. The theoretical and methodological approach should be able to explain a phenomenon occurring in different settings (Shakir, 2002). Patton (2002) offers sixteen purposeful sampling strategies that can be used for selecting cases studies: extreme case, intensity sampling, maximum variation, homogenous sampling, typical case, critical case, chain (snowball) sampling, criterion sampling, theory-based sampling, confirming and disconfirming cases, stratified purposeful cases, opportunistic or emergent cases, purposeful random cases, politically important cases, convenience sampling and combination sampling.

Shakir (2002) clustered Patton's strategies into three distinct groups: 1) significant cases, 2) different cases, and 3) and fieldwork/theory determined cases. The second cluster

contains maximum variation, random purposeful or the stratified purposeful case strategies. Maximum variation purposefully picks cases that exhibit empirical variation, in order to investigate a phenomenon in different contexts; random purposeful cases are selected to increase credibility of theory or analytical approach; and, stratified purposeful cases illustrate characteristics of subgroups of interest (Patton, 2002: 243-4). The combination of strategies allows broader criteria for case selection (Shakir, 2002). The 'different cases' strategy facilitates the analysis of a single phenomenon in diverse settings, where empirical variation causes the expression of the phenomenon to take contextually different forms (Shakir, 2002; Patton, 2002). The study opted for this strategy because the research seeks to understand how different trajectories of capitalism structure state-corporate practices that are being censured, and how different, historical trajectories of resistance influence the censoring process.

Following these strategies, two disparate cases have been selected: 1) censure of UK-Israel arms exports and a drone company, UAV Engines Ltd., and 2) censure of the Government of India and biotech company, Monsanto. The two cases occur in countries where capitalist development followed very different historical trajectories. The UK was a colonial empire and, arguably, the first fully developed capitalist nation, whereas India was integrated into the capitalist world-system by British imperialism. The different roads of historical development, and different cultural contexts, led to the emergence of distinctive industries, markets and economic landscapes in both countries. These differences account for types of organised capital that emerged in each country, the policy priorities adopted by the governments of these countries, and the ideologies that steer their activities. The distinctive social, political and economic development influences state-corporate conduct. Out of these disparate trajectories of capitalist development emerged very different traditions of resistance, specific to unique histories of social struggle. In Case 1, the anti-arms trade and Palestine solidarity resistance to UK-Israel arms trade is rooted in working-class movements. In Case 2, the anti-Bt cotton resistance to Monsanto and biotechnology is rooted in the struggle for Indian independence, the Hindu-nationalist movement and the anti-globalisation movement.

By exploring how these diverse contexts structure the possibility of illegitimate state-corporate conduct and censure of this conduct through practical forms of resistance, the study can approximate the common features of the social practices involved in these phenomena. This will help reveal the underlying relations and processes that make these phenomena occur. This is achieved by stripping the cases of the empirical variations to reveal the structural relations and processes (Ilyenkov, 1979). Furthermore, investigation of a single phenomenon in two different settings tests the ability of a theoretical approach to explain how a phenomenon occurs. The selection of the two cases was influenced by the subject matter

examined in Chapter II. The cases were selected on the basis that there was a clear interaction between a state and a corporation mediated by regulation and policy, and an exposure by resistance campaigners of social harm caused by state-corporate activities. The use of direct action by resistance actors to censure state-corporate activities was a key criterion for selecting the case studies.

The cases of resistance to state-corporate crime in the UK and India were selected because they contained the essential criteria. The first, the relationship between the states and the corporations was mediated by regulation and policy. The second, the state-corporate activities were censured by resistance movements and a social harm was exposed. The third, the resistance movements employed direct action to censure respective institutions. The fourth, the two cases differed in terms of: the history of capitalist development, the history of social struggle and emergent resistance traditions, and the field of struggle – Case 1 revolves around the defence industry and UK arms exports to Israel; Case 2 revolves around the biotechnology industry and introduction of a transgenic cash crop to India. These empirical differences influenced the type of data sources used in the case studies. The next section outlines the choices of the data collection techniques and analysis.

### **3.4 Data collection, analysis and ethical considerations**

The above section discussed the Marxist dialectical method that underlies the study's methodological approach and the multiple-case study design of the empirical research. This section outlines the data collection techniques, analysis of the raw data and ethical considerations. The data was collected using multiple techniques and sources. As Baxter and Jack (2008: 554) put it, the 'hallmark of case study research is the use of multiple data sources, a strategy which also enhances data credibility.' This research employed a mixture of interviews and documentary research. Selection of interview participants was conducted through purposive sampling, heterogenous sampling and snowball sampling. Because case study research tends to be context specific and participants are integral to the case itself, case study research requires a more strategic sampling method (Denzin and Lincoln, 1994; Miles and Huberman, 1994). To distil the empirical findings the crude data was organised by means of thematic (analysis) coding. Thematic coding is particularly useful where data sets are made up of texts from a diverse range of sources (e.g. interviews, documents, archives) and heterogenous samples (Ryan and Bernard, 2003). The study investigated sensitive issues concerning illegitimate state-corporate conduct and legal charges against resistance actors, which were addressed through a Research Protocol (Appendix 1). This section outlines how

the empirical data was collected and analysed; the fieldwork procedures; and, ethical considerations.

### 3.4.1 Data collection techniques and sampling methods

Case study research is characterised by multiple data sources (Denzin and Lincoln, 2000; Gerring, 2004; Baxter and Jack, 2008). The use of multiple sources and data collection techniques facilitates a ‘holistic understanding’ of the studied phenomenon and triangulation of evidence (Tellis, 1997; Baxter and Jack, 2008). The sources of information may include, first-hand accounts and testimonies, documentation, archival records, artefacts, direct observations, media records etc. (Stake, 1995; Tellis, 1997; Yin, 2003; Baxter and Jack, 2008; Noor, 2008). The sources of data in this research were divided into primary and secondary sources.

The data for this study was obtained from: first-hand testimonies and accounts, grey documents (NGO reports, government reports, policy documents, freedom of information [FOI] releases), legal case files, media records, archival records, video resources. Tellis (1997: 12) posited that ‘the rationale for using multiple sources of data is the triangulation of evidence.’ Triangulation corroborates evidence, confirms facts and increases the overall reliability of empirical data (Denzin, 1978). The form of triangulation that uses multiple sources of data to corroborate evidence is called ‘data source triangulation’ (Denzin, 1978). Because the case studies differed in context, there was a variation in the sources between two cases. Case Study 1 included interview testimonies, legal case files, grey documents, media record, and FOI releases. Case Study 2 included interview testimonies, video resources, grey documents, media records and archival records.

The research was conducted through qualitative interviews and documentary research. Interviews were selected because they offer meaningful, rich and verifiable life experiences or observations; accounts and testimonies are detailed, and they afford the capacity for clarification of answers (Patton, 2002). Interviews contain a reflexive element, i.e. researcher’s reflection on their own subjective world view and mindfulness of their own influence on the research process (Guillemin and Gillman, 2004). In case study research, respondents are seen as experts and agents, not mere data sources (Patton, 2002). The course and responses of an interview are guided by the direction of the conversation (Arthur and Nazroo, 2003). There is a spectrum of interviews, which is based on the amount of control the researcher exercises over the course of interaction (Arthur and Nazroo, 2003; Hopf, 2004).

The spectrum includes structured, semi-structured and unstructured interviews. This research employed the middle ground of the interview spectrum, viz. semi-structured interviews.

The use of multiple sources of data poses a technical challenge in terms of managing and organising the data. The diversity of sources and data collection techniques requires a rigorous protocol that indicates topics to be investigated and the type of data required (Yin, 1981). There is a danger of collecting an overwhelming amount of information that might not contribute to the study. Due to the wide range of data sources the researcher has to assure all the evidence converges on similar facts (Yin, 2009; Stake, 1995). This is ascertained through analysis during the data collection process. Baxter and Jack (2008) recommend the use of computer qualitative data analysis software, where data can be stored, organised and analysed independently. In this study the researcher employed NVivo. Computer software offers different analytical instruments for coding and generating themes (Baxter and Jack, 2008; Seawright and Gerring, 2008). Nevertheless, early understanding of the case context is crucial for decisions about what type of information must be collected, wherefrom will it be sourced and who are the potential interview participants (Lewis, 2003). This is established by learning about the context of a case through literature review and background research, internet searches and media research.

#### 3.4.1.1 Semi-structured interviews

Testimonies and accounts were collected by means of semi-structured interviews, also known as conversational or informal interviews. Longhurst (2016: 147) explains that semi-structured interviews ‘unfold in a conversational manner offering participants the chance to explore issues they feel are important.’ In a semi-structured interview, the questions and answers are guided by the conversation flow (Barriball and While, 1994; Bailey, 2007; Zucker, 2009; Longhurst, 2016). Semi-structured interviews allow for the exchange of information to flow naturally, and thus, information evolves out of the conversation (Barriball and While, 1994). The outcome is unexpected responses, which is particularly beneficial where sensitive issues are explored and information is difficult to access (Bailey, 2007; Zucker, 2009). Semi-structured interviews are well suited where complex and sensitive issues require clarification by the respondent; where varied sampled group precludes the use of structured interview schedule (Barriball and While, 1994; Bernard, 1995). Schedules in semi-structured interviews contain prompts, rather than set questions (Patton, 2002; Zucker, 2009). This affords greater flexibility and a conversational style of interviewing. This form of

interview schedule is, also, suited to broader range of sample groups, where different questions are designed for each interview group.

This research used open-ended questions, which are preferred in semi-structured interviews. Open-ended questions have no answer categories or patterns, rather answer categories are provided by the respondent. Frey (2004) and Ballau (2008) concur that open-ended question allow the interviewees to answer in their own terms or in a manner that reflects their own perceptions, rather than those of the researcher. Ballau (2008: 549) posited that ‘this structure gives respondents more freedom in crafting an answer and increases the cognitive effort.’ Since the respondent is not given a choice of answers, the respondent performs an additional cognitive task before responding. In this way, the interview data is immersed in a story with a context, a beginning, a middle and an end. However, there are technical drawbacks: interviews are more time-consuming than, say, questionnaires; and, the quality of data depends on the quality of interaction between the interviewer and the interviewee (Barriball and While, 1994; Hopf, 2004). To mitigate these limitations, the interview process was guided by a rigorous protocol. The protocol included an interview schedule, timeframe for interview process and strategically arranged interviews with NGO organisers who had access to a large number of potential respondents.

Semi-structured interviews were employed in this research because of the following considerations. First, the research sought classified information that was difficult to access. Semi-structured interviews helped to focus the inquiry during the research process, constantly narrowing down and adjusting parameters of the study. Second, the researcher had a single opportunity to interview “elite” actors (government officials, NGO and movement leaders) and activists. The sensitive nature of the research meant that a lot of time had to be devoted to establishing trust with campaigners and activists. There were, additionally, time constraints and part of the fieldwork was conducted in India, which meant travelling abroad for extended period of time. Second, the complexity of the investigated issues required thorough explanations by the respondents. The use of open-ended questions allowed the respondents to give more information, clarify answers and explain issues. Third, due to the heterogenous sample group the interviews required different sets of questions.

#### 3.4.1.2 Interview sampling methods

Case study research seeks idiosyncratic evidence, which, empirically, cannot be generalised because it is specific to the case context (Fidel, 1984; Wynsberghe, 2007; Zucker,

2009). Interview respondents are integral to the case and must have special knowledge of the context and events. Thereupon, this research employed purposive sampling method. Palinkas et al (2015) noted that purposive sampling involves ‘identifying and selecting individuals or groups of individuals that are especially knowledgeable about or experienced with a phenomenon of interest.’ There are several approaches available to purposive sampling to further narrow down or specify sample groups, e.g. intensity sampling, stratified sampling, homogenous sampling, heterogenous sampling etc (Ritchie et al, 2003). Where the researcher seeks maximum variation in participants to capture wide range of perspectives or opposing views to the phenomenon or case studied, the preferred approach is heterogenous sampling (Ritchie et al, 2003). Heterogenous sampling can corroborate facts and it broadens the spectrum of perspectives, which reduces the possibility of bias. These sampling methods were selected because of the following reasons.

First, the study required specialist and context-bound information concerning government policy, regulation, sequence of events in resistance campaigns, the motivations behind direct actions, claims of illegitimate state-corporate conduct and evidence thereof, rationale behind specific strategies of resistance, and information about responses from state authorities. Second, the specialist information on different topics within the explored issues was dispersed between diverse and opposing groups of social actors. Interview participants in Case Study 1 were activists, NGO representatives and leaders, politician, and government officials. Interview participants in Case Study 2 included activists, NGO leaders and representatives, movement leaders, scientists and state officials. The researcher sought perspectives from all sides of the case to achieve an impartial view of the events.

Interview participants were also identified in the fieldwork by means of snowball sampling or chain-referral sampling method. This method ‘yields a study sample through referrals made among people who share or know of others who possess some characteristics that are of research interest’ (Biernacki and Waldorf, 1981: 141). This type of sampling is well suited for studies that investigate sensitive issues or require the knowledge of insiders to locate interviewees (Biernacki and Waldorff, 1981). The danger of this approach is limited sample diversity, leading to subjective bias, though it is easily avoided by specifying the characteristics or type of information required when asking for referral to other participants (Biernacki and Waldorff, 1981). Gaining respondents’ trust was the primary problem in the interview process. Finding and becoming acquainted with gatekeepers – NGO representatives and activist leaders – was essential to gain access to resistance actors and campaigners. Chain referral sampling proved a very effective method in this respect.

The gatekeepers were identified through internet searches at an early stage of the study during background research on the cases and their context. A short list of sample groups was devised: activists, NGO actors, and state-corporate actors (i.e. government officials, politicians and company officials). The researcher, firstly, contacted respective NGOs and state-corporate actors introducing the research project by means of a formal letter. After establishing initial contact NGO and state-corporate actors were asked to participate in the study. Once in the field, the NGO actors referred the researcher to individuals involved in the investigated direct-action campaigns and individuals with expert knowledge on the cases. In Case Study 1 the gatekeepers were NGO reps from War on Want and the Coalition Against Arms Trade. In Case Study 2 the gatekeepers were leaders of KRRS, La Via Campesina volunteers and Coalition for GM-Free India organisers.

#### 3.4.1.3 The interview process

Employing semi-structured interviews, the interviews were conducted in informal, conversational style and with open-ended. The schedules contained different prompts for each sample group (Appendix 2). The interviews were conducted in person or via Skype where respondents could not meet in person. To conduct interviews with respondents from Case Study 2 the research was taken to India. In person interviews were conducted in community hubs, cafes, NGO offices and public spaces. As tables 1 and 2 show (pp. 77), total of 29 interviews were conducted, 4 Skype interviews and 24 in person interviews. Case Study 1 has 12 interviews, and Case Study 2 has 16 interviews. For Case Study 1 the following number of actors were interviewed: 6 London Palestine Action activists, 3 NGO reps (the founder of Drone Wars UK, 1 CAAT organiser and 1 War on Want rep), and 3 state actors (1 Conservative Party MP, 1 MOD official and 1 regulator from ECO). For Case Study 2, the following number of actors were interviewed: 5 KRRS members, 4 CGMFI campaigners, 1 Navdanya representative, 1 Gene Campaign rep, 1 land owner and a representative of a farmers' union, 3 independent researchers and 3 agricultural scientists.

*Table 1: Case Study 1 participants<sup>3</sup>*

<b>Interview</b>	<b>Location</b>	<b>Organisation</b>	<b>Date</b>
Mikhail Botvinnik	London	London Palestine Action	29/01/2016
Lydia Litvyak	London	Campaign Against Arms Trade	01/02/2016
Natalia Peshkova	London	War on Want	03/02/2016
Politician	London	The Conservative Party	04/02/2016
Alexander O'Donnell	Skype	London Palestine Action	18/02/2016
Simo Haya	Skype	London Palestine Action	20/02/2016
Lyudmila Pavlichenko	Skype	London Palestine Action	21/05/2016
Vasily Zaytsev	London	London Palestine Action	27/06/2016
Faye Schulman	London	London Palestine Action	27/06/2016
Official A	London	Export Control Organisation	01/07/2016
Official B	London	Ministry of Defence	23/10/2016
Fyodor Okhlopkov	London	Drone Wars UK	24/10/2016

*Table 2: Case Study 2 participants*

<b>Interview</b>	<b>Location</b>	<b>Organisation</b>	<b>Date</b>
Anatole Kuragin	Dehradun, India	Navdanya	07/04/2016
Vasily Denisov	Wardha, India	Coalition for GM-Free India	22/04/2016
Mikhail Kutuzov	Wardha, India	Coalition for GM-Free India	23/04/2016
Nikolai Rostov	Wardha, India	Large farmer	24/04/2016
Marya Karagina	Bangalore, India	Coalition for GM-Free India	12/05/2016
Fedor Dolokhov	Shivamogga, India	Karnataka State Farmers' Association	13/05/2016
Marya Bourienne	India, New Delhi	The Gene Campaign	19/08/2016
Scientist 1	Raichur, India	State Agricultural University, Raichur	27/08/2016

<sup>3</sup> Participants' testimonies were contributed through aliases.

Scientist 2	Raichur, India	State Agricultural University, Raichur	27/08/2016
Scientist 3	Raichur, India	State Agricultural University, Raichur	27/08/2016
Boris Drubetskoy	Raichur, India	Karnataka State Farmers' Association	28/08/2016
Pierre Bezukhov	Raichur, India	Karnataka State Farmers' Association	26/08/2016
Barclay de Tolly	Mysore, India	Independent Researcher	15/09/2016
Prince Bagration	Mysore, India	Independent Researcher	16/09/2016
Marya Bolkonskaya	Mysore, India	Karnataka State Farmers' Association	18/09/2016
B. Wilarski	Skype	Coalition for GM-Free India	30/10/2016

Testimonies were audio recorded and transcribed as soon as it was practicable. Verbatim accounts and testimonies in form of recordings and transcripts allow the researcher to revisit the original data (Silverman, 2005). The limitation of audio-recordings is their inability to capture non-verbal communication or signals (Bailey, 2007). The interviewing stage lasted ten months, from January to October 2016. Due to extensive travelling involved in research there were intervals in the interviewing process. During these intervals, documentary data was being compiled. The transcripts were generated during and right after the interviewing stage. Of course, transcribing during, as opposed post-fieldwork, affords the researcher awareness of emerging themes (Bailey, 2007). In a case study, this is important for sequencing events and collected data can inform further themes. Albeit, because of the extensive amount of documentary data being collected simultaneously, transcription was not always practicable. To keep on top of interview data, the researcher kept notes of emerging themes and unexpected information forged immediately after interviews.

Several problems were encountered. Due to the sensitive nature of the research activists, as well as government and company officials, were apprehensive about participating in the study. Managers from UEL and MMB refused to participate in the research. A UEL manager proclaimed in email correspondence that the company does not manufacture drones for use by the IDF, while MMB ignored multiple audience requests. Several activists from the LPA refused participation in the project due to personal reasons. However, information was supplemented with statements found in court case files. A few LPA activists were

apprehensive about one-to-one interviews; therefore, group interviews were conducted to make respondents feel more comfortable. Important respondents from Navdanya, in India, turned down interview requests due to busy schedules.

In the Indian case study, cultural and language barriers had to be resolved. While cultural barriers were overcome with the support from key gatekeepers, language barriers were resolved by hiring an interpreter. Two of the interviewed KRRS activists did not speak fluent English and the researcher did not speak Hindi nor vernacular languages. A La Via Campesina volunteer was hired as an interpreter who accompanied the researcher to the two interviews for a small financial reward. An issue occurred when a regulatory officer who refused to be audio-recorded. In response, the researcher wrote down abbreviated answers. However, the officer pulled out from the research at the end of the interview and demanded that the researcher leave the premises. To verify the evidence obtained from the interviews and to obtain the detail about state-corporate practices the study included extensive documentary research.

#### 3.4.1.4 Documentary research and triangulation

Data source triangulation was conducted through extensive documentary research. A wide range of documentations were reviewed and analysed to corroborate evidence, verify certain facts stated by interviewees and to gain detailed information about state-corporate practices that were perceived as illegitimate by resistance actors and thereby censured. Triangulation entails the employment of a series of research instruments to verify facts, events and linkages (Ritchie, 2003; Flick, 2004). The documentary research employed was, also, used to add breadth and depth to the analysis (Fielding and Fielding, 1986). It can be revealing to understand why inconsistencies occur or how can different sets of data produce different findings (Bailey, 2007). Analysis of documentary evidence proved pertinent in three ways. Firstly, it helped to set the background context of the case studies. Secondly, the campaign claims activists made in censuring corporate entities and governments were verified. Thirdly, the interrelations between corporate entities and state institutions were confirmed.

The documentary evidence differed between the two cases. Case Study 1 used policy documents, regulatory legislation, House of Commons Question Time records, parliamentary committees' reports, export licence data, government and NGO reports, court case files and media records. Case Study 2 used policy documents, regulatory legislation, government and NGO reports, media records, published research, workshops and interviews archived on

YouTube. The documentary evidence was obtained through internet searches, FOI requests, email correspondence and NGOs. In Case Study 1, the main sources of NGO documents were DroneWars UK, War on Want and CAAT. In Case Study 2, the main sources of NGO documentation were Navdanya and the Gene Campaign. Having such a wide variety of data sources secures a fuller picture of the phenomenon (Lewis and Ritchie, 2003). In this sense, the research was holistic, as each data set added a unique piece to the entire puzzle. The use of multiple sources has, also, made findings more precise.

In Case Study 1, the use of export licence data and policy documents verified the allegation that the UK government has certified the export of drones, manufactured by UEL, to Israel. The evidence in case files, verified activists' conjecture that the UEL was hiding their business operation and export licences to conceal the use of their drones by the IDF in Gaza. NGO reports were used to set the context of the case study. The context entailed the background to the Israeli use of drones in Gaza, UEL's and Elbit Systems' operations, and the backstory to the Operation Protective Edge. In Case Study 2 secondary research, media records, government reports and NGO reports refuted censoring actors' claims about the direct link between MMB's Bt cotton and farmers' suicides. On further investigation, testimonies from scientists, the Gene Campaign and Coalition for GM-Free India countered earlier suppositions. It turned out, that claims made by KRRS and Navdanya were highly hyperbolised. Similarly, to Case Study 1, publications and reports by NGOs, mainly Navdanya and the Gene Campaign, were used to lay down the context of the case.

### 3.4.2 Data analysis, thematic coding and case study narrative

The first step toward analytical interpretation of empirical findings is to organise and code raw data (Baxter and Jack, 2008; Liamputtong, 2009). Data in case study research can be coded through various methods, including: pattern matching, time-series analysis, discourse analysis, cross-case synthesis, direct interpretation, categorical aggregation and thematic analysis(coding) (Stake, 1995; Yin, 2003). The data in this research was organised by means of thematic coding. Thematic coding involves identifying repeated patterns of meaning, assorting them into themes, and finding links between them (Braun and Clarke, 2006). This method was employed because the study pursues a 'holistic understanding' of resistance to state-corporate crime and because the data consisted of multiple sources (Stake, 1978; Denzin, 1974; Yin, 2003). Holism is a philosophy which considers a phenomenon as a totality made up of interconnected parts, rather than isolated variables (Stake, 1978; Verschuren, 2001). Following this philosophical tradition, 'each data source is only one piece

of the “puzzle”, with each piece contributing to the researcher’s understanding of the whole phenomenon, rather than its individual parts or contributing factors’ (Baxter and Jack, 2008: 554). The diversity of sources makes organisation of data difficult in terms of finding corresponding evidence or points of information (Tellis, 1997; Lewis, 2003). By generating themes, the researcher is able to group information from diverse sources into themes that represent events and process that contributed to the phenomenon as a whole.

Themes can guide the researcher in drawing links between diverse sets of information (Patton, 2002). In holistically driven case study research the aim is not to identify patterns in diverse data sets to generate correlating variables, but to extract information about events or processes that contributed to the studied phenomenon (Stake, 1995). In this research themes represent events and processes, which contain pieces of different information that contribute to understanding the phenomenon as a whole. The themes serve the purpose of organising data, they are not definite categories in themselves. It is the task of theoretical analysis to infuse coded data with deeper and concrete meaning (Bukharin, 2005; Banaji, 2010; Lasslett, 2010b, 2014b). Themes are unique to the content of the case; thus, they cannot be replicated across cases. They acquire a more general meaning through theoretical distillation. Once data is coded and analysed it can be presented with all its interconnected elements, sequences of events, connexions and processes as a whole.

Thematic coding was assisted by a qualitative data analysis computer software, NVivo, developed by QSR International. The software removes the of manual coding, thereby affording more time to identify themes, links and conclusions (Hilal and Alabri, 2013). NVivo performs five crucial tasks: data management, idea management, data query, visual modelling and reporting (Bailey, 2007). NVivo was used to extract excerpts and organise them into themes, group it according to concepts and topics, interpret the findings through strategic query and utilise the excerpts to report findings. Interview transcripts and documents were transferred to NVivo. Subsequently, the data was broken down into relevant information in form of excerpts. Relevant fragments were identified and segregated into “nodes” that generate themes and organise data. In the subsequent coding stage, themes were put into a sequential order through linking threads. In this way, the data has taken a rudimental form of a whole. As Ilyenkov (1979: 87-8) argued, only when consciousness perceives a thing in its interconnections with all other things, it has understood the individual through the universal interconnections. The data was thought of dialectically. Each data set represented a single piece of the entire puzzle that had to be connected through theoretical contemplation.

The final findings were reported as narrative, whereby events were recounted in a linear fashion and are related to each other creating a depth of meaning (Tellis, 1997; Flyvbjerg, 2006). In this way the narrative reflects temporal causality (Sommers and Gibson, 1994). Meaning in a narrative is created through six elements: 'abstract (a summary of the subject of the narrative); the orientation (time, place, situation, participants); the complicating action (what actually happened); the evaluation (the meaning and significance of the action); the resolution (what finally happened); and lastly the coda, which returns the perspective to the present' (Elliot, 2005: 9). Evaluation is the most central element. The object of evaluation are stories, accounts of experiences, observations, actions and events. The evaluation is a categorical process, whereby the one narrating weaves a linear thread through all the sequences pulling together evidence from various accounts (Labov, 1997). 'Categorical analysis' extracts, classifies and places sections of data text into categories (themes) (Lieblich et al, 1998). Sequencing of events determines how the story is read, for events are dependent upon previous ones. The sequencing imposes a temporal dimension (beginning, middle, ending). Meaning is constructed, not solely through evaluation, but also by structuring a narrative into a story with a beginning, a middle and an end (Elliot, 2005). In this way, the case study is truly presented dialectically, as a whole.

### 3.4.3 Ethical considerations

In accordance with research practice governance, social research must be undertaken in a systematic and accountable manner (Sarantakos, 2005). Researchers are accountable and regulations protect personal information. Ulster University's code of practice ensures that investigations involving human subjects are conducted in a professional and ethical way. There are broad ethical considerations that affected this study. These include, confidentiality, anonymity, privacy, informed consent. the British Society of Criminology's (BSC) code of ethics and the British Sociological Association's (BSA) ethical guidelines (2002) stress that 'the research should be conducted on the freely given informed consent' and that the research must be conducted 'within the confines of privacy and confidentiality, data protection and human rights' (BSC, 2006). Drawing on ethical guidelines composed by BSC, Johnstone (2005) arranges these ethical issues under 'intrusion', 'informed consent' and 'confidentiality and disclosure'. 'Intrusion' refers to sensitive or personal questions; 'informed consent' implies a responsibility to explain the purpose and outcome of the research; 'confidentiality and disclosure' refers to protection of personal information, confidential and anonymity. Also, according to BSA (2002), guarantees of confidentiality and anonymity should be granted to

governments and officials ‘unless there are clear and compelling public interest reasons not to do so.’

Following these guidelines, the research had to consider and address issues concerning respondents’ privacy, confidentiality and investigator’s safety/security. These ethical matters were addressed through a research protocol and a risk assessment. The protocol details research methods, the interview procedures, sample groups and how confidentiality was addressed. The risk assessment details the measures adopted to control inherent risks in relation to traveling abroad for fieldwork. In accordance with research governance at Ulster University, the RG1a and RG1c application forms were completed and submitted to the Research Governance department along with the research protocol, travel plan and record of stay, activities plan, information sheet and interview consent form (Appendix 1).

In an environment marked by legal repercussions for engaging in industrial sabotage, fear of persecution by state authorities, libel, defamation or lose of liberty, privacy and confidentiality is of utmost importance. The respondents were informed about the nature of the study, aims and questions with an information sheet that included a consent form. Participation in the study was based on informed consent, the participants were informed of their right to withdraw from the study, they were asked for permission to audio-record the interviews and keep the testimonies. Respondents had an option of giving written or oral consent. Oral consent was given as an option because some respondents expressed concerns about having their name put on paper. Overall, seven interviews were conducted with oral consent and 22 with written consent (Appendix 3). The respondents’ confidentiality was preserved by anonymising them in the final report, their testimonies were contributed through a pseudonym. Respondents’ privacy was preserved by storing testimonies on a password protected computer, and the investigator was the only person with access to the information. The research also considered the sensitive information disclosed by participants, due to the issues inquired, i.e. illegitimate state and corporate practices. Albeit, no incriminating nor self-deprecating information was disclosed by the participants. Nevertheless, throughout the study the researcher acknowledged the potential for self-deprecating or incriminating information.

In terms of conducting research abroad, in a foreign social, cultural and political environment, there were inherent risks to the researcher’s safety. The safety and security risks were managed by following the Foreign and Commonwealth Office guidelines and recommendation on traveling to India (Appendix 4). The researcher produced a record of stay and plan of activities, which detailed the places to which the researcher travelled within India to conduct interviews. The researcher emailed the supervision team once a week during

fieldwork in India to update them on the research progress and movement. The researcher was accompanied by NGO volunteers (gatekeepers) to gain trust and access to respondents. There were also ethical implications of a Western academic interviewing Indian civil society, risk of exploitation due to status disparities and cultural barriers.

The risk of exploiting Indian civil society for information was alleviated by working with the NGOs – Navdanya and KRRS – on who to interview. La Via Campesina and CGMFI volunteers accompanied the researcher to ten interviews as respondents knew and trusted them. The volunteers debriefed the respondents in advance, explaining the purpose of the research and their contribution. The NGO volunteers also took on the role of interpreters in three interviews. Additionally, the researcher spent three weeks in Navdanya's research centre to learn about the context of the case. During that time the researcher became familiarised with social and cultural customs of India. This became very important in the interview process, as the researcher acquired a better idea about how to relate to respondents in a respectful manner. At a meeting of CGMFI group the members distrusted the researcher in fear of infiltration of the movement by Monsanto and refused to participate. The members have changed their minds after being briefed by a known volunteer from the CGMFI who accompanied the researcher, however they did not want to participate in the study. A regulator from the Department of Agriculture withdrew from the study after being asked questions about the relation between the agrarian crisis and transgenic cotton. Despite these two incidents the research was successful in obtaining the required data. No work was undertaken where the researcher thought there was a likelihood of breaching ethical commitments.

### **3.5 Synopsis**

In brief, research into state-corporate criminality requires the consideration of, not only state-corporate interaction and objective legal criteria that define illegitimate actions, but the social process involved in the exposure of illegitimate state-corporate conduct and stigmatisation of that conduct as deviant (Ward and Green, 2000; Green and Ward, 2004). That is because crimes of the powerful are oftentimes brought to the public's attention and prohibited by civil society coalitions (Lasslett, 2012a). When the focus is on the social processes through which illegitimate state-corporate conduct is defined as criminal by civil society configurations that inscribe deviancy labels on such conduct, a very different set of methodological considerations emerges. One way in which state-corporate crime, as a phenomenon, comes into being is when practices that mediate state-corporate interaction violate a normative code of conduct and produce social harm, and when these institutions are

subjected to censure by resistance communities. The Marxist dialectical approach is conducive to research that looks at relations between interconnected processes to understand a phenomenon as a whole (Lenin, 1976; Marx, 1981; Engels, 2010a; Ollman, 2008). To investigate this phenomenon empirically, the project investigated two disparate case studies.

The study was operationalised through instrumental, multiple-case study research employing multiple sources of data and a thematic analysis of the findings. Two case studies were researched. Case 1 looks at the censure by anti-arms trade, Palestine solidarity campaigners of UEL and the UK Government for authorising defence exports of companies like UEL to Israel. Case 2 looks at the resistance of the anti-globalisation, Hindu-nationalist movement to biotechnology in India through censure of a biotech conglomerate, Monsanto, for introducing transgenic cotton and the Government of India for releasing transgenic cotton into Indian agriculture. The study investigated the illegitimacy in state-corporate conduct through documentary research focused on the routine practices, i.e. regulation, policymaking and business activities of the companies. The process of censure was investigated through semi-structured interviews with resistance actors. The interviews focused on the resistance campaigns and direct action organised to expose and censure respective institutions.

The data, rather than contributed individually as single variables, were converged together in the analysis process. The data was broken down, organised and coded by means of NVivo, to identify relevant fragments of qualitative information. In so doing, each piece of information was imbued with meaning through thematic coding. These codes did not represent definite categories in themselves, but rather were used to represent a process in sequence of events, and each theme contained pieces of information that were put together to build a whole picture of the cases. Findings were put together forming a complex narrative organised through theoretical and conceptual categories. Taken together, findings from the two cases were used to draw conclusions about what are the criminogenic properties latent in routine state-corporate activities, how these latent properties surface in certain events and how state-corporate crime becomes actualised through practical forms of resistance.

# **Chapter IV – Censure of the UK-Israel arms trade and export of UAV engines**

## **4.1 Introduction**

The foregoing chapters discussed the conceptual, theoretical and methodological underpinnings of the study. These are, the process-driven approach, the Marxist dialectical method and the multiple-case study approach. Informed by this groundwork, the study contends that for a state-corporate crime to come into being, there must be illegitimate activity and some form of condemnation or censure that stigmatises such activity as deviant (Green and Ward, 2004, 2012; Ward and Green, 2000; Lasslett, 2010a; Lasslett et al, 2015). In furtherance of this, the research aims to empirically capture the criminogenic potential latent in routine state-corporate activities, the processes through which this potential is realised, and the social processes that actualise the being of state-corporate crime. To these ends, the research considers the particular properties of state-corporate activities that triggered social opprobrium, how resistance communities mobilised to ascribe deviant quality on concerned institutions, how censure affected targeted state-corporate conduct, and how the state-corporate institutions responded.

Pursuing these aims and research questions, this case demonstrates empirically how state-corporate crime events happen and how the quality of being criminal is inscribed on illegitimate state-corporate conduct. The study investigated the censure of the United Kingdom's (UK) defence exports to Israel and production of unmanned aird vehicles (UAV) engines for the Israeli Defence Force's (IDF) Hermes drones by an Israeli-owned subsidiary UAV Engine Ltd (UEL). The censure was configured through a resistance campaign, dubbed 'Stop Arming Israel', in response to an attack on Gaza, dubbed "Operation Protective Edge". The campaign was orchestrated by the London Palestine Action (LPA) with support from the Campaign Against the Arms Trade (CAAT), War on Want, the Palestine Solidarity Campaign (PSC), and the Boycott, Divest and Sanction (BDS) movement. The empirical analysis unpacks the censure of the UK Government and UEL, looking at: the practices that mediated the symbiosis between the Government and UEL; the illegitimate properties of UEL's business and UK defence exports to Israel; the resistance community that censured UEL and the Government, looking at: the historical traditions of activism and the specific field of social struggle the resistance actors came from; the motivation and rationale behind the Stop Arming Israel campaign; how they mobilised and strategized the censure of UEL and the UK

Government; and, the rationale for two connected direct actions, a rooftop occupation and a blockade of UEL.

The analysis considers the effectiveness of the campaign, particularly the two direct actions, in imprinting deviant stigma on the licensing of defence exports to Israel by the Government and UEL's business operations. It further considers how the state authorities, the Government and UEL responded to the censure in attempt to dilute the effectiveness of the resistance campaign. The LPA censured the UK Government for licensing defence exports to Israel and UEL for producing engines that were incorporated into drones used by the IDF for military operations in Gaza. The resistance actors contended that these exports abetted human rights violations committed by the IDF against Palestinians in the Operation Protective Edge.

The chapter starts off with an outline of the background context in section 4.2. This section takes the reader through the events of the Operation Protective Edge; the context of the Israeli drone industry and use of drones in Gaza; UEL's role in this industry; and the UK Arms Export Controls, a regulatory framework that controls exports of military and dual-use goods by the defence industry; and, the policy toward arms exports and Israel. This section provides the context of the alleged state-corporate crime and how it came about. The next section, 4.3, enquires into the regulatory and policy processes through which defence exports are authorised. These are considered as the mediating forces of the symbiosis between the UK government and UEL (Tombs, 2012; Tombs and Whyte, 2015). It also enquires into the allegations that UEL engines are incorporated into IDF's Hermes drones, the 'backbone' of Israel's Intelligence, Surveillance, Target Acquisition and Reconnaissance (ISTAR) missions in Gaza (Amnesty International, 2009a). Section 4.4 explores the resistance campaign and its most pertinent moments, i.e. the rooftop occupation and 'Block the Factory' action. It explores the motivations and consequences of both actions, and how they censured defence export to Israel as deviant.

The empirical evidence was sourced from interviews with LPA activists, representatives and heads of CAAT, War on Want, and Drone Wars UK as well as government officials; grey documents; media records; Government and CAAT licence database; Freedom of Information (FOI) release; and case files from the trial of LPA activists. In congruence with the Marxist dialectical method, the case is narrated as a whole made-up of interconnected elements, i.e. events, actions, policies, processes etc. The data is presented in entirety according to the sequence of events, piecing all the elements dialectically. In so doing, Marxist theory and concepts are employed to imbue the empirical data with concrete meaning. The analysis uses insight from Marxist approaches to state/corporate crime to breakdown the state-

corporate processes that produced the illegitimate conduct. To understand the social processes of resistance the chapter draws on Gramscian concepts of hegemony, counter-hegemony and civil society.

## **4.2 Setting the context**

Chapter III emphasised that case studies produce context-bound knowledge (Stake, 1978; Yin, 2003; Flyvbjerg, 2006). The phenomenon studied has a real-life context, to understand how it occurred the case must consider the historical background of the field of social struggle and the tradition whence the resistance actors came. Furthermore, in a narrative presentation of findings events cannot be separated from their contextual and historical specificity (Elliot, 2005). This entails an outline of the event that triggered the censure of the UK Government and UEL, namely the Operation Protective Edge. Subsequently, the section provides an outline of the industry (the field of struggle) and the company that the ‘Stop Arming Israel’ campaign was directed against. This involves the business operations of UEL and its parent company, Elbit Systems Ltd. Additionally, the section gives an insight into the state practices that were censured, namely the policymaking and the regulatory process. In this case, the state practices pertain to the Arms Export Controls (AEC) and the licensing process, Defence Industrial Policy and policy towards arms exports to Israel. In this way, this section sets the case study in its historical context.

### **4.2.1 Operation Protective Edge**

The Israeli bombardment of Gaza in July-August 2014 – euphemistically labelled “Operation Protective Edge” – culminated in the killing of more than 2,251 Gazans (including 1,462 civilians) and 71 Israelis (Human Rights Watch [HRW], 2015; Amnesty International, 2016; United Nations [UN], 2015; International Criminal Court [ICC], 2015, 2016; Winter, 2016). The 50-day offensive occurred in the context of mounting tensions between the Israeli government and Palestinian authorities, a Fatah-Hamas reconciliation agreement, Israeli settlements in the West Bank and the continued blockade of the Gaza Strip. It was flared by an alleged Hamas abduction of three Israeli teenagers found dead in the West Bank, and a retributive killing of a Palestinian youth by Israelis, followed by rocket-firing from Gaza into Israel. Following the kidnapping of three Israeli teenagers by Hamas members on 12 June 2014, the IDF initiated Operation Brother’s Keeper in search of the teenagers and suspected abductors. Although, the Israeli state accused Hamas, it was later found and announced on 25 July that the culprits acted without an order or knowledge from the Hamas leadership (Piven,

2014). As part of the operation, the IDF and the Israel Security Agency swept through the West Bank detaining 381 and killing 10 Palestinians (Piven, 2014).

On 30 June, the three teenagers were found dead south of Hebron. Two suspects, Jihad Dofsh and another, were killed on the same day, as the IDF detonated explosives in their homes. The third suspect, Husam Dofsh, was arrested on 4 July in Gaza. It has been reported that during the search the IDF conducted mass arrests, home raids and demolitions throughout the West Bank (Amnesty, 2014; HRW, 2014). Human rights organisations have called actions of the IDF “collective punishment” (HRW, 2014). The heavy-handed response from the IDF, during the search of suspects, incited rocket attacks on Israel. In response, the IDF launched an air assault against Gaza on 8 July, and a subsequent ground invasion on 17 July with the stated objective to degrade military infrastructure of Hamas (UN, 2015; Amnesty International, 2016).

Both Palestinian military organisations and the IDF have been accused of war crimes and crimes against humanity (HRW, 2015; Amnesty International, 2016). However, the focus is on the Israeli state, given its position as an occupying power and the disproportionate use of force by the IDF. Apart from the unprecedented death toll in the Strip, the fighting caused destruction of property and vital services, displaced 500,000 people (28% of the population), and orphaned 1,500 children (UN, 2014a). The IDF has been indicted by the Palestinian authorities with disproportionate and indiscriminate attacks on civilian infrastructure, including schools sheltering civilians and hospitals, and targeting non-combatants (ICC, 2015, 2016). According to international humanitarian law, the IDF has breached the *Jus in Bello* principles of military necessity, proportionality and distinction (ICC, 2016).

The Israeli attack has been described by some organisations as “collective punishment”, designed to demoralise Gazans through intense bombardment (Rogers, 2014; Palestinian Human Rights Organisation [PHRO], 2015). The IDF also displayed a callous indifference to the lives of civilians and contempt for international law by following the ‘Dahiya Doctrine’ when bombing Gaza (Shabaneh, 2014: 4; Rogers, 2014: 105). The doctrine refers to the obliterated Dahiya quarter in Beirut during the Second Lebanon War. A senior Israeli military commander, General Gadi Eisenkot, said in an interview in 2008 that

Israel will use disproportionate force upon any village that fires upon Israel, “causing great damage and destruction.” Eisenkot made very clear: this is not a recommendation, but an already approved plan - from the Israeli perspective, these are “not civilian villages, they are military bases” (WikiLeaks, 2008).

UAVs were used extensively throughout the operation in ISTAR missions. The Israeli government claims that drones allow its forces to target legitimate military objects with minimum collateral damage. Although, the Israeli government has never publicly admitted that it uses armed drones in Gaza, the IDF avowed that the UAVs play a pivotal role in military operations in the occupied territories (War on Want, 2013; Dobbing and Cole, 2014; Cooper and Anderson, 2015). Due to secrecy about the use of drones in Gaza it is difficult to confirm official figures of casualties caused by drone strikes. However, the Al Mezan Centre for Human Rights confirmed that in the 2014 attack 840 people were killed by drones (Cooper and Anderson, 2015: 6). That is a significant number of casualties caused by UAVs. Drones were used in the “roof-knocking” tactic, a practice of firing small “non-lethal” missiles at rooftops of buildings to warn civilians of an incoming larger strike, which was proclaimed by the Human Right Council inquiry, an ineffective and a highly parlous warning system (UN, 2015: 66)<sup>4</sup>. The following subsection briefly outlines the history and the rationale behind drones, as they have become increasingly prominent in attacks on Gaza. Elbit Systems, and its subsidiary UEL, are at the forefront of developing UAV technology which appears to be a new form of warfare.

#### 4.2.2 Drones

It should not be assumed, as Rogers (2014: 107) asserts, that ‘weapons of mass destruction are large and few – they can be small and many.’ In the last two decades UAVs have become the *ne plus ultra*<sup>5</sup> of modern warfare. Drones are remote controlled aircrafts operated from the ground or autonomously following a pre-programmed mission (see Cole and Wright, 2010). Military drones fall into two categories: ISTAR UAVs and armed UAVs. The use of drones has proliferated in the recent decades, because they can stay aloft for many hours, they are much cheaper than maned aircrafts and they pose no danger to the flight crew since they are flown remotely. Cole (2014) informs us that some trace the history of drones to a remote-controlled aircraft dubbed ‘the Queen Bee’ used by the Royal Navy for target practice in the 1930s and 1940s. However, the modern ISTAR drones proliferated significantly during the Vietnam War, Yom Kippur War, the Gulf War and the Yugoslav Wars (Benjamin, 2013).

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<sup>4</sup> The independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1 *Ensuring respect for international law in the Occupied Palestinian Territory, including East Jerusalem* (23 July 2014).

<sup>5</sup> The perfect or most extreme example of its kind.

UAVs offer access, persistence, accuracy, cost efficiency and remove the potential risk to the pilot. Exponents of this technology claim that drones are ‘humanitarian’ as they supposedly reduce collateral damage by providing precision and accuracy. However, extensive research has shown that drones are just as lethal as other weapons, and the claims of no civilian casualties tend to be untrue (Human Rights Clinic, 2012; Ahmad, 2015). For example, the Palestinian Centre for Human Rights reported that ‘825 Palestinians had died from attacks carried out by drones between June 2006 and October 2011’ (War on Want, 2013: 11). Of course, what is not captured by such statistics are the long-term impacts. According to the special rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, drones facilitate low-intensity, drawn-out conflict and increase opportunities for military engagement which presents a danger to human life (UN, 2013). With a constant presence of drones above there is always a potential threat and constant fear of air strikes.

As drones reduce the risk for the user, they are more likely to be used in extended conflicts, ultimately creating more potential threats. They increase opportunities for military actions, particularly in situations that would have been hitherto considered too hazardous. Rogers (2014: 97) argues that drones, because they increase opportunity for military action, ‘increase the likelihood of collateral damage’. The frequent, small-scale discriminating attacks conducted with drones lead to prolonged conflicts with greater likelihood of harm being inflicted on a civilian population. They are particularly advantageous in a prolonged asymmetric warfare, where the aggressor operates a highly sophisticated military technology against ill-equipped insurgents (Saif, 2014). In turn, prolonged conflicts lead to the development of new military capabilities, and the improvement of existing ones. Israel has become a leading producer and exporter of UAV technology globally. The next -subsection expands on the success of the Israeli drone industry, focusing on Elbit Systems and UEL, and on the complicity of these companies in the violations of human rights and humanitarian law in the Gaza Strip.

### 4.2.3 Israeli drone industry

Israel has been developing and using UAVs since the 1970s, in Egypt during the Yom Kippur War, in the first and the second Lebanon War, and more recently in the Gaza operations (Dobbing and Cole, 2014; Cooper and Anderson, 2015). The IDF has been using armed UAVs in Gaza as early as 2006. Although, Israel does not admit to the use of armed drones, multiple sources confirm that drones were employed for air strikes in the operations Cast Lead, Pillar of Defence and Protective Edge (HRW, 2013, 2014). Israel is the sixth largest weapons

exporter with the third highest military expenditure per capita, exceeding £9.9 billion, and the leading exporter of UAV technology (SIPRI, 2012; War on Want, 2013; Dobbing and Cole, 2014). Around 41% of the world's UAV technology came from Israel between 2001 and 2011 (SIPRI, 2012). Drones exports account for around 10% of Israel's total arms exports, and it supplies drone technology to some 50 out of 76 countries known to have some form of military drone capability (Dobbing and Cole, 2014).

Israel's success in the drone industry is attributed by the Israeli Defence Ministry to 'combat experience...and immediate operational use since [Israel] is always in a conflict' (Dobbing and Cole, 2014: 4). This unique situation allows Israel to rapidly test and improve its military capabilities. The Palestinian territories, especially Gaza, have proved an effective testing ground for its UAV technology. In Cooper's and Anderson's (2015: 19) words, 'Israel's constant state of warfare has ensured a reliable marketplace for Israeli arms manufacturers.' "Combat-tested" is a much-desired trademark in the global military industry. Recurrent military operations in Gaza provide Israeli drone companies with a major competitive edge, as the IDF can field test this technology in a real-life combat environment (War on Want, 2013; Tepper, 2014; Sadeh, 2014). Shlomo Bron, a former air force general, stated that 'it may be true that in practice the military uses the occupied territories as a laboratory, but that is just an unfortunate effect of our conflict with the Palestinians...' (Saif, 2014: 44).

The most advanced and iconic Israeli UAVs, Hermes drones, are produced by Elbit Systems. Cooper and Anderson (2015: 20) document that '85% of drones used by the Israeli military are manufactured by Elbit systems.' Elbit Systems describes Hermes 450 as the 'backbone of Israeli army and air force ISTAR missions' (Amnesty International, 2009a). Hermes 450 has been dubbed the 'workhorse of the Israeli defence force' (Saif, 2014:13). In addition, the Israeli forces refer to the Elbit developed Skylark drone as 'a star [which] was born in the Gaza skies after hundreds of operating flights during Operation Cast Lead' (Saif, 2014:43). After the 2014 attack on Gaza, at the third annual Unmanned Vehicle Israel Defence conference, Israeli companies displayed 'combat-tested' UAVs among which was the Elbit Systems' Hermes 900 (Tepper, 2014). The CEO of Elbit Systems, Bezhalel Machlis, declared that all Elbit's products have been used during the bombardment (Hever, 2014). Elbit's website advertisement of the Hermes 450 as IDF's 'primary platform' corroborates the evidence.

Elbit's drones, especially the Hermes 450s, are powered by Wankel rotary engines AR902 and AR802 (sometimes 80-AR-1010 or AR-80-101). These engines are produced by

Elbit Systems' UK subsidiary, UEL, located in Lichfield, near Birmingham, Staffordshire (Pallister, 2009; Amnesty International, 2009a, 2009b). Even though, UEL admitted that it manufactures the engines for Hermes 450s, it continually denies that they are fitted to drones used by the Israel's armed forces, claiming they are incorporated solely in aircrafts for re-export to third countries (Amnesty International, 2009b). Notwithstanding, ample evidence suggests that engines produced by the UEL have been fitted to Hermes 450s used by the IDF (Airforce Technology<sup>6</sup>, 2014). The link between UEL's engines and Elbit drones is not complete without considering the part played by the UK government in export of military goods to Israel. The UK government has been accused of complicity in international humanitarian law and human rights violations during the 'Operation Protective Edge', because it granted export licences to arms companies for military and dual-use items destined for Israel (War on Want, 2015; Smith, 2015). The UK regulates export of military goods through the AEC mechanism. To explain UK complicity in the events of summer 2014 in Gaza, it is imperative to comprehend how export controls work.

#### 4.2.4 UK Arms Export Controls

The core piece of legislation that governs the export of controlled goods (military and dual-use goods) is the Export Control Order (ECO) 2008. Military and dual-use items that require export authorisation can be found in the UK Strategic Export Control List. The items relevant to this case study bear the code ML10d, i.e. 'propulsion aero-engines and specially designed components therefor'. The Order requires all defence exporters to apply for a licence. There are several different types of export licences, but types relevant to this case study are the Standard Individual Export Licence (SIEL) and Open Individual Export Licence (OIEL). The licensing process is administered by the Export Control Organisation (ECO), the principle regulatory body of the Department for Business, Innovation and Skills (DBIS, now Department for International Trade [DIT]) responsible for maintaining, updating and implementing export control legislation (Lunn, 2017). Before making a final decision about an application the ECO consults the Foreign and Commonwealth Office (FCO), the Ministry of Defence (MOD) and the Department of International Development.

An application is evaluated against the Consolidated EU and National Arms Export Licensing Criteria (Consolidated Criteria) (Appendix 5), based on the EU Code of Conduct (Lunn, 2017). The Consolidated Criteria set out commitments which guide the arms export

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<sup>6</sup> A marketing company for aerospace technology and industry.

authorisation. These commitments are encapsulated in eight criteria concerning the UK's international commitments, human rights and international humanitarian law, the internal situation in the recipient country, regional stability, national security, the recipient country's attitude to terrorism, the risk of diversion or re-export, and economic stability (DBIS, 2014a). All applications are considered on a case-by-case basis considering the information that is available at the time of application assessment (Lunn, 2017). An application is refused when there exists a 'clear risk' that either one of the above criteria would be broken. Authorisation of an export in knowledge of a 'clear risk' is an explicit infringement of the UK's own law and international commitments.

The UK government claims that 'the procedures for assessing licence applications and our decision-making processes are robust and have stood the test of time (Cable, 2014). Yet, the AEC has been widely criticised, due to arms exports to countries with a record of human rights violations (DBIS, 2015a). The government recognises the perennial conflict between arms exports and human rights concerns. The UK government holds that its Arms Export Controls are the most robust in the world (DBIS, 2014a). In the 2010-15 review, the Committee on Arms Export Controls probed the Government on its criticism of human rights record of certain countries, whilst licensing arms exports (Brook-Holland, 2018). The government was urged to apply more cautious judgement when issuing export licenses. Notwithstanding, the government rejected this view and maintained that judgements made on a case-by-case basis is a strong and secure mechanism (Lunn, 2016). While regulators, the ECO as well as the FCO, assure licences meet the Criteria, the DSO must constantly work to promote growth in the sector. The arms export policy, overall, is geared towards promoting arms exports.

The Foreign Secretary, Jack Straw pointed out to the House of Commons in 2002 the challenge associated with rationalisation of the defence industry (Taylor, 2009). Military components are sourced from several different countries; and, licences are granted for components incorporated in defence equipment in a second country, which may be exported to a third country (ibid). Alas, there are no effective means of assuring that products with UK components exported to a third country meet the Consolidated Criteria. The defence industry is a global business, and a lucrative one. Diverse interests, actors, institutions and organisations are involved in the success of British defence industry. The UK government must collaborate with home companies, subsidiaries, industry organisations, trading partners and foreign governments to achieve its objectives. Often, the means of achieving policy objectives run counter to stated obligations.

#### 4.2.5 The UK policy toward arms exports and Israel

Opponents of the UK-Israel arms trade contend that the UK Government violates its own regulations and international obligations by licensing arms exports to Israel (Stavrianakis, 2008; CAAT, 2010, 2015; War on Want, 2015). Although, the FCO recognises Israel as a ‘country of concern’, the ECO continues to licence arms exports to Israel (FCO, 2014, 2015, 2016). There are conflicting influences within the broader defence industrial policy and policy toward Israel. Politico-economic exigencies outweigh human rights considerations and legal obligations. Export controls are based on pragmatic considerations that the government perceives as favourable to its own interests, rather than ethical premises. The relevant policy framework is outlined in the Defence Industrial Policy 2002, the Defence Industry Strategy 2005, the Defence Industrial Policy 2017 and the Defence Growth Partnership, 2013. General policy views on arms exports to Israel are found in the FCO and DBIS annual reports.

The Defence Industrial Policy 2002 emphasised the need to expand market access for the UK defence industry. The time it takes to monetise on Research and Development (R&D) makes investment difficult (MOD, 2005, 2017). The UK Government does not have the purchase power nor the military demand as a monopsony to sustain defence production (MOD, 2002). The UK defence industry must, thus, seek profitable relationships abroad and the Government must create a conducive regulatory environment and trade relations with foreign partners (MOD, 2002). The Labour Government proposed a ‘policy of accessible markets supported by open competition’, the goal of which is competitive UK defence market (MOD, 2002: 15). The policy stipulated that ‘investment in defence programmes and technologies helps to create export opportunities for UK industry, which the Government further actively supports through the Defence Export Services Organisation [Defence and Security Organisation] (both directly through UK-led sales, and indirectly by contributing to export opportunities led by others)’ (MOD, 2002: 16). Export controls are an obvious area that create obstacles to the above policy objectives. The Government, *de facto*, is ‘committed to continuous process improvement, so that export controls do not represent an unnecessary obstacle to industry undertaking legitimate business overseas’ (MOD, 2002: 17).

The policy objectives were implemented through the Defence Industrial Strategy (DIS). The DIS intimated the importance of global competitiveness for the UK defence industry and securing its position as a major arms exporter by encouraging steady development of the industry (MOD, 2005). Defence exports constitutes 20% of UK defence employment,

and further: support diplomacy and enable bi-lateral defence relationships, for instance defence systems partnerships (e.g. UK Watchkeeper project); build operational capability during peacekeeping missions; spread fixed overhead costs, and so benefits accruing to the industry may be shared by the government in the form of lower prices; build a stable industry with production capacity and engineering skills that do not require high government expenditure (MOD, 2005: 46-8). As the Conservative/Liberal Democratic coalition took over executive power, the FCO Minister, Alistair Burt, intimated that, except for a 'more commercial outlook' the Government's 'approach to arms controls matters will be very similar to that of the previous Government', one based on a case-by-case assessment (DBIS, 2011: 16).

The new Defence Industrial Policy (DIP) 2017 aims at increasing exports to 'enable overheads to be spread and economies of scale achieved, reducing the cost of equipment and services to MOD. Exports are also at the heart of developing and maintaining our key strategic international alliances' (MOD, 2017a: 27). Strategic alliances are used to expand the UK's defence industry and trade. The DIP stipulated that 'the UK's global defence and diplomatic network, spanning 168 countries and territories plays a crucial role in opening opportunities for UK business, both in the civil and defence sectors (MOD, 2017a: 28). By targeting the needs of international partners, the Government seeks to improve the export success of UK based defence businesses.

Through the Defence and Security Engagement Policy the UK government works with major international suppliers to maximise the UK's supply chain and augment investment opportunities (MOD, 2017b). Facilitation of foreign investment to optimise trading opportunities is the key. The Policy proposes linking UK based exporters to foreign allies and partners. The DIP includes several initiatives designed to connect suppliers with costumers, e.g. Defence Suppliers Forum and the Supplier Portal (MOD, 2017a). These initiatives serve as information platforms for suppliers and customers (MOD, 2017a). The International Capability Steering Board was set up to identify and inform the industry of 'strategic international industrial interests and opportunities, informed by national security objectives' (MOD, 2017a: 40). Additionally, the DIP 2017, involves the Defence Growth Partnership (DGP) in the implementation of policy objectives.

The DGP is a partnership between the Government and the industry, intended to grow the UK's market share and to improve competitiveness (Department of International Trade [DIT], 2013). These objectives are achieved by aligning the development and supply of defence systems with customer needs, both the British Armed Forces and international

partners. As stated by the MOD (2017a: 40) the purpose of the DGP is ‘to understand export and adjacent market opportunities, in order to build exportability and the needs of international customers into future products and services...’ The main body consolidating the Government-industry partnership is the DIT’s Defence & Security Organisation (DSO). Its role is to promote UK defence exports by ‘building strong relationships with industry and overseas governments’ (DSO, 2017). The DSO coordinates arms selling activities by establishing relationships between the UK government and overseas companies, supporting arms fairs, setting up liaison with arms companies, and encouraging political intervention in support of arms exports (CAAT, 2015a). Its aim is to maintain a growing defence industry by targeting the specific needs of its customers (DSO, 2017). The policy implemented by the DSO is set on enhancing ‘market intelligence’ through coordination and information sharing, between the industry and the DSO, about the demand abroad (DIT, 2014). In this way, the Government links UK based exporters to foreign customers.

The UK policy toward defence exports to Israel is grounded in the view expressed by the FCO that ‘all countries, including Israel, have a legitimate right to purchase conventional arms for their defence and security needs’ (Taylor, 2009: 9). Even though Israel is included on FCO’s list of Countries of Concern, the ECO insists that the case-by-case licensing system ensures all exports meet UK criteria (Taylor, 2009; DIT, 2014). The DBIS claimed that arms exports to Israel are licensed through the case-by-case assessment and recommendations from the British Embassy in Tel Aviv, the FCO and ministerial reviews (DBIS, 2015b). The ECO, however, consider solely the information available at the time of each licence application and only concerning the specific product. This means that the regulators do not take into consideration any past events, history of international law violations, human rights record or what the product will be used for (DBIS, 2015b). In other words, a licence application may stipulate that an export is for the use by the armed forces, but the controls do not consider what the armed forces may use that product for a year or two after receiving it. This would require a consideration of past events and a more stringent application of FCO recommendations. As long as individual licences receive ECO’s approval they are seen by the Government to adhere to the AEC. Also, the UK Government has no means of assuring that this is the case (CAAT, 2015a; War on Want, 2015). Nevertheless, there is an obvious discrepancy, between FCO’s recommendations on exports to Israel and the actual policy stance on exports to Israel.

The issue is not with the individual licences, but with the entire policy toward arms exports and Israel (War on Want, 2015). There is a contradiction between arms exports to Israel and listing Israel as a Country of Concern. There is a tension between the Government’s stated commitments and actual arms exports. In light of this, the licensing process is a mere

‘legitimation mechanism’ (Stavrianakis, 2008; CAAT, 2010). It is argued that the assessment process of defence exports to Israel does not apply important information, i.e. past events, commitment to international law and FCO recommendations, which would otherwise disqualify defence export licences to Israel (War on Want, 2015). The UK Government does not directly abet Israel’s military operations. Rather it maintains a system whereby private exporters supply weapons for Israel’s military efforts. According to the policy, Israel is considered a close partner and a customer. The relations between UK exporters, the UK Government and Israel are that of strict business. To further illustrate this complex symbiosis, the thesis considers the policy and Arms Export Controls in operation.

### **4.3 State-corporate symbiosis between UEL and the UK government**

The defence industry went through a major transformation at the end of the Cold War. Defence budgets were significantly reduced, the industry was taken over by private businesses and production was rationalised (Mills, 1956; Mintz, 1985; Dunne and Skons, 2010). In more recent decades, governments facilitate trade between the private military complex and other states. The technical division of labour has taken over the defence industry (Stohl and Griro, 2009). Most defence products contain sub-systems sourced from various suppliers based in different countries. A high level of foreign investment in the UK’s defence industry created many subsidiaries of overseas companies, which opened opportunities for partnerships, gave greater market access and secured exports to specific customers (MOD, 2017a). In the case of Hermes drones, engines are manufactured by UEL, the radar system is manufactured by another company in Kent, while components like wings are made in other countries before they are finally assembled into the final product destined to Israel (Taylor, 2009; Dobbing and Cole, 2014; War on Want, 2015). Due to the technical division of labour, British regulators have no control over where components end up after they are integrated into defence systems in another country.

The following sections aim to impress on the reader the role of policy and regulation as mediating processes of state and corporate symbiosis. The argument follows that the ECO has authorised exports of military goods, including engines from UEL, in contravention of the Consolidated Criteria. Previous military operations in Gaza (Operation Cast Lead in 2009 and Operation Pillar of Defence in 2012) substantiated the risk that Israel may use controlled goods from UK in violation of international law (Amnesty International, 2009b; War on Want, 2015). Yet, exports to Israel continue, and when specific licences were questioned by observers, the Government did not revoke them (Milmo, 2015; DBIS, 2015). War on Want

(2015: 4) reported that ‘the value of licences awarded for export to Israel amounted to £11,615,840 for military use and £28,992,833 for dual use in 2014 alone.’ There was no direct collusion between UEL and the UK government, rather, the Government creates the system that mediates its relations to private capital through licensing transactions.

The analysis presents findings from export licence databases, policy documents and House of Commons briefings papers, Parliamentary committees’ reports and case files from the trial of ‘Stop Armin Israel’ campaigners. Additionally, data was sourced from interviews with two government officials of the ECO and the MOD, as well as NGO representatives. The analysis of the data found that the licences to Israel come into conflict with the regulatory framework. While the UK Government may not licence exports of controlled goods with intention to support Israel’s military efforts in Gaza, it does have an interest in maintaining congenial trade relations and to expand its defence market base. UEL is entangled in the military-industrial complex which supports Israel’s military efforts in Occupied Palestinian Territories (OPTs). As Elbit’s subsidiary, UEL’s main market is Israel. By licensing UEL exports, the UK Government is implicated in the military-industrial complex.

#### 4.3.1 UEL’s licences and exports to Israel

The government, as one of the interviewees proclaimed, events coordinator from CAAT, put it, ‘has very poor transparency around arms export licences’ [Interview: Litvyak, CAAC, London, Feb 2016]. The company is under no legal obligation to disclose any licences. Obtaining licence information is difficult. In annual reports, the government discloses only the type of licence issued, e.g. SIEL or OIEL, the broad category, e.g. ML10 (category for military aircrafts), the number and value of licences. The ECO reports do not include the names of actual products, names of companies nor the purpose. Even FOI releases, Litvyak [Interview: 2016] attests, ‘contain vague information with broad names and categories, and no specific details on the volume of products licensed...’ The government does not disclose information about what military products are exported, where to and how they are being used. Litvyak [Interview: 2016] intimated that ‘[CAAT] would rarely see the actual detail or the actual licences...the government leaves no paper trail’, and CAAT is the only UK organisation which processes the data on export licences into readable format. Thus, the question remains, how does one find out whether UEL products were licenced for export to Israel?

From the 2013 Strategic Export Controls: Country Pivot Report it is known that 10 SIEL licences were granted to Israel for military aero-engines and UAV components, and that

licences were granted for armed forces end use (ECO, 2013: 273-283). In 2014, four SIEL licences were granted to Israel for military aero-engines and UAV components, and the end-user were the armed forces (ECO, 2014: 292-299). However, no information is given on the exact products, the applicants, or the end-use. CAAT (2015b), informed that ‘there are also components that go into US-built equipment destined for Israel.’ Some components made in the UK are shipped to the US for further assembly before they find their way to Israel for the final incorporation. In a written question on arms trade with Israel, Allister Burt replied that the Government keeps ‘the situation in Israel under continued review’, but the FCO ‘does not collect data on the use of equipment after sale’ (FCO Minister, 2018). In 2013-2014, 26 SIEL licences were granted for export to USA, for military aero-engines and UAV components (ECO, 2013: 301, 2014: 312). Many of the components exported to the US are incorporated in defence systems destined for use by the IDF (Taylor, 2009: 7-10). A respondent from War on Want, relayed that ‘*we know that components exported to the US are integrated into Israeli UAVs...*’ [Interview: Peshkova, War on Want, London, Feb 2016].

UAS International (2012), a leading industry magazine advertising UAVs, indicates that AR902/AR802 are incorporated in Elbit Systems’ Hermes 450 drones. However, there is lack of paper trail on licences granted for specific products due to transparency issues. FOI and CAAT data shines brighter light on the licences, though it is partial and limited to broad categories. In 2013 UEL was granted six licences for export of military goods to Israel as the end-user (CAAT, 2016a). The Committee on Arms Export Control (CAEC) (2014) disclosed three SIEL (Permanent) licences granted for UAV components, worth £73,030, and one SIEL (Permanent) licence for military aero-engines, worth £92,456, to Israel and OPTs. A FOI response indicated that in 2013, UEL was granted a SIEL (permanent) for ‘single rotor reductive drive engine’, but the end user was marked N/A (Information Rights Unit [IRU], 2016). A single rotor reductive drive engine may refer to the AR902 model, but it is not indicated on the Annex. The information granted to the researcher by the Information Rights Unit (IRU) turns out to be partial when compared with CAAT’s database. Out of the six licences that are included, which were granted between 2012 and 2015, four were for exports to India and two were unspecified. The Department of Business, Energy & Industrial Strategy was unwilling to disclose any information about the licences and repeatedly refused FOI requests. The IRU explained the information was confidential and sensitive, therefore could not be disclosed. Whilst, vague information is available under public domain, it is construed in a way that does not point to the applicants.

The type of licences granted, as indicated in the FOI release, informs us about who controls the end-use of goods. The licences granted to UEL were permanent SIEL, which

means that the licence is permanent, and goods exported under this licence go through no further assessment but fall under the discretion of the importer (DIT, 2017). Once a licence is issued, the issuer has no control over what happens to the exported goods, unless the licence is revoked. Licences, once approved, are seldom overturned, according to government officials who participated in the study [Interview: Official A, ECO, London, July 2016; Interview: Official B, MOD, London, Oct 2016]. Licences are revoked only when new information about the end-user or -use is available or when a clear risk that an exported product will be employed in violation of the Consolidated Criteria. The assessment process considers only the information available at the time of application. Therefore, it happens seldom that a licence is reviewed. Nonetheless, there was one such instance during the Operation Protective Edge.

#### 4.3.2 The Operation Protective Edge and suspension of export licences

The UK Government granted export licences to Israel worth £42m to 131 British defence companies between 2010 and June 2014 (Milmo, 2014b; CAAT, 2016a). Then, between July 2014 and December 2017 the amount of export licences granted by the UK Government was £331m (CAAT, 2016b). During the Operation Protective Edge, the Government, in response to criticism from anti UK-Israel arms trade campaigners and CAEC, reviewed several licences. On 4 August 2014 the Prime Minister (PM) David Cameron commissioned a review of arms export licences to Israel (Neate, 2014). Business Secretary Vince Cable added that ‘no new licences of military equipment have been issued for use by the Israeli Defence Force during the review period and as a precautionary measure this approach will continue until hostilities cease’ (DBIS, 2014c). On 12 August the government decided to suspend 12 licences in an event of resumption of ‘significant hostilities.’ The DBIS (2014d: 60) stipulated,

[O]n 12 August 2014, the Government announced the findings of a review of licensed exports to Israel which identified twelve licences for components which could be part of equipment used by the Israel Defence Forces in Gaza. The Government made clear that, in the event of a resumption of significant hostilities, it would suspend these licences as a precautionary step.

In addition, the Foreign Secretary Philip Hammond wrote in a letter, dated 19 August 2014, to CAEC that ‘on the basis of information currently available to us, there could be a risk that the items [covered by the 12 licences] might be used in the commission of a serious violation of international humanitarian law’ (CAEC, 2015b: 42). War on Want (2015: 7) pointed out that when violence resumed the government did not deem it a ‘resumption of

significant hostilities' and backtracked on previous commitments. A year after the attack the Government reinstated these licences maintaining that the review found the licences complied with UK regulation (DBIS, 2015b). An official statement stipulated,

[The government] was concerned that, in these circumstances, it would be unable to clarify whether the export licensing criteria were being met. As a result of the most recent review this additional measure has now been lifted and the government is confident that all export licences in circulation for Israel meet Consolidated Criteria (DBIS, 2015b).

Commenting on this, an LPA activist stated that 'it does not matter whether the government suspends a licence, because the weapons have already been exported to Israel a year ago or two years ago...and even after the licences will be reinstated and exports will resume' [Interview: O'Donel, LPA, Skype, Feb 2016]. The LPA argued that the UK government is complicit in Israel's military actions against Gaza because the weapons, like the UAVs powered by engines produced by UK companies, are already in use by the IDF. The argument follows that previous military actions in Gaza, e.g. Operation Cast Lead and Operation Pillar of Defence, established the risk of defence products being used in violation of the Consolidated Criteria. According to LPA, if the Government was serious about upholding its own regulation the 12 licences would have been revoked permanently. Another LPA activist asserted that,

It is not just that the UEL supplied weapons to Israel, UEL is a subsidiary of Elbit Systems which is Israel's largest military drone company. What you got here is a factory which is very much part of Israel's military industrial complex. If you look at Israel's economy, it is dependent on arms exports. It is very well documented how Israel its wars to test and market its weapons. You've seen that Elbit Systems, following from the last attack on Gaza, go to military trade fairs and make presentations on how effective its drones were. Israel's military industrial complex is built upon [occupation of Gaza]. They say field-tested and by that they mean it's been tested on Palestinian people...This UEL factory is bound up in this system [Interview: Botvinnik, LPA, London, Jan 2016].

The point made by Botvinnik [Interview: 2016] is that UEL is part of a two-way UK-Israeli arms trade which props Israel's military operations. As a subsidiary of Elbit Systems, UEL is part of the military-industrial complex that is profiting from a damaging human toll. UEL is only one agent in the chain that inflicts harm on the people of Gaza. Elbit's drone technology is tested in a real-life combat situation, which affords its products the label 'field tested' or 'combat tested' (Dobbing and Cole, 2014). Equally, UEL's returns, the activists contended, depend on the continuation of UK-Israeli trade, despite Israel's recent history of human rights and international humanitarian law violations in OPTs [Botvinnik, 2016; Peshkova, 2016]. The crux of the problem is proving that the exports do not meet the

Consolidate Criteria. CAAT works extensively on FOIs to access the information. However, according to an LPA activist,

...you'll never see an export licence. No company will ever release them, at least not to us [activists]...the supply chains that go the government does not check. Even if an export licence said that they are exporting to Israel, but it is not allowed to be used in Israel, it still doesn't mean it is not being used [Interview: Zaytsev, LPA, London, June 2016).

The vagueness and generality of the licence data prevents the public from following the commodity chain from the production line to the end-use. Botvinnik [Interview: 2016] and O'Donel [Interview: 2016] echo this testimony, adding that the issue lies in the regulation, which corresponds with the UK policy toward arms exports to Israel. This section demonstrated how the UK Government applied the AEC in the context of an attack on Gaza that breached international humanitarian law and human rights. To fully understand the Government's indulgent response to the Operation Protective Edge and export licences to Israel, we need to consider the policy approach to arms exports to Israel and how it influences the application of AEC to export licences destined to Israel.

#### 4.3.3 'Regimes of permission': the policy toward arms exports to Israel

In terms of defence trade, the Conservative Government's policy is oriented towards maximisation of exports and expanding its share of international markets (see Stohl and Grillo, 2009). An MOD policy advisor and regulator stated that 'if there is something we can do to boost British exports, in our case the defence sector, provided it is legitimate export going to a reputable country for reputable use, why wouldn't we support British industry' [Interview: Official B, 2016]. In the final quarter of 2014 the UK government, or ECO, authorised exports for military and dual-use goods worth £5 million (War on Want, 2015: 4). In 2011, the Defence Secretary, Liam Fox, of the Conservative/Liberal Democratic Government stated the Government made its policy to 'maximise the UK's share of global defence exports' (DBIS, 2011: 14). The then Minister of Defence, Mr Peter Luff, intimated that 'in the past we were rather embarrassed about exporting defence products. There is no such embarrassment in this Government' (*ibid*). This policy position raised concerns that prioritisation of arms exports might be detrimental to export controls.

Addressing such concerns, the UK Working Group wrote that 'prioritising the establishment of a more commercial culture could come at the cost of conflict prevention and by a reduced emphasis on responsible arms transfer controls' (DBIS, 2011: 14). While there

is a stated commitment to observing human rights and international law, the Government personnel are also asked to promote arms exports. Official B [Interview: 2016] admitted that ‘if it is countries we trade with regularly regulation is not going to be too difficult.’ States that enjoy a strategic or close political relationship with the UK government, also enjoy close trade relations and companies find it easier to export to a specific destination if the two states have close politico-economic ties. Official A [Interview: 2016] affirms that ‘response to licence applications will be in line with how the current government policy views it.’ Government policy toward Israel, in terms of arms exports, is encapsulated in its position that all countries have a legitimate right to self-defence. For, the UK Government sees military operations in Gaza as self-defence.

Policy priorities and government view on arms exports have changed little since the “New Labour” Government. The view of the Labour Government was that ‘all countries have a legitimate right to procure arms to meet their defence and security needs’ (Taylor, 2009: 9). This view is held also by the Conservative Government. The Secretary of State for Business, Innovation and Skills, Vince Cable, highlighted Israel’s inherent right to self-defence from Hamas (DBIS, 2015b). While, over the years, numerous criticisms of the export policy to Israel were made, the British government remained firm in its current view. The UK control system is strict and there is no “clear” evidence of UK produced arms being used by IDF (Taylor, 2009; DBIS, 2014d, 2015b). Albeit, the FCO cautions UK businesses against exports to Occupied Palestinian Territories (OPT), due to Israel’s position as the occupier (FCO, 2018). Moreover, Israel is listed by FCO as country of concern. Simultaneously, it considers Israel a close trade partner (FCO, 2018). There are clear inconsistencies in the Government’s policy on arms trade with Israel and the concerns raised about Israel’s respect for human rights.

In response to concerns raised by NGOs about promotion of arms exports, DBIS Minister, Mark Prisk, informed the CAEC judgements are based on information available at the time, and he did not exclude the possibility of exports to countries of concern (DBIS, 2011). In the case of Israel, the Government is confident in the robustness of the Consolidated Criteria. However, the DBIS acknowledged that circumstances can change rapidly, as they did during the attack on Gaza, leading to reassessment of risk (CAEC, 2015b). As the circumstances have changed during the Operation, the UK Government made clear that the 12 licences reviewed on 12 August 2014 would be suspended if hostilities resumed. However, they were reinstated the next year. The FCO and DBIS both recognised the volatile situation in Gaza (CAEC, 2015b). The Government is fully aware of the track record of human rights violations by the IDF against Palestinians (CAAT, 2014; War on Want, 2015). Taking this

into consideration, the information available to the ECO, at any time, should lead to a more preventive approach in assessment of defence exports to Israel.

In 2011 the CAEC found that almost certainly UK produced arms were used by Israel in the Operation Cast Lead (DBIS, 2011). The CAEC stated,

We repeat our conclusion that it is regrettable that arms exports to Israel were almost certainly used in Operation Cast Lead. This is in direct contravention to the UK Government's policy that UK arms exports to Israel should not be used in the Occupied Territories. We further conclude that the revoking of five UK arms exports licences to Israel since Cast Lead is welcome, but that broader lessons must be learned from the post conflict review to ensure that UK arms exports to Israel are not used in the Occupied Territories in future (DBIS, 2011: 51)

In a response to the CEAC report, the Conservative Government stated, 'the UK Government does not have a policy that UK arms exports to Israel should not be used in the OPTs' (DBIS, 2011: 51). The Foreign Office Minister, Mr Alistair Burt, clarified the UK policy on arms exports to Israel: 'the use of arms in a specific area or a specific territory is not part of the criteria. What the criteria seek to make clear is that it is the end-use of the arms which is the determining factor' (DBIS, 2011: 52). The issue is how the UK government views the end-use, according to criterion 2 and 3 of the Consolidated Criteria. In the case of Israel, the end-use of controlled goods is judged through the lens of Israel's right to self-defence (DBIS, 2015a). It appears that the judgment of licence applications to Israel are influenced more by this policy view of the right to self-defence than the Consolidated Criteria. In the House of Commons briefing paper No. 8312, Parliament recognised the incongruity in supporting, encouraging and facilitating military exports whilst criticising the human rights record of certain countries (Brooke-Holland, 2018). The CAEC questioned Government policy on arms exports in light of human right concerns. The Committee concluded that,

whilst the promotion of arms exports and the upholding of human rights are both legitimate Government policies, the Government would do well to acknowledge that there is an inherent conflict between strongly promoting arms exports to authoritarian regimes whilst strongly criticising their lack of human rights at the same time rather than claiming...that these two policies "are mutually reinforcing" (Brooke-Holland, 2018: 9).

As with Operation Cast Lead, the CAEC review of extant licences found that specific equipment has been employed in the Operation Pillar of Defence, 2012. MP Michael Fallon, then DBIS Minister, replied on 8 January 2013 in Parliamentary questions,

Israel faces security threats, and we do not think that an arms embargo would increase our influence or lead to progress in the peace process. Where appropriate, we can and do refuse export licences to Israel. We have refused them in the past and will continue to do so if the criteria are not met. I do not want to go into detail about individual licences (CAEC, 2013: 221).

Contrary to Mr Fallon's assertion, licences to Israel are suspended or revoked only in a case of resumed or intensified hostilities (CAEC, 2013). In usual circumstances, the ECO overlooks IDF's past actions and the risk of future attacks on Gaza (CAAT, 2014). The evidence available on the ECO database reveals that between 2011 and 2015 22 licence applications to Israel were refused, and a total of 2,589 were issued, these include SIELs, OIELs, OITCLs, SITCLs (ECO, 2016). As Official A (2016) attested, 'licences are rarely refused.'

In 2014 and 2015 CEAC raised similar concerns in reference to the Operation Protective Edge. The concerns related to the policy toward arms exports to Israel and the risk of controlled goods being used by the IDF in Gaza (CAEC, 2014, 2015). The CAEC (2014) intimated that there is a need for a policy change to assure that UK produced defence products are not used in the OPTs. Although, the Government temporarily suspended 12 licences at the time, no significant policy change has taken place. To the contrary, the Government insisted that the UK licensing system is *par excellence* (DBIS, 2015a). The ECO authorises exports to Israel without taking into account the past attacks on Gaza, Israel's record of international law/human rights breaches, FCO's Country of Concern recommendations, and the 'clear risk' of defence products being used by IDF in future operations. According to War on Want (2015), if the ECO did consider all these things then no defence exports to Israel would ever be authorised.

The export controls should prevent arms sales: 1) where there is a clear risk of the equipment being used for "internal repression"; 2) where the export would "provoke or prolong armed conflicts or aggravate existing tensions or conflicts"; and 3) where there is a "clear risk that the intended recipient would use the proposed export aggressively against another country, or to assert by force a territorial claim" (War on Want, 2015: 3). It is further argued that the regulators should take into account the past events and the likelihood of exported products being used in contravention of international law in future. War on Want (2015: 3) insists further that 'if the government's own export guidelines were properly applied, the result would be a *de facto* embargo on arms exports to Israel.' In this part of the narrative we learn how the policy towards defence exports to Israel and the AEC permit the transfer of products, such as UEL's drone engines, to Israel despite there being a clear risk of

contravening the Consolidated Criteria due to Israel's record of international law breaches. Next, we ought to consider how this 'regime of 'permission' is formalised.

#### 4.3.4 The state-corporate symbiosis

UK-Israel arms trade continues, despite claims of rigour and strict application of international law. The cause of failure on the part of export controls to curtail arms exports to Israel lies in the internal conflict found between the policy and international commitments stated in the regulation. The political (security/power) and economic exigencies outweigh other commitments, e.g. humanitarian law or human right commitment (Stavrianakis, 2008: 13-19; Stohl and Grillo, 2009). Export growth in the defence industry is pertinent to UK's commercial and political interests in the Middle East (Tylor, 2009; DIBS, 2014; MOD, 2017a). On the strategic importance of defence exports, House of Commons briefing paper encapsulates government's position:

Responsible defence and security exports are essential for our security and prosperity, and underpin long-term relationships with our partners and allies and help deliver wider foreign policy objectives (Brook-Holland, 2018: 6).

Official B [Interview: 2016] stated in an interview that 'exports are generally refused if they are going to a country where arms exports are embargoed or sanctioned [UN, EU, UK Export Control Order sanctions] or if there is a danger of exported components being used for weapons of mass destruction.' It is not about limiting defence exports to countries with a history of human rights issue, but rather about facilitating trade (Stavrianakis, 2008). In an interview with John Pilger, a senior defence industry official stated, 'if the [UK] government abided by its own weapons control laws world peace could truly be at hand, but they won't and never will' (Flying the Flag, 1994). Indeed, the international defence market is very lucrative. Although, it is not UK's leading industry, it does bring important economic, as well as political, benefits.

The defence industry contributes around 1% of the total UK GDP, while the employment in the military industry is 0.6% of UK's total workforce, and around 45% of these figures is contributed by military exports (Perlo-Freeman, 2016: 9). In macroeconomic terms this statistic may seem insignificant, however when it is translated into the actual national income and employment created it is more significant. The DGP stipulates that the British defence sector 'generates annual revenues of over £22 billion, including exports worth £6.5 billion per annum on average over the last decade, whilst directly employing 162,400 staff in

the UK and sustaining a further 114,200 jobs through the supply chain' (DBIS, 2014b: 13). This one of the reasons why the UK Government maintains a large defence industry (MOD, 2017b). The jobs and investment argument generates public acceptance of 'indiscriminate arms selling' (CAAT, 2010: 5). The defence industry is heavily subsidised by the UK government. Perlo-Freeman (2016: 15-18) estimated UK subsidies for arms exports at £104-£142 million. The Government's support of the military industry through subsidies is greatly disproportionate to its economic significance. Information available on military exports from the UK are negligible, thus it is difficult to establish exact estimates. Notwithstanding, the main economic beneficiaries of military exports are military companies, military exports are of political significance to the UK government.

On the political front, the arms trade is used to strengthen 'national security', to reinforce alliances, and secure international position. Dorman et al (2015: 54) stress that military exports are used by the UK government to 'signal a political commitment to a recipient state', to 'acquire influence and leverage over recipient states', and to support strategic allies by making them militarily 'self-reliant' rather than engaging directly in conflict. Such use of military exports by the UK government emulates the 'Nixon Doctrine'. It means that the UK assists the development of defence and security of its allies, but does not undertake direct defence (see Brzezinsky, 2007). It may be argued that the UK government uses exports to maintain strategic alliances. Heidenkamp et al (2011: 8) contend that military exports present 'an opportunity to advance diplomatic and economic relationships with the recipient country...'

Speaking at a Jewish Care Business Forum in October 2017, International Trade Secretary, Liam Fox, encouraged 'deepening the economic links between the two countries. He pointed to the creation of the UK-Israel Trade Working Group, designed to identify and remove trade barriers between the two countries, as an important achievement' (DIT, 2017b). Despite concerns over Israel's commitment to international law, 'the UK Government continues to emphasise the close ties between the UK and Israel and that it supports Israel's right to defend itself' (*ibid*). The position of the Conservative Government remains the same since the Trade and Investment for Growth plan, 2011. The plan expressed the UK's deep-seated commitment to build closer trade relations with Israel in all industry areas (DBIS, 2011). The plan further advocated a partnership between British and Israeli companies to facilitate closer relations between the two countries. In the plan, the DBIS (2011: 33) stated,

The Government will encourage a stronger partnership between British and Israeli companies to exploit the potential synergies between Israel's high

levels of innovation and British strengths in design, business growth and finance, as well as the UK's own high technology and scientific strengths.

The defence industry has a close relationship with policymakers and politicians. The DBIS (2014b: 19) stipulated that the 'industry will play a key role in the Defence Security Organisation (DSO) through closer involvement in the defence exports prioritisation process, in market analyses and by providing resources overseas to better understand customer needs.' For example, the DGP aims to generate 'market intelligence' by involving the industry in the policy process (DBIS, 2013). The defence Suppliers Forum and the Supplier Portal give the defence industry access to policymakers, whereby they can inform them of industry needs (MOD, 2017a). Cooperation with defence exporters has been highlighted in the Defence Industrial Policy (DIP) as the key to understanding the needs of suppliers as well as customers, and responding effectively (DBIS, 2014b; MOD, 2017a, 2017b). Such initiatives are intended to increase UK's exports.

Perlo-Freeman (2016: 4) postulated that 'unlike other industries [arms industry] is subject to active government industrial policy.' Hence, arms companies have a vested interest in engaging directly with government bodies to influence defence industrial policy and export control policy. Military companies have substantial presence on the MOD and UK advisory bodies, such as the Defence Export and Market Access Forum, the National Defence and Aerospace Systems Panel, the Defence Suppliers Forum and the Defence Growth Partnership (CAAT, 2010; Perlo-Freeman, 2016; CAAT, 2017). Additionally, arms companies operate in an exclusive market where the customer base is made up of governments. Stavrianakis (2008: 8) highlighted that 'the most important skill for a defence producer is the ability to persuade governments to give it money [through purchases and subsidies].' Arms export policy is affected by the extent of the 'revolving door' between the industry and the government.

CAAT (2015b) documented eight consultation meetings between representatives of Elbit Systems and MOD officials from 2013 to 2016. George Baber was a MOD official between 2002 and 2010, from December 2010 he took up a position at Elbit Systems of Business Development Director. On 18 September 2015, George Baber attended a meeting with Lord Francis Maude, Minister for Trade and Investment, Stephen Phipson, the head of DSO, and Simon Everest from the DSO (CAAT, 2015b). The meeting was part of the Defence and Security Equipment International, intended to identify industry needs. This shows the extent of potential influence the industry has over policy. Under the DGP and DIS the policymakers seek to make the policy process more accessible and removing unnecessary, bureaucratic restrictions. It is also an example of the 'revolving door' between the UK

government and the defence industry. By influencing the policy, the defence industry can also affect the regulation.

#### 4.3.5 The AEC in action: licensing defence export to Israel

A major reason arms licences to Israel continue is the use of undefined terminology in the Consolidated Criteria, i.e. 'risk'. War on Want (2015: 3) posited that 'in practice the controls are interpreted so weakly as to allow sales to states that violate the criteria by any common sense definition.' Furthermore, the policy is framed in a way that exports to allied countries that do not observe international law are subsumed in the rhetoric of the 'right to self-defence', 'national security' and 'state sovereignty' (Stavrianakis, 2008: 15). Additionally, the case-by-case approach is merely a schematic technical tool, the use of which depends on the government position reflected in industrial and trade policies. Stavrianakis (2008: 17) emphasised that 'as the licensing system is currently configured, even if exports are restricted to a particular state at times of tension, it will already be in possession of equipment previously transferred and will be eligible for more transfers once flashpoints die down.' War on Want and CAAT argued that the Controls are supposed to restrict the transfer of defence products to countries such as Israel. Yet, exports are encouraged, and the UK-Israel arms trade proliferates.

Stohl and Grillo (2009: 63) contend that the UK system is 'weighed towards favourable licence decisions, including advising defence companies of the likelihood of a licence, and permitting exports unless a persuasive reason not to is provided.' The CAEC identified that in 2012, 2013 and 2014 there were over 3,000 export licences worth around £12 billion for military goods destined to Foreign and Commonwealth Office's (FCO) 28 Countries of Human Rights Concern for each consecutive year (CAEC, 2013, 2014, 2015). Israel was one of the listed nations, with 381 export licences worth £7.9 billion from October 2011 to September 2012, 470 export licences worth £7.9 billion from October 2012 to September 2013, and 470 export licences worth £7.9 billion from October 2013 to June 2014 (CAEC, 2013: 35-6, 2014: 41-2, 2015: 42). On these grounds, CAAT (2015) questioned UK Government's commitment to international law. Authorisation of arms exports to Israel reveals the inconsistency in regulation.

An MOD official explained that the DIT makes sure that the business side of licence application is sound; then, the FCO assesses the application against Criteria two, three, four and six; in the final stage, the MOD verifies whether the equipment is eligible for export to

destination country [Interview: Official B, 2016]. The official continued, ‘the UK system is pretty robust’ and the regulators are ‘reasonably good on human rights issues...the whole system exists to make sure that arms do not go to [states] that violate humanitarian law’ (Official B, 2016). Contesting this view, an activist argued that ‘the fact arms exports to Israel continue after the recent attack on Gaza shows the government’s lack of commitment to international law’ [Interview: Botvinnik, 2016]. Even though, during a ceasefire between the IDF and Hamas in August 2014, the government announced a suspension of 12 licences for components that could have been part of military equipment used by IDF, a year later the government regained its confidence in IDF and withdrew the suspension.

A regulator from the ECO, asserted that ‘export licences are considered against published criteria and we take into account all the information available at the time’ [Interview: Official A, 2016]. Relating to this, a CAAC representative mentioned that regulators do not consider, as is the case with arms exported by companies like UEL to Israel, information relating to past events, e.g. ‘Operation Cast Led’ or ‘Operation Pillar of Defence’ [Interview: Litvyak, 2016] (see also Amnesty International, 2009, 2016). Official B [Interview: 2016] attested that ‘just because a country has a bad record of human rights, it doesn’t prevent goods from being exported to them.’ From another perspective, the ECO’s approach to licence appraisal allows for exclusion of facts that would very likely disqualify military exports to countries like Israel (CAAT, 2010). The approach of evaluating solely the ‘information available at the time’, effectively, spare export to Israel from scrutiny of the situation. Information is taken at face value, as the ECO seems not to probe into the past or future events. As long as Israel denies the use of UK produced weapons in Gaza, all future exports are secured. Official B [Interview: 2016] professed that regulators, ‘have to trust receiving countries when they say they are not using this or that technology for [human rights] violations.’ Official A [Interview: 2016] relayed that out of, around, 17,000 licence application a year about 2% are refused, usually when there is a risk in connection to Weapons of Mass Destruction.

Litvyak [Interview: 2016] argued that it is in the UK government’s interest to ‘whitewash’ the attack on Gaza as ‘self-defence’, because of the two-way arms trade. While strongly condemning the events that occurred in July and August 2014, the FCO stood by the government’s position, which is that ‘Israel has the right to self-defence’ (FCO, 2014b). Baroness Warsi resigned as Foreign Office Minister on 5 August 2014 over Conservative government’s policy on Gaza and its arms trade with Israel (Warsi, 2014). In a subsequent interview for Huffington Post she stated, ‘it appals me that the British government continues to allow the sale of weapons to a country, Israel, that has killed almost 2,000 people, including

hundreds of kids, in the past four weeks alone. The arms exports to Israel must stop' (Hasan, 2014). The Government's position on the Israel-Gaza conflict supports military exports to Israel. Commenting on this issue, Official A [Interview: 2016] declared,

where there is a clear risk the export will be used to breach human rights, we would refuse an export licence. Every country has the right to defend itself, there is a right to basically buy weapons for self-defence. That should not be confused with human rights, they are two different issues, dealt with in different ways.

If the product purpose is stated as self-defence an export licence is authorised, only when there is an embargo or when there is a clear risk of human rights violations a licence is withheld. Of course, in the course of 'self-defence' international law violations may occur. Notwithstanding, the point War on Want (2015) and CAAT (2015b) make is that there is a 'clear risk' defence exports to Israel will be used in contravention of international law, on the basis of past events and Israel's human rights record. According to what the ECO official stated, military exports to Israel are treated differently, as the government does not recognise IDF's actions as human rights violations, but rather as self-defence. It is interesting to see the 'Bush Doctrine' at play in the UK Government's approach to arms exports. The Government frames wars of aggression as self-defence against terrorism. Official A [Interview: 2016] expressed a false dichotomy, whilst the Government uses counter-terrorism and self-defence arguments to justify arms exports, the counter-terrorism police is employed to stop peace protests (see subchapter 4.4).

According to CAAT and War on Want arms exports to Israel breach the Consolidated Criteria (Doward, 2014; War on Want, 2015; Milmo, 2015). The UK government refuses to recognise that the IDF committed war crimes in the attack on Gaza (Cadman, 2015). This enables the regulators to approve exports of military products to Israel. As long as the UK government does not recognise Israel's actions in Gaza as violations of international law the export licences comply with the Consolidated Criteria. Commenting on this aspect of licensing process Official A [Interview: 2016] stated:

Who should determine that this or that is a breach of human rights or international humanitarian law? It is not necessarily for us. Is it for the UN to decide, or is it for the journalist to raise the profile of it? There are always arguments about no clear evidence. If there is enough residual background information, then we need to look at it.

In brief, if the Controls were applied as strictly as the UK government claims, the Consolidated Criteria would very likely disqualify licence applications to Israel, considering

past attacks on Gaza. The policy toward arms exports, and in particular toward Israel, as argued above, steers regulation in the direction prioritised by the DIP. Of course, growth of the defence industry through increased exports is expedient, and UK is one of Israel's primary destinations for foreign direct investment, but there are other considerations. In a speech at Chatham House, the Foreign Secretary, William Hague, encapsulated UK-Israel diplomatic relations in a statement where he called Israel a 'friend and a strategic partner of UK in the Middle East' (FCO, 2011). In the speech the Foreign Secretary emphasised the Government's commitment to supporting a country – Israel – that shares the UK's practice of democracy that could maintain stability and security in the Arab world (*ibid*).

Whilst, Israel continues to be listed as Country of Concern, UK-Israel arms exports continue. The UK-Israel arms trade is profitable to companies such as UEL and Elbit (Smith, 2014). The process-driven approach points our attention to the illegitimate conduct, that being the authorisation of exports to Israel and defence exports by British manufacturers. Yet, these activities are not illegitimate *per se*, what makes them illegitimate are UK's stated commitments encapsulated in the Consolidated Criteria and the AEC, and conflicting policy pursuits. Notwithstanding numerous criticisms of UK's apparent lack of commitment to preservation of human rights abroad, the bombing of Gaza was whitewashed, and arms exports vindicated.

#### 4.3.6 Summary

The illegitimate conduct is found in the conjuncture of practices integral to state function and organised capital's existence (Tombs and Whyte, 2009; Whyte, 2014). Illegitimacy is not an exceptional activity or a unique situation of collusion. As this section demonstrates, illegitimate conduct is intrinsic to the everyday process through which export licences to Israel are authorised by the ECO (see Tombs, 2012). The section observed how the routine practices of the UK Government, structured to manage and facilitate export of defence companies, such as UEL, can become illegitimate. Even though the policy towards defence exports to Israel and the entire Defence Industrial Policy do not prohibit exports to Israel, on the basis of the 'self-defence' claim made for Israel, the AEC prohibit defence exports to countries with record of international law/human rights violations under Criterion 2 and Criterion 4 of the Consolidated Criteria.<sup>7</sup> Where clear risk of exported products being used in

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<sup>7</sup> Criterion Two states, 'Having assessed the recipient country's attitude towards relevant principles established by international human rights instruments, the Government will:  
a) not grant a licence if there is a clear risk that the items might be used for internal repression;

violations of the UK's own international commitment and human rights exists, no licence can be authorised under the AEC.

The 'clear risk' element is established by consideration of past events and the recipient state's commitment to international law/human rights (CAAT, 2010; DBIS, 2014; CAEC, 2015). Yet, the case-by-case assessment process does not consider other information than that relevant to the timeframe of the licence application, nor the FCO's Countries of Concern list when it comes to Israel. Furthermore, the policy stresses the UK Government's close, diplomatic relationship with Israel, which is considered the UK's 'strategic partner' (FCO, 2011). It, also, places a premium on expanding the UK's share of the international defence market by increasing defence exports to strategic countries, e.g. Israel (MOD, 2005, 2017b; DBIS, 2013; DBIS, 2014b). The state-corporate illegitimacy can be observed in the dichotomy between the UK Government's stated legal commitments and the reality of achieving 'desired finalities', in this case growth of defence exports to the UK's 'strategic partner' (Tombs and Whyte, 2015; Lasslett, 2014c). By licensing exports to Israel, the Government facilitates companies like UEL in abetting Israel's military intrusions in Gaza.

This conduct was perceived as illegitimate because, according to some NGOs, the AEC and FCO recommendations prohibit the export of arms to countries such as Israel. In addition, the policy contradicts the AEC as well as the UK's broader commitments upholding international law and human rights. The licensing processes, influenced by the policy framework, is a form of 'regime of permission' that simply manages and facilitates the private sector even when the permission of exports violates regulatory rules. This illegitimacy, observed by anti-arms trade groups and Palestine Solidarity Campaigners during the 2014 bombing of Gaza triggered a social opprobrium of, not just the Government, but an Israeli owned subsidiary. This censure actualised the observed illegitimacy as deviant conduct through performative and practical form of resistance.

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c) not grant a licence if there is a clear risk that the items might be used in the commission of a serious violation of international humanitarian law (DBIS, 2014).

Criterion Four states, The Government will not grant a licence if there is a clear risk that the intended recipient would use the items aggressively against another country, or to assert by force a territorial claim. When considering these risks, the Government will take into account, inter alia:

a) the existence or likelihood of armed conflict between the recipient and another country;

c) the likelihood of the items being used other than for the legitimate national security and defence of the recipient (DBIS, 2014).

#### **4.4 Censure of UK-Israel arms trade and UEL**

The observed illegitimacy of the Government's regulatory-policy practices and UEL business activities triggered a resistance campaign that, then, inscribed deviancy labels on both institutions' conduct (see Green and Ward, 2004; Lasslett et al, 2015). To capture the social processes that actualise the *being* of state-corporate crime, the chapter now examines how censure of the illegitimate conduct was configured, how effective it was and how the state-corporate institutions responded. The civil society and the tradition of social struggle, wherefrom the resistance actors came, is a site of counter-hegemonic ideals, values and practices. Indeed, such civil society configurations are one important and powerful counterforce to state-corporate power (Ward and Green, 2000; Green and Ward, 2012). The values, ideals and norms upheld by the resistance actors in this case negate any state-defined national interests and private (corporate) interests (Whyte, 2012). When counter-hegemonic ideas are put into action through resistance, a latent state-corporate illegitimacy is exposed and acquires the quality of being criminal.

As the IDF bombardments of Gaza intensified, London based peace activists responded by pressurising the UK Government to cease arms exports to Israel. To this end, a campaign, dubbed 'UK Stop Arming Israel', was launched by a broad coalition bringing together activists from War on Want, CAAT, Drone Wars UK, Palestine Solidarity Campaign (PSC), Boycott, Divest and Sanction (BDS) movement and LPA. The campaigners censured UEL for producing engines for drones used by Israel in the Operation Protective Edge. The campaigners, also, censured the UK Government of complicity in war crimes committed by the IDF against the people of Gaza by authorising arms exports to Israel. The campaign, according to the organisers, was non-hierarchical, initiated through a collective consensus. The crime property ascribed on the UK Government and the UEL was actualised through material acts of resistance, 1) the rooftop occupation of UEL by LPA activists; 2) a blockade of UEL by 'Stop Arming Israel' campaigners.

The campaign started with several protests and demonstrations in London. It culminated with the rooftop occupation of UEL factory by the LPA in Shenstone on 6 August 2014 (Smith, 2014). The action resulted in a court case, which was used by the LPA activists to advance the campaign aims. The resultant lawsuit was used by the campaigners to obtain UEL's export licences. The company refused to give out license information. CAAT and War on Want continued to organise subsequent events after the ceasefire was reached between Israel and Hamas on 26 August. A year after the Operation Protective Edge, War on Want in

coalition with CAAT organised a blockade of the UEL facility on 6 July 2015, dubbed ‘Block the Factory’. Nineteen activists were arrested and charged with breaching a court order. The following section will examine data from interviews conducted with a Member of the Parliament, LPA activists, NGO representatives, and government officials; grey documents; CAAT’s database; NGO reports; and, media records.

#### 4.4.1 The ‘Stop Arming Israel’ campaign

The UK Government, Official A [Interview: 2016] admitted, balances ‘constant tension’ between expectations coming from the exporters, the public, and NGOs. Official B [Interview: 2016] proclaimed that ‘if you are a campaigner wanting to prevent export controls you’ll be beating-up the government...If you are an exporter, you will say the government is killing exports etc.’ According to Official B [Interview: 2016] this serves as proof as to how robust UK Export Controls are. From a different perspective, War on Want (2015) argues that this kind of attitude is at the heart of the issue. Even when faced with public scrutiny, War on Want (2015: 7) asserts, ‘the UK government is intent on allowing arms exports up to the limit of what the embarrassment of bad publicity will allow.’ Of course, the UK government wants to protect its public image from overt criticism. Official B [Interview: 2016] added that ‘there is a general desire to protect the UK’s public image...from overt criticism, of saying you provided X to Y to do Z.’

As observed in this case study, however, moments of crisis, i.e. bombardment of Gaza, cause overt forms of resistance intended to censure the state and organised capital. In such moments, the censure of resistance communities, in effect, inscribes and actualised crime property on state and corporate conduct. Here, the case study captures the thesis that crime’s being is historically constituted. Indeed, crimes of the powerful are constituted by historic struggles from below, for justice or rights (Sumner, 1990). This case study is an example of oppositional censure which expresses and constructs crimes being. What the resistance community qualified as “crime” in this case came from the resistance actors’ consciously directed, material action.

The mobilisation against UEL was influenced by a 2009 Amnesty International report, which revealed that certain UK based manufacturers produce components for drones that are used in military operations in Gaza. UEL was the focus of this report, as it manufactures engines for Hermes 450s. Hermes drones are considered by the IDF was the ‘backbone’ of ISTAR missions over Gaza. An LPA activist, recounted,

[I]t began with an Amnesty International report that came out in 2009 saying that there was strong evidence suggesting that the rotary engines fitted into Hermes 450s were being made at the Shenstone factory. That set the ball rolling and the CAAT did some more work around it to build a case [Interview: Pavlichenko, LPA, London, May 2016].

The Amnesty International (2009b) report accentuated the risk that rotary engines produced by UEL are incorporated into Hermes 450s, which were used by the IDF during the bombing of Gaza in 2009. It stipulated,

UEL...has stated that it manufactures the engines for Hermes 450s produced by its parent company, Elbit Systems of Israel. Specifications displayed by Elbit Systems beside a Hermes 450 aircraft at a 2006 defence exhibition...state[d] that the Hermes 450 is powered by a 'UEL AR-80-1010' engine [also UEL AR741] manufactured by UEL (Amnesty International, 2009b).

This report prompted CAAT's research into the export licences granted by the ECO to UEL. CAAT's research, later, was important to the direct action, because it was used as evidence to build a legal case for the occupation of UEL. War on Want supported CAAT's research and published much of the findings in its reports and organisational papers (War on Want, 2015). The NGO research formed the foundations on the evidence and political arguments advanced in the 'Stop Arming Israel' campaign. By exposing these issues, the campaigners could effectively censure the UK Government and UEL. In this way, the groundwork for a campaign and direct action was already laid down.

The Operation Protective Edge triggered a reaction from groups campaigning against the UK-Israel arms trade. The ongoing campaign against arms exports was the premise of the censure of UEL. When the UK Government rejected the claims made by CAAT and War on Want, London based activists took a more direct approach. Throughout the month of July peace activists from CAAT, BDS, PSC and LPA held numerous demonstrations, protesting UK's involvement with Israel through the arms trade. According to an LPA activist and an CAAT representative, the 'Stop Arming Israel' campaigners are linked through overlapping membership in several organisations, including CAAT, War on Want and the PSC [Interview: Pavlichenko, 2016; Interview: Lityyak, 2016]. Thereby, they were able to draw upon the support of CAAT and War on Want in the campaign.

Protests, letter writing, petitions and demonstrations became more frequent as the fighting intensified. A prominent member of LPA mentioned a drop of a banner featuring the

campaign name ‘UK: Stop Arming Israel’ at the Westminster Bridge on 30 July [Interview: Schulman, LPA, London, June 2016] (see also Rucki, 2014). The direct action was intended to draw media attention. Earlier, on 18 July, estimated 15,000 people joined a march organised by PSC from Downing Street to the Israeli Embassy (BBC, 2014). August saw a greater frequency of protests. A mass protest on 9 August was organised by PSC and the BDS movement with support from groups such as LPA and NGOs, including CAAT (BBC, 2014). One LPA respondent expressed that the demonstrations and marches were intended to point the public’s attention to the UK’s involvement in the attack in Gaza to, ultimately, ‘*stop a greater criminal act*’ [Interview: Schulman, LPA, London, June 2016]. The protests received considerable media attention.

The campaign adopted the slogan, ‘Stop Arming Israel’, as its official name. Two LPA activists expressed that they wanted this slogan to be the core message of the campaign, hence it featured in all the demonstrations [Interview: Botvinnik, 2016; Interview: Zaytsev, 2016]. The message it communicated was that, first, the UK Government is involved in an arms trade with Israel; second, the UK-Israel arms trade violates international law and domestic regulation; third, the campaign demands the exports to stop (Botvinnik, 2016; Zaytsev, 2016). Basing their evidence on CAAT’s research and Amnesty International press releases the group argued there was a clear risk of military equipment produced in UK being used in the attack on Gaza [Interview: Litvyak, 2016; Interview: Schulman, 2016].

UEL’s business and UK arms exports to Israel were perceived by LPA as morally and legally wrong, because exported equipment was believed to be used in the attack on Gaza. Applying normative codes of conduct, e.g. human rights, has its benefit. Human rights encompass broad social values that resonate with the general public and civil society. Additionally, the object of censure is perceived as an opposer of these values. A War on Want campaigner explained they tried to make a link between human rights violations in Gaza and UEL’s products [Interview: Peshkova, 2016]. An LPA activist proclaimed,

Making money of death is morally wrong. Not just making money of death, I think any corporation has to aggressively market its products in order to stay competitive, and so that’s the worst part of UEL and the entire arms trade. They will manufacture kind of scenarios for death and killing which is their market [Interview: O’Donel, 2016].

Interviews with the LPA activists indicate that they saw themselves as both advocates and watchdogs of human rights. There were other influences on the campaign. Some within the LPA, particularly those that came from the PSC and BDS, saw the UK arms exports to

Israel and UEL's involvement in terms of 'imperial oppression' of Palestine by Israel. The LPA activists view human rights and international law as Western liberal constructs which do not truly reflect the situation in OPTs, but rather support imperialist oppression [Interview: Botvinnik, 2016; Interview: Litvyak, 2016]. Although, not a point of contention of the resistance movement, it diversified the voices within the campaign. Zaytsev [Interview: 2016] stressed that 'human rights are a sentiment that everybody could agree with, but it was too vague and too broad. It wasn't specific enough and it did not focus on how the UK was actually quite complicit in what was happening historically, but also literally.'

As the death toll in Gaza surpassed one thousand, the activists felt that a more direct approach was required. Interviews with the LPA activists and members of NGOs reveal that the UK government's indifference to the events in Gaza frustrated them. The demonstrations and marches had a marginal effect on the whole situation. The Government announced a review of 12 export licences, but no direct steps were taken to end the bombing of Gaza. The Conservative/Liberal Democratic coalition remained steadfast in its arms export policy toward Israel, despite social opprobrium. The activists felt the Government ignored the message of their campaign. The activists felt that something direct and 'tangible' had to be done to make real impact.

#### 4.4.2 The rooftop occupation of UEL

On 5 and 6 August 2014, nine LPA activists occupied the UEL facility in Shenstone, Birmingham. The action was undertaken after a month of protesting and demonstrating in the streets of London. The occupation, O'Donel [Interview: 2016] recounted, 'was organised on fairly short notice in response to the attack on Gaza. But we had been thinking about it for some time before. Then when the attack happened, we had to quickly mobilise and do it then and now.' As the death toll in Gaza grew the LPA decided to take a more radical, direct action to force the Government to act on arms exports to Israel. The main LPA organisers recruited supporters from the BDS movement and PSC to join them in their undertaking. A pertinent element of preparations for the action was a legal defence. Two weeks prior to the occupation the activists prepared a legal case in anticipation of potential arrest and charges. Schulman [Interview: 2016] recollected, 'we met with a law firm, which we met before to say that we would do something that would result in that...We briefed ourselves legally, and we knew what we would be charged with.' The LPA sought legal advice from Bindmans and Matrix Chambers law firms, which had experience in representing activists in such cases.

O'Donel [Interview: 2016] proclaimed 'we expected to be arrested for aggravated trespass, which if the business of the company had been lawful, we would have been guilty.' Self-sacrifice was an intended element of the action. Self-sacrifice can be performed on various levels: safety (confronting police), liberty (arrested), health (hunger strikes) and life (suicide), in order to arouse public conscience to a moral cause. The activists put their safety and liberty at risk in order to arouse public consciousness, draw the attention to the issue and to force the Government to revoke its arms exports to Israel (see Franks, 2003; de Cleyre, 2004; Nepstad, 2008). Effective resistance often entails some form of self-sacrifice (Friedrichs, 2012). As interviewees stated, the LPA hoped to be arrested and charged to use the legal case they had prepared to put the company on trial [Interview: Botvinnik, 2016; Interview: Pavlichenko, LPA, Skype, May 2016]. The aim was to subvert the repressive elements of the state apparatus, in order to use them as tools for raising the public's consciousness over UK complicity in war crimes abroad. Apprehension and legal charge are, indeed, an integral element of direct action (Franks, 2003; Nepstad, 2008). One interviewee stated that,

direct actions often result in court cases. There is a chance, during court cases, to put the arguments forward that it is not us who are being criminals. We are trying to uphold the law, and it is the companies that are breaching the law [Interview: Okhlopkov, DroneWars, London, Oct 2016].

The rooftop occupation of UEL was a form of direct action. Some recognise direct action as a means of 'last resort' (Carter, 2005). One of the occupiers expressed that they 'had already tried all other means: lobbying, letter writing, petitions, demos, marches etc. It didn't work, and that is why we took direct action' [Interview: Schulman, 2016]. Other occupiers contended that media and authorities respond to more radical and direct collective actions; a direct action provokes a direct response from the government [Interview: Haya, LPA, Skype, Feb 2016; O'Donel, 2016]. Albeit, direct action is not a mere performative act, it is intended to have a real and tangible impact (Nepstad, 2008; Moore and Shepard, 2013). Moreover, it is never enacted in isolation, it is an auxiliary means of a campaign. Okhlopkov [Interview: 2016] proposed that 'direct action is one of the tools in a tool box; it has to be accompanied by other forms of resistance.' Such forms of industrial sabotage involve illegal measures, e.g. trespassing. It can lead to legal action, which can be used to further advance campaign objectives [Okhlopkov, 2016; O'Donel, 2016]. The occupation of UEL was not the final act of resistance, but a climatic point of the campaign which set a foundation for more such actions. An activist from LPA explained the rationale behind the occupation,

We had every reason to believe that engines from that factory were being exported to Israel in service of its attacks on Gaza at the time. I also think spectacular forms of direct action, like that, help to make clear political point and that's the point about UK government's deep complicity with Israeli apartheid [Interview: Botvinnik, 2016].

The occupation was not just about forcefully demonstrating a point to attract media and public attention. It was also about compelling the UK government to act. There is a longstanding history in left activist circles of raising working class consciousness by unveiling the state's superficial liberal exterior (Thoreau, 2008; Gregg, 1960). This tradition is present in the anti-arms trade, anti-war and peace activism, which gives resistance campaigns, like 'Stop Arming Israel', subversive values (Nepstad, 2008). The precedent of Raytheon 9 from Derry, where the Derry Anti-War Coalition and Foyle Ethical Investment Campaign ousted a company that was manufacturing weapons for Israel, was drawn upon one of the LPA activists,

In Derry people [Derry Anti-War Coalition and Foyle Ethical Investment Campaign] throw out a weapons factory [Raytheon] because the community had enough, because the argument is made and once it is made enough people know that you shouldn't be making drones for war and making money from it in any community [Interview: Haya, 2016].

During the attack on Gaza there was an urgency to act. Zaytsev [Interview: 2016] commented 'it was along the lines of, this is happening right now, and we need to do something right now.' Because the protests and petitions had peripheral impact, the activists felt they had to force the Government's attention to the argument against the UK-Israel arms trade. Haya [Interview: 2016] explained, 'what we were doing was making the connection that there is [in UEL factory] a huge contribution to a major crime taking place.' A CAAT representative declared,

People saw an opportunity to make a direct link. Often, people see things like that happening and think that's very far away, it is happening to people I don't know in another country and I think the idea behind the rooftop occupation was to pull the camera on the mechanics [Interview: Litvyak, 2016].

The linkage LPA activists were trying to make was between UEL and the use of UK manufactured defence products by the IDF in Gaza. One of the banners used by the LPA on the day of action read 'UK govt complicit in Israel war crimes by allowing UEL to supply the engines for Israeli drones' (Express and Star, 2014). As an Israeli owned company, UEL is subservient to Israel's military complex. Moreover, the UK government is complicit in this relationship by licensing arms exports to Israel. The occupation of UEL was, in a way, a

tangible means of actualising the deviant label ascribed on the company as well as the UK government. The connection made was events in a foreign country and an immediate facility. The activists believed that the public does not have much influence over events abroad, and so they are disengaged [Interview: Haya, 2016; Interview: Litvyak, 2016]. They do relate, however, to what is happening in their community and they can have a direct impact on it [Interview: Haya, 2016; Interview: Litvyak, 2016]. This is, also, why LPA was compelled to act on their conscience, because they could and did have a direct impact. On this note, Pavlichenko [Interview: 2016] stated,

There was this factory on British soil that was contributing to this horrible atrocity of human rights in Gaza and as a citizen of this country I felt responsible that I had to do something more than just attend demos, sign petitions which didn't seem to have much of an impact on the government. I don't think there was a specific moment, it was a built-up of a feeling of despair about what was going on.

The LPA were motivated by their Government's inaction and the perception that a more radical approach would bear a direct result. The campaigners were further motivated by the values they upheld through Palestine solidarity, anti-war and human rights activism. Such values are connected to broader value systems of human rights and peace (Rothe, 2009; Friedrichs, 2009; Iadicola, 2009). The milieu of LPA activists, i.e. engagement with the PSC and BDS movement, human rights activism, anti-arms trade activism etc. is a strong influence. The value system held by these groups sensitises individuals to such events. The LPA activists drew on the long tradition established by the Nuremburg Trials [Interview: Haya, 2016; Interview: O'Donel, 2016; Interview: Litvyak, 2016]. Principle VII of the Nuremburg Charter states: 'Complicity in the commission of a crime against peace, a war crime, or a crime against humanity (murder of civilians) as set forth in Principle VI is a crime under international law' (UN, 1949: 93). Drawing on this, the LPA believed they had a moral and, indeed, legal obligation to act, within their capacity, to force their Government to act. They pertained to the Nuremburg Principle according to which individuals do not have to abide by the law when a State tramples on human rights.<sup>8</sup> They felt they were justified in their attempts to prevent a commission of a much greater crime.

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<sup>8</sup> The activists referred to a Principle established under the Charter of the International Military Tribunal in Nuremburg, Articles 7, 8, 9 and 10 which confer criminal responsibility on individuals who act on State orders in commission of international law violations and/or fail to stop acts that violate international law (Appendix 6). According to the Articles, when a State is breaking international law, e.g. committing war crimes or crimes against humanity, individuals have a capacity to disobey and act against State orders. Patterson (1972) expounded these articles are used in social movements to justify civil disobedience when a state is believed to act in a manner that violates international law.

Such dramatic actions tend to attract considerable media attention. LPA activists mentioned that the Russia Today (RT), the BBC and the Guardian reported directly from the scene [Interview: Haya, 2016; Interview: Zaytsev, 2016; Interview: Pavlichenko, 2016]. RT (2014) published an article entitled 'UK protest group 'shuts down' factory for supplying Israel arms'. Haya [Interview: 2016] informed the interviewer that,

RT were filming it throughout 24 hours. There were BBC as well. It shows the extent to which this can connect. Without protests you would not have the focus on the UK link to what Israel was doing...certainly we were aware that being up there for so long was a great thing because we didn't expect it.

LPA gave interviews from the roof, spreading the news of an issue that tends to be ignored by the mainstream media [Interview: Peshkova, 2016]. The police response afforded LPA time to broadcast their key message, namely that the UK Government facilitates the export of arms by companies like UEL to Israel and that these exports contribute to the attack on Gaza. Haya [Interview: 2016] stated,

We were on the BBC, we were on some of the more international media, e.g. RT. All those things connect, and I think that global media is also coming closer now and they are affecting each other. The BBC is having to react just because Aljazeera is running an interesting story about this. So, they were there, they were interviewing quite a few of us. I mean, it's a strange one with the BBC because we know how fluid they are with Palestine. They've been incredibly bullied into not covering this issue they should be...even if it was just social media, we would have had national coverage of this. Whereas, a vigil or anything else like that simply wouldn't.

A more direct approach risks a reaction from law enforcement, but it can be more rewarding in terms of the media coverage and impact (Schock, 2013; Moore and Sheppard, 2013). By sacrificing their safety and liberty the LPA achieved two things. The first, they gained valuable media coverage which they used to arouse public consciousness about UK complicity in war crimes committed in Gaza. The second, they elicited the police response, which resulted in their arrest and charges of aggravated trespass the campaigners used in court to put UEL on trial. It, also, made the public and the media pay more attention to the campaign, particularly the link campaigners were making between UEL and the war crimes committed in Gaza by Israel. This has been exemplified in the increase in public vigils at UEL and emergence of Birmingham Palestine Action group (see section 4.4.7). The way in which Staffordshire Police responded demonstrates the state's approach to protest.

#### 4.4.3 The state reacts: police response

The nine activists were met with a heavy-handed response from law enforcement. Around 30 police officers, 10 vehicles, fire trucks and ambulance vehicles arrived on the scene [Interview: Haya, 2016; Interview: Pavlichenko, 2016]. Reports from UEL (2015a) support these claims. Staffordshire Police blockaded the roads around the factory, preventing protesters from congregating around the site [Interview: Haya, 2016; Interview: Zaytsev, 2016]. According to the LPA, local Palestine supporters staged a protest in support of their action, but due to the blockade they were prevented from approaching the main entrance. Throughout the occupation, police negotiators were in constant conversation with the protesters, warning them their action would result in charges of aggravated trespass (Express and Star, 2014; Smith, 2014).

Initially, interviewees said that, Staffordshire Police engaged the Fire Brigade to use the fire truck to climb onto the roof and inspect the activists [Interview: Pavlichenko, 2016; Interview: Haya, 2016; Interview: Zaytsev, 2016; Interview: Schulman, 2016]. Much to their displeasure, the Fire Brigade left the scene after one of the activists ‘shouted at the firemen that they are colluding with the police to shut down the protest’ [Interview: Zaytsev, 2016]. According to one source, the Fire Service Union later stated that ‘it’s not our role to police protests, we will try to keep people safe, but once it comes to the stage of trying to limit what the [protesters] are doing we have nothing to do with it and that was never our intention’ [Interview: Schulman, 2016]. The police had no means of getting on top of the roof safely, and so the occupation proceeded until the next day.

Haya [Interview: 2016] stated, ‘I think the officers were in a really difficult position, they were not exactly sure what to do... We were ready to defend ourselves on the roof... they didn’t have the right people that could come up safely, so they just ended up leaving us.’ The Staffordshire Police employed an unexpected tactic, which Zaytsev [Interview: 2016] described as very ‘annoying’ and ‘disruptive’. The negotiators, Zaytsev [Interview: 2016] continued, shouted almost incessantly through the megaphone at them and shined a floodlight at night, preventing the activists from sleeping. O’Donel [Interview: 2016] attested that ‘the police deployed a tactic that we weren’t expecting, it was incredibly annoying. They sent a police liaison team on a cherry picker to basically annoy us to get down.’ This was an interesting tactic. Police officers were impeding the protest, until they were in a position to apprehend the occupiers.

The nine were arrested after 36 hours. Botvinnik [Interview: 2016] related, ‘after two days, specially trained police units climbed the roof and removed us physically and we were arrested on charges of aggravated trespass and taken to the Staffordshire police station.’ Around 30 officers were involved in the arrest of the activists [Interview: Pavlichenko, 2016]. They were later notified of the charges by court order. Schulman [Interview: 2016] recounted, ‘once we were arrested, we spent a night in a cell, and we were interviewed, and then released. The charges came in a little bit later.’ Haya [Interview: 2016] described the way they were arrested as ‘man handling’; and further added that the police ‘were not friendly, they were violent.’ According to the activists, they were treated like felons. Zaytsev [Interview: 2016] argued that ‘this is what usually happens...protests get shut down by the police, while these companies are allowed to do their business...’ In a statement to The Guardian, the Chief Inspector, Jane Hewett of Staffordshire Police, said,

Our duty is to provide fair and balanced policing – we’re here to keep the peace and to uphold the law, but when the law is broken we will take appropriate action...Since the protest began highly trained police negotiators have been in regular conversation with the protesters and have explained on numerous occasions that their actions in this protest will result in their arrest for aggravated trespass. We have also continuously provided the protesters with the opportunity to safely and peacefully hand themselves to police officers (Smith, 2014).

The Chief Inspector stated to the Birmingham Mail that their role in this incident was to ‘facilitate peaceful protest and minimise the impact on others, ensuring the safety of protestors, emergency teams and the wider community’ (Lillington, 2014). In another article, the Chief Inspector proclaimed they were ‘balancing between the role in facilitating the protest against unlawful impact to the community’ (Stuart and Richardson, 2014). From the Inspector’s point of view, they were there to ‘facilitate’ the protest whilst fulfilling their duty to protect the community from unlawful activity. On the scene, however, the police were obstructing the protest.

Pavlichenko [Interview: 2016] commented that ‘some police officers just switch off about what they’re doing, and why they’re doing it and serving the state and what the state actually stands for...there was a mixed response from police officers.’ The activists got the impression that some officers were simply doing their job, whether they agreed with the protest or not. There were, also, those who had ‘bullying tendencies’ and tried to impose their ‘power’ on the protesters [Interview: Pavlichenko, 2016; Interview: Botvinnik, 2016]. As a state apparatus, the police were there to exact the law and to detain the trespassers. One of the LPA members went on to say,

They were very nervous about the whole rooftop situation, about one of us falling of the roof or there being an accident. When they initially came onto the roof there was a lot of shouting for us not to move...Any of us who were near the edge, they dragged us down and away from the edge. They were very scared about bureaucracy of someone falling of the roof, that's health and safety nightmare, and probably they care about individuals... [Interview: Pavlichenko, 2016].

The police released activists' names into local papers, including Birmingham Mail (Stuart and Richardson, 2014). The story in the local papers focused on the protesters and the charges of aggravated trespass (Lillington, 2014; Stuart and Richardson, 2014). A local representative, Mr Christopher Pincher from the Conservative Party, spoke out on the incident. In his opinion the protest was illegitimate because the activists trespassed on the company property. A politician who participate in the research asserted,

...the law should be enforced. If people commit an illegal act like aggravated trespass, they should be prosecuted for it. People shouldn't think that simply because you want to protest, which is a legitimate thing to do, you can then break the law, trespass and abuse other people. That is an illegitimate protest and I think there needs to be a very clear distinction between what's right and what's wrong. Police have a duty to enforce the law... [Interview: Politician, The Conservative Party, London, Feb 2016]

Again, the state actors saw the action as illegitimate because the activists trespassed onto private property. Hence, they were treated as offenders. After being apprehended, the nine were charged with aggravated trespass. The subsequent prosecution was led by the Crown Prosecution Service (CPS). The campaigners used the trial to advance their political argument against UEL, to further expose the UK's complicity in Israel's attack on Gaza and to obtain UEL's export licences.

#### 4.4.4 UEL on trial

Court cases are an integral part of direct action, and often a desired outcome (Schock, 2013). For a direct action to be effective those performing it must be prepared to accept the consequences of their action. They tend to be undertaken when activists are confident that they can support their case. In a court, defendants have an opportunity to turn the attention from what they did to what a company or a state institution is doing. As mentioned above, the LPA anticipated to be apprehended and charged with aggravated trespass. They, then, subverted the legal state apparatus and used the court to put UEL on trial. The objective, the LPA informed, was to obtain export licences from UEL by pointing the magistrate's attention

at the company's business. In so doing, the activists directed the spotlight at the licensing system, the Government's complicity in Israel's military operations and UEL's exports. One interviewee stated the following:

Direct action like this is very useful, because it leads to aggravated trespass charges, and it requires the activity that you are stopping to be unlawful. It gives you a chance to run a defence on the grounds that the company's business is unlawful. Direct action has been used time and again in various campaigns as a strategy to expose corporate crimes, because it allows you to change the case from about what you did to about what they're doing [Interview: O'Donel, 2016].

UEL was pressurised by the magistrate, on the request of the defence, to disclose its licences, which the company did not want to discuss in front of a judge (UEL, 2015a). The Government never releases the actual licences, only some information in annual reports and FOI releases (CAAT, 2014; DBIS, 2014b). Therefore, the court room was an opportunity to gain insight into a company's exports. The campaigners were strategically employing the power of the judicial apparatus against the executive apparatus. With aggravated trespass the company must prove that its activities, the cause of aggravated trespass, were lawful. Botvinnik [Interview: 2016] expounded that,

[T]he causes of aggravated trespass in this case are that we were preventing unlawful activity. That allowed us to say in court that we dispute the legality of the operations taking place at the factory, because we have good reason to believe that this factory is helping Israel with attacks on Gaza and that's clearly in violations of international law. That allowed us to bring in all sorts of political arguments into the court case.

Questioning the legitimacy of LPA's action, UEL (2015a: 15) testified, 'the Defence case proceeded on the basis of claims the protestors were acting lawfully by preventing war crimes from being committed at the factory. The war crimes were alleged to be the manufacture and supply of UAV engines to Israel for the war against Palestine.' A report of the UN investigation on the alleged war crimes committed in Gaza during summer of 2014 with a document signed by the Secretary-General of the UN, Ban Ki-Moon, is attached as proof to the claims of war crimes committed by Israel (Case File, 2015: 247-74). The company denied that it manufactures engines for the IDF's Hermes 450s and any connection to the IDF's air force. However, multiple sources, Amnesty International (2009), War on Want (2015), CAAT (2015), confirm that UEL is involved in manufacturing engines for IDF's drones. Pallister (2009) reported that 'commentators on reputable defence and aviation journals and Elbit's own website suggest that the Lichfield factory produces engines for the Hermes.' Indeed, the company advertised the use, performance and sales of its engines in UAS International 2015 magazine.

When the magistrate requested the company to provide the list of export licences, the company refused. UEL's manager testified:

During the course of the proceedings the magistrates court directed the company to produce a list of export licences that had been granted to Israel. The company however took the decision that it did not want to be used during the court proceedings as a political channel to further advance the cause of the protestors. The company declined the disclosure request for use as part of proceedings on the basis that it was not relevant to the prosecution case to disclose confidential information (UEL, 2015a: 16).

Charges against the LPA were dropped by the CPS hours before a deadline to provide details of arms export licences granted to UEL to send its hi-tech engines to Israel for use in the Hermes 450 (Case File, 2015; Milmo, 2015). The company insisted that the drone models used by the IDF are not powered by their engines. In subsequent communications, the CPS told The Independent that it had been forced to discontinue the case after it was informed that two witnesses from the company were no longer prepared to give evidence, and that documentation – understood to be the arms export data – would not be forthcoming' (Milmo, 2015). The information would have cast brighter light on whether military products manufactured in the UK are being deployed by the IDF in Gaza. The magistrate, then, closed the case before the actual criminal proceeding, which was to be held in February 2015. The police declared that 'this was a very disappointing outcome' and one that 'would send the wrong message to the protesters' (UEL, 2015a: 15). The law enforcement, as well as the company, were of the opinion that such an outcome might encourage future protests.

It is curious, however, why the company or the CPS did not pursue the case further. The defendants were convinced that they would have been convicted. According to Botvinnik [Interview: 2016], 'in these kind of cases activists tend to get convicted...it was very unusual that the company dropped the charges.' O'Donel [Interview: 2016] added, the fact 'the company did not pursue the case, shows that they are hiding something about the export licences.' Indeed, if the company had nothing to hide, they would not have had objected to disclosing exports licence information. An interview respondent said,

The company did not pursue the case, even though they were almost certain to win, indicates that there was something about it that they didn't want to happen, whether that was the manager being cross-examined in the stand by anti-arms activists, whether it was that UEL was pressured by Elbit, whether they just wanted to get out of the limelight, whether they didn't want to release export licences, we don't know [Interview: Zaytsev, 2016].

The police continued to monitor the Stop Arming Israel campaign after the case was closed (UEL, 2015a). According to the LPA, the police used social media to keep track of campaign activities around UEL. Case files from another prosecution revealed that Staffordshire Police met with the company and informed the directors on a blockade planned by the campaign (UEL, 2015a). The next part of this section explores the continuation of the ‘Stop Armin Israel’ campaign through a direct action, ‘Block the Factory’. In so doing, it looks at the tactics employed by the state apparatus to stifle the censoring efforts.

#### 4.4.5 ‘Block the Factory’

The ‘Block the Factory’ action was held on 6 July 2015 in several Elbit’s subsidiaries throughout the UK. Over fifty different organisations and activist groups have supported the action and participated in its mobilisation. War on Want was an official endorsing organisation, in cooperation with CAAT. Okhlopkov [Interview: 2016] explained that the blockade was decided upon because War on Want and CAAT wanted to focus more on the issue of drone components produced on UK soil for export to Israel, which breached the UK’s own law. Also, the previous year’s success proved that there is more potential for undertaking resource intensive actions in an effective way. The LPA did not participate in the blockade as a group because such actions are energy intensive. After the occupation the nine activists have stepped back from protests outside UEL due to the stress associated with the trial [Interview: Botvinnik, 2016; Interview: Zaytsev, 2016]. This can at times discourage activists from taking part in more direct actions.

The blockade was better organised than the rooftop occupation with around 100 attendees. As was the case with the action undertaken by the LPA, the blockade was intended to raise the public’s consciousness about the role the UEL facility plays in Israel’s military operations against the people of Gaza. One of the blockaded organisers, from War on Want, stated,

...people do not necessarily make the connection between this factory and what is happening in Gaza. They don’t associate engines with what’s happening. We wanted to be able to do something that would close that gap in perception and make it clear that these places in our communities are manufacturing things that are directly used in [Gaza]. There is awareness building and mobilising to point out the companies’, but also UK government’s, complicity. Our demand is a two-way arms embargo...We put out a report Arming Apartheid a few days before we had ‘Block the Factory’. We can produce all the reports in the world, but we want the people to take notice of the issues and start thinking in their heads that it is a fair demand to ask the UK government to stop imports and exports of weapons [Interview: Peshkova, 2016].

The blockade was organised as a ‘family event’ to appeal to a broader range of participants and to engage the local community [Interview: Peshkova, 2016; Interview: Litvyak, 2016]. In this way, the action gave a less threatening impression. The message was that it was a peaceful, non-violent protest against a business that is dependent on war, and one that the UK Government supports in its policy ([Interview: Peshkova, 2016]; CAAT, 2016c; War on Want, 2015). The main character of anti-war and anti-arms trade protests is nonviolence. By making the action available to a wider audience the message spread farther, but more importantly that audience, once informed, has a choice whether to support, censure or ignore the reality. Okhlopkov [Interview: 2016] explained,

Injustice is going on all the time, but we do not see it a lot of the time. Civil disobedience is about trying to expose that injustice. One of the things I talk about in my talks is that [people] like Rosa Parks were very confrontational, she refused to give up her bus seat and that led to the Montgomery Bus Boycott. People had to choose what side they were on, either to support the *status quo* or to support equality. Before, they did not have to choose. Civil disobedience is a bit like that. It is not very clean and straight cut...you have to argue it. Nonviolent direct action is a way to crystallise and expose the injustice. In the case of UEL, the company in this beautiful leafy suburb is supplying equipment to Israel which is believed to be used in Gaza.

Here, Okhlopkov spoke of the fact that the injustice happening to people of Gaza is not directly experienced by people living in the UK. One of the protesters stated to Birmingham Live ‘we believe that by allowing this factory [UEL] to manufacture and sell parts for drones – which we know are going to Israel – the UK government is colluding in Israel’s war crimes against Palestinians in Gaza’ (Cartledge, 2015). The public was unaware that the UEL was connected to the IDF or the attack on Gaza. Performative actions materialise and expose the injustices that the public may be unaware about. Once public consciousness is aroused and people are galvanised by this consciousness to act directly, the government can be forced to act.

On the day of the blockade, the protest was abruptly put down by the riot police. According to the event organisers from War on Want and CAAT, the police response was overwhelming [Interview: Peshkova, 2016; Interview: Litvyak, 2016]. The police tend not to interfere in protest, whereas on this occasion the police came in full force, dressed in riot gear and ready to disperse the protestors. Peshkova [Interview: 2016] alleged that prior to the blockade the police approached the local peace group which stages regular vigils outside the factory, probing them about ‘Block the Factory’, which they learnt about from social media. The respondents suspected the police were trying to get the names of individuals behind

‘Block the Factory’ to aid the company in obtaining the injunction order against the activists [Interview: Peshkova, 2016; Interview: Okhlopkov, 2016]. Peshkova [Interview: 2016] related that the way in which the police were deployed ‘was as though they were protecting the factory. The company tried to present this as a case of unhinged crazy people who have an irrational hatred of the company, and they were spinning this story.’

Chief Inspector, Constable Bird, (2015) testified that when he arrived, he saw activists lying on the road and using lock-on tubes to lock their arms together. After a succinct assessment of the situation, considering people’s right to protest, the court order, and disruption caused to the community and business, the Chief Inspector ordered police officers to move the protestors away from the location (Chief Inspector, 2015). According to the Inspector, because some protestors were resisting orders by sitting on the ground and using arm lock-on devices, officers had to use force to move protestors away from the factory (Chief Inspector, 2015: 220). In the process, 19 protestors were arrested and charged with breaching Court Order.

According to the activists the police response was disproportionate, considering the ‘peaceful’, ‘nonviolent’ nature of the action [Interview: Okhlopkov, 2016; Interview: Peshkova, 2016]. In witness statements the company directors expressed they were seriously threatened by the allegations made by the protestors (UEL, 2015a). The company was in conversation with the Counter Terrorism Unit. The campaigners suspected that the company directors and the police misrepresented the situation and what the protest was about. One of the organisers of the blockade, asserted,

UEL misrepresented, quite a lot, to the judge in order to get the injunction, what the nature of the protest was. That was everything from, I think at one point, part of the evidence that was submitted was that, two weeks before the demo someone had allegedly fired an air rifle at one of the windows and they thought it might have been protest related [Interview: Litvyak, 2016].

On 25 June 2015, UEL reported to the Staffordshire Police a broken window, allegedly broken by an air rifle (Staffordshire Police, 2015; UEL, 2015b). In the report, company director linked the incident to the upcoming protest. It was used as evidence of harassment when directors applied for Civil Injunction against the protestors. The company managers were advised by the Counter-Terrorism Unit and the CPS to take out a civil injunction against the LPA protestors and any other persons to limit the potential of protests around the factory (UEL, 2015c). This shows the severity with which democratic protests are approached by the state apparatus.

The company used a back-door method for prosecuting protesters. In testimony to the police, a UEL manager stated that on 27 May 2015 the company met with the Counter Terrorism Unit and the CPS who ‘strongly advised the company to seek a Civil Injunction which would assist them in dealing with the foreseeable harassment, criminal damage and trespass that could be caused as a result of the planned activity on 6 July 2015 and any future similar action’ (UEL, 2015b: 224). The injunction points to the state’s managerial role, one where state apparatus is used to secure the stable process of capital reproduction. Next, this section looks at the issues surrounding the injunction in more detail.

#### 4.4.6 The civil injunction

An injunction is a court order that compels an individual or a group of people from a specific activity. Civil injunctions are a common tactic used by state authorities to stop popular protest (Grose, 1993). In 2017, for example, Hong Kong authorities obtained a civil injunction to suppress the Umbrella Movement (Smith, 2013). In a protest scenario, an injunction prohibits activists from approaching or holding a protest near a target. If breached, activists are charged with breach of a court order and may face trial for contempt of court. UEL applied for civil injunction against nine LPA protesters from the rooftop occupation and any other persons protesting outside the factory (Court Order, 2015). The company filed an application for the injunction order on 30 June 2015 and was displayed on the facility’s gate. The order was, also, served on 6 July to the LPA activists named on the order. Hence, those who were arrested were charged with breaching the court order. The solicitor, from Shakespeare Martineau Solicitors, representing the defendants found it peculiar why the company sought an injunction order on 30 June, given it received a notice about the demonstration in May 2015. Shakespeare Martineau (2015: 207) advised the judge that UEL was liaising with Staffordshire Police during that time, and only after a meeting with the police, where the company was advised to seek an injunction, did the company apply for court order.

There were several technical errors made in the injunction order. 1) The court did not have the addresses of all the persons named, thus serving the Order was problematic; 2) the Order was served on the day of the action, thus nobody was aware of the injunction; 3) the Order named LPA activists (who were not involved) and ‘Persons Unknown who are conducting protesting and/or unlawful activities against the Claimant’, which was considered to be draconian; 4) the injunction included a 250 metre exclusion zone, which was

unwarranted; and 5) the injunction was obtained *ex parte*<sup>9</sup> (Injunction Order, 2015: 189-98; Shakespeare Martineau, 2015: 208). One of the arrestees stated, ‘on the morning of 7<sup>th</sup> July 2015 at Tamworth Police Station I was given a copy of the High Court Order obtained by UEL on 30 June 2015. I spent the night in the cells having been arrested on 6<sup>th</sup> July for breaching the Order. This was the first time that I had seen a copy of the Order’ (Cole, 2015: 312).

At the injunction hearing, on 22 July 2015, a defendant, Chris Cole of Drone Wars UK, advised the judge (the same judge who served the court order), after the Shakespeare Martineau solicitor reviewed the documents, that ‘the Claimant did not give a full and frank disclosure regarding the history of peaceful protest’ (Shakespeare Martineau, 2015: 212). The only protest mentioned by the Claimant in the injunction application was the rooftop occupation of 5-6 August 2014. From other witness statements, it was determined that the Claimant, UEL, was dishonest about the nature of the protest. The defendants argued that the Claimant acted with intent to prevent any peaceful protest outside its factory, though the company representatives denied it (Injunction Hearing, 2015). The judge, however, expressed concern about the width of the order. Furthermore, the judge was of the opinion that the broken window and the rooftop occupation was not satisfactory evidence for allegations of harassment as the threat passed with the protest (Injunction Hearing, 2015: 176; Shakespeare Martineau, 2015: 215). The Claimant argued that the company did not wish to prevent peaceful protest, and the injunction was obtained to prevent protests that disrupt their business. Of course, small vigils and demonstrations do not interfere with the day-to-day business, and thereby are easily ignored. The point of direct action is to disrupt and draw attention.

In the final hearing, on 2 September 2015, the Claimant pointed to the vocabulary used by one of the arrestees to infer that the protest was violent. ‘In the statement of Activist X at paragraph 2 he states he was “outraged” when he heard the factory even existed. The word “rage” is the very point at issue. When there are people outside the Company’s premises filled with “rage” and they are collective in their campaign of rage...’ (UEL, 2015c: 389). However, when the judge considered the history of peaceful protest with evidence brought forward by Chris Cole, he dismissed the claims of harassment. The judge, then, discharged the order *ab initio*<sup>10</sup>. One of the defendants affirmed,

the judge did not just stop the injunction, he said that it should have never been in place because the UEL lawyers have not told the whole truth and the

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<sup>9</sup> An *ex parte* decision is made for the benefit of only one party, without requiring all the parties to the controversy to be present.

<sup>10</sup> *Ab initio* is a Latin term for “from the beginning”. It indicates that a contract or a court decision valid to begin with.

judge said that if he known what has happened, in terms of the whole history of protests, he would not have imposed the injunction. Once he said that it should not have been in place the CPS had second thoughts about going ahead [Interview: Okhlopkov, 2016].

At that point, the CPS came to a decision that there was no reason to continue with criminal charges against the defendants. This proved very disappointing to the campaigners who expected the company to be questioned on their business and export licences [Interview: Okhlopkov, 2016; Interview: Peshkova, 2016]. Just like in the previous case, as soon as the case started to turn in the favour of the campaigners the CPS and the company withdrew the charges. The LPA thought it was strange that the company did not want to pursue the case, knowing that in most cases protesters are convicted. However, as Litvyak [Interview: 2016] highlighted, ‘UEL has misrepresented, quite a lot, to the judge in order to get the injunction’. The judge was, thus, very critical of the Claimant and ruled in favour of the defendants.

The injunction hearing revealed a genial relationship the company enjoyed with Staffordshire Police. Advising a company to obtain a civil injunction was considered by the defendants as an attempt by the police to protect the factory. Botvinnik [Interview: 2016] contended that ‘at the rooftop occupation and Block the Factory the police force and the CPS were mobilised to protect the factory.’ From a Marxist perspective, in order to maintain the natural flow of capital the state oversees business operations within its territory through, e.g. regulation (Miliband, 1969; Lasslett, 2014c). When this natural flow is interrupted by, for instance popular resistance, it is the role of state apparatus to restore that flow. As Lenin (1949: 16) theorised, ‘the state arose from the need to hold class antagonisms in check...’ It must keep them in check to preserve economic activities, e.g. manufacturing.

Although, the campaigners never obtained the export licences through a court order, they were convinced the company was hiding something about its licences. The way UEL behaved, attempting to prevent peaceful protest through a court order, colluding with the Counter Terrorist Unit and Staffordshire Police to suppress the blockade, and dropping charges in the previous lawsuit raised suspicion about the legitimacy of the company’s exports. In the end, the Stop Arming Israel campaign was successful in linking UEL to the UK-Israel arms trade. Additionally, by censuring a subsidiary of an Israeli company, Elbit Systems, the LPA sensitised the public’s consciousness about UK’s complicity in the war crimes committed in Operation Protective Edge. The following subsection breakdown in more detail the successes of the direct action, including the claim that the public’s consciousness was sensitised to the UK-Israeli arms trade and the part played by UEL.

#### 4.4.7. The success of ‘Stop Arming Israel’ campaign

The success of the ‘Stop Armin Israel’ campaign and the two direct actions is fourfold. First, the objectives of the rooftop occupation were achieved in a way that exposed UEL’s and UK’s role in arming Israel. In the court hearing the activists successfully put UEL on trial, whereby the company was requested by the judge to provide their export licences to prove that their exports were legitimate and did not contribute to war crimes committed in Gaza. The company, however, refused to provide this evidence, then both UEL and the State dropped the charges against London Palestine Action group. This brings us to the second part of the overall campaign success, the activists effectively won against organised capital and the State in a court. They turned the attention of the judge from their actions to UEL’s business operations, and they forced the company and the CPS to drop the charges. This shows, as Botvinnik [Interview: 2016] phrased it, that ‘Elbit Systems is unable to prevent us from occupying its factories, because it knows it is unable and unwilling to defend its actions in court. I think that’s a significant political victory that really highlights Elbit’s illegitimate activities in the UK.’

Third, the rooftop occupation and the blockade created much publicity on the issue, which was one of the campaign objectives. As one of the activists expressed, ‘we wanted to bring it out into the open’ [Interview: Zaytsev, 2016]. For the criminal label ascribed on UEL to hold, there had to be a much wider and sustained condemnation of its exports to Israel. This was achieved through publicity in the news and the formation of a local action group, Birmingham Palestine Action. Several large news outlets in UK and abroad (e.g. the Independent, the Guardian and Russia Today) reported on the censure of UEL and on its exports to Israel. A report by the Independent, *Israel-Gaza conflict: revealed Britain’s role in arming Israel*, highlighted UEL’s role in supplying engines for Israeli drones and UK’s complicity, which was something the LPA wanted the public to know and understand, in order to achieve the long-term objective of ending the UK-Israel arms trade.

Haya [Interview: 2016] explained that through the direct action they were trying to draw a connection between the UEL facility and the events in Gaza, in a way that would raise the consciousness of the local community. The news coverage of the rooftop occupation and the blockade was crucial in achieving this. During the rooftop occupation, the LPA used the campaign’s banner, ‘UK Stop Arming Israel’, to communicate that the UK defence exports are contributing to Israel’s attacks on Gaza. Haya [Interview: 2016] posited, ‘...with that huge banner [UK Stop Armin Israel] we were basically connecting with the media...the mass public

started to understand and had started been building up to understanding that Israel isn't what it presents itself, and what the media presented. So, it hit the spot.' This message was reported in the Huffington Post, the Guardian and the Independent. The Huffington Post (201d), for instance, reporting on 'Block the Factory', wrote:

*Arming Apartheid: UK Complicity in Israel's Crimes Against the Palestinian People*, a new report...published by Campaign Against Arms Trade, War on Want and the Palestine Solidarity Campaign, shows that the UK government approved licences worth over £4 million worth of arms in the four months immediately after Operation Protective Edge came to an end.

Numerous other articles were published by local papers, e.g. Birmingham Mail, documenting the rooftop occupation and the blockade, effectively publicising LPA's censure of UEL and the UK-Israel arms trade. In an article entitled *Shenstone factory 'shut down' in Israel drone protest*, Birmingham Mail included a statement from an activist:

Not only has the UK government done nothing to stop Israel massacring Palestinians, it actually provides Israel with enormous diplomatic, financial and military support. We believe that by allowing this factory to manufacture and sell parts for drones – which we know are going to Israel – the UK government is colluding in Israel's war crimes against Palestinians in Gaza and beyond (Cartledge, 2015).

Russia Today (RT) published a number of reports on the rooftop occupation and the blockade, highlighting the activists' motives for censoring UEL and the UK-Israel arms trade. For example, in an article entitled '*Complicit in Gaza's misery*': *Pro-Palestine activists shut down UK arms factory*, RT reported on 'Block the Factory', outlining UEL's connection to Elbit System and the occupation of Gaza. In another article, RT reported Judge Purle's decision to dismiss the injunction obtained by UEL in June 2015:

I think it inconceivable you would have got the same injunction, possibly even any injunction, if you [UEL] had disclosed relevant information to me...Accordingly the injunction I granted on 30 June is dismissed *ab initio* (RT, 2015).

Such reports show that the censure of UEL was effective in affixing the deviancy label on the company and the UK Government. This publicity and dissemination of information about UEL into the public domain rose in public's consciousness, galvanising the formation of a local action group, Birmingham Palestine Action (BPA), which brings us onto the fourth part of the campaign's success. The success of 'Stop Arming Israel' campaigner's censoring efforts is evident in the fact that the campaign prompted the local community from Birmingham to sustain the pressure on UEL and the Government by organising and through

regular protest. As stressed by de Clayre (2004), direct action is the initiator of change; change is a result of prolonged, sustained struggle.

The BPA, for example, occupied UEL in 2017. The activists were charged and potentially faced imprisonment, as in previous direct actions, however the company dropped the charges when the judge requested that the company provides licences as evidence (Mandhai, 2017; Gayle, 2017). The group holds frequent vigils at the sights and protests in the Shenstone area as well as Birmingham. O'Donel [Interview: 2016] contended that 'in any direct action-based campaign you don't know exactly your impact until you win...It is like kicking a wall...You have no idea [whether] it is crumbling on the other side until it all crumbles in one go.' The point O'Donel is making here, is that struggle is a long process and its effects cannot be always quantified with each action, but each action contributes to the overall success of the struggle.

#### 4.4.8 Summary

In this case, censure was performed through direct action employed strategically as part of a larger campaign. It is through palpable, practical activities of 'Stop Arming Israel' campaigners – sabotage, direct action and court hearings – that the UK Government's regulatory/policy practices and UEL business activities acquired the quality of being criminal (see Schock, 203; Moore and Shepard, 2013; Roberts, 2011; Gregg, 1960; Franks, 2003; Nepstad, 2008, 2013). The rooftop occupation and the blockade mediated the social exchange between resistance actors and targeted institutions, an exchange that imbued the observed state-corporate conduct with concrete meaning. The resistance actors and the state actors expressed a divergent attitude towards the matter of defence exports to Israel. The values and ideas that motivated the campaigners to resist appeared to be fundamentally opposed to those on which UK-Israel and UEL's business are based. This can be, partly, explained by the actors' form of consciousness, constitutive of their 'mode of life', and in the case of resistance actors, the tradition of resistance whence they came (Lasslett et al, 2015). It is argued that social struggle and the 'mode of life' associated with resistance produces a very different form of consciousness than the 'mode of life' of state-corporate actors.

Human beings act with a certain level of agency, they are conscious, productive social actors (Bukharin, 1925; Lukács, 1971; Gramsci, 1992). Marx theorised that consciousness is the force that directs social action, allowing social actors to perceive phenomena in a certain way and engage it accordingly (Marx, 1976, 1982, 2010b; Marx and Engels, 2010). Human

beings are both the objects and subject of historical process, they are moulded by the conditions they find themselves in and equally shape it using material and intellectual means inherited from previous generations (Lukács, 1971). Social phenomena are created and imbued with meaning by people who interact and enter into definite relations with each other and with their environment. The broadest system of mutual interactions, Bukharin (1925: 33) wrote, is society which ‘consists of persons who think, cogitate, pursue purposes, act.’ Society is an aggregate of subjects composing it as interacting elements, but the very existence of subjects suggests that these interacting elements, ‘acting in the most various directions, do not constitute a mere insane whirl, but move, as it were, through certain channels, according to internal law...’ (Bukharin, 1925: 88). The actions and practices of resistance actors, as well as state-corporate actors, are consciously directed.

This consciousness corresponds to a certain ‘superstructure’, it is shaped by the ‘mode of life’ experienced by the subject (Gramsci, 1992). The way resistance actors think, cogitate, pursue purposes, act corresponds to a specific tradition and a field of struggle that forms part of their lives. It is argued that these traditions and fields of struggle foster counter-hegemonic values, ideas and practices. In this case, the ‘Stop Armin Israel’ campaigners came from the traditions of working-class/trade union movement, specific to the British history of capitalism. The strategies and tactics of political agitation, protest and direct action have roots in the trade working-class struggles against capitalist exploitation, British imperialism and for socio-economic equity.

The way in which the activists perceived and thought about observed state-corporate activities was informed by the field of struggle they were in. These fields of struggle, i.e. anti-arms trade and Palestine solidarity movements, sensitised the campaigners to the Government’s and UEL’s illegitimate practices, compelling them to act upon by engaging in a practical, creative social activity, namely the rooftop occupation and ‘Block the Factory’. Furthermore, whereas resistance actors experience a mode of life that sensitises them to illegitimate state-corporate conduct, the mode of life experienced by state-corporate actors engenders protection of capital production (see Lasslett et al, 2015). The concern by state-officials was mediated by their role in managing international trade and exports through regulatory assessments and policymaking. For the UEL actors it is mediated by the manufacture of defence products used by the IDF.

## **4.5 Conclusion: the UK Government-UEL symbiosis and direct action**

The case examined the conjuncture between illegitimacy and deviancy of state-corporate conduct. Accordingly, for state-corporate conduct to become criminal it must, firstly, be objectively illegitimate and, secondly, it must be inscribed with the quality of being criminal (Green and Ward, 2004, 2012; Ward and Green, 2000; Lasslett, 2010a; Lasslett et al, 2015). This thesis looked at the process of censure, through which illegitimacy of UK Government's conduct and UEL's business was actualised through direct action. The illegitimacy of the UK Government's and UEL's practices were found in the negation of the Government's stated commitments and regulation by the policy priorities and an expectation to enable defence industry exports. There is a conflict between the ideological expectations from the neoliberal state and the actual pressures to manage, facilitate and oftentimes prioritise economic exigencies, i.e. production, investment, trade etc. (Whyte, 2014; Tombs and Whyte, 2015). Censure was mobilised through the 'Stop Arming Israel' campaign, and strategized through dramatic, practical sabotage – the rooftop occupation and 'Block the Factory' – that allowed the resisters to subvert state's legal apparatus to expose UEL's illegitimate activities.

Accordingly, with the process-driven approach, state-corporate crime as a phenomenon with its own process of becoming has both objective (illegitimacy) and subjective (censure) moments (Green and Ward, 2004). The case study examined, firstly, the illegitimate features of the Government's and UEL's practices, i.e. licensing of exports, Defence Industrial Policy, production and export of UEL's engines. Simultaneously, the chapter considered the interaction between these processes in production of claimed illegitimacy, namely supply of defence products to Israel in breach of the Consolidated Criteria, the FCO recommendations, international commitments and human rights. The chapter, then, examined the resistance campaign and the use of sabotage to expose, sanction and stigmatise the observed illegitimate conduct. This case demonstrates that illegitimacy is a hidden potential in routine practices, and when these practices are seen to produce or contribute to an overt social harm it can trigger social opprobrium. In this case study, the defence exports of companies such as UEL licenced by the UK Government supplied Israel with weapons used in the Operation Protective Edge. Yet, these routine practices do not become recognised as deviant until they are exposed, prohibited and stigmatised by civil society configurations or another institution. When both these processes are present, we can start to conceptualise/categorise an observed state-corporate crime event.

There is a long tradition of social struggle which from current resistance communities can draw ideas, praxis, strategies of action etc. (Sharp, 1974; Thoreau, 2008; Moore and Shepard, 2013; Schock, 2013). Today's resistance movements have emerged from past struggles and inherited from them the material as well as intellectual means of affecting change, obtaining justice, or emancipation (de Cleyre, 2004; Marx, 2010a). Likewise, the 'Stop Arming Israel' campaigners inherited the material and intellectual means of resistance from a long history of anti-arms trade, peace and Palestine solidarity movements in the UK. Sabotage in the form of blockades and factory occupations are a common tactic employed by the Ploughshares and the Palestine Solidarity Campaign.

The rooftop occupation and the blockade were intentionally dramatic, and that quality impressed the campaign's argument that production of drone engines and licensing their export to Israel contributed to war crimes abroad. Additionally, the use of direct action at strategic moments, during the zenith of the Operation Protective Edge and on its anniversary the following year, prolonged the campaign and effectively exposed state-corporate illegitimacy, connecting the UEL and UK exports to an attack on Gaza. The direct actions prompted the state to use its legal apparatus in response. The charges of aggravated trespass in the first action and breaching of a court order in the second permitted the activists to subvert the state's legal mechanisms to put UEL on trial by the backdoor, knowing that it would never happen through the usual route.

In this way, the Stop Arming Israel campaigners put the company and the state on the defensive front. As was documented, the company directors and the CPS withdrew from the litigation. The campaigners were convinced the company withdrew to avoid the spotlight and because they were hiding the truth about their export licences. What the activists do know for certain is that the company does indeed produce engines for Hermes drones, it is difficult to prove, however, whether the drones which contain UEL engines have been used in Israeli attacks on Gaza. The reports produced by governments are very vague and do not reveal any specifics about export licences, and data compiled by CAAT is limited to whatever the government is willing to release. Having said this, the available information suggests that the campaign needs to be taken seriously and the licencing system ought to be reviewed. The case demonstrates that the actualisation of criminal quality latent in the official procedures of state-corporate activities is a challenging task, one that requires a direct action. It has been observed that the UK Government abandoned its neutral role and mobilised to prioritise capital production over international commitments and human rights.

Another interesting observation made was the display of self-sacrifice by the LPA, CAAT and War on Want activists. The campaigners put their safety and liberty at risk in order to condemn state-corporate conduct. Self-sacrifice is a powerful quality of direct action. Lasslett et al (2015: 530) asserted, ‘through acts of self-sacrifice activists inscribed both worth and meaning on the victims of the censured practices, and at the same time ascribed wrongfulness to the state–corporate perpetrators.’ Practical, direct forms of resistance can be a very effective means of inscribing deviancy labels on state-corporate conduct. In this case, the rooftop occupation and the blockade were successful at exposing and stigmatising the UK-Israel arms trade and UEL’s drone engines. Although, the export of defence goods to Israel continues, the campaigners drew the public’s attention to the illegitimacy in the UK-Israel arms trade and created a sustained campaign with a potential to pressure the Government into adopting a stricter licensing assessment.

# **Chapter V – Censure of MMB and the Government of India**

## **5.1 Introduction**

This study examines the processes of illegitimacy and deviancy, through which systemic, enduring state-corporate practices become defined as criminal (Ward and Green, 2000; Green and Ward, 2004, 2012; Lasslett, 2010a; Lasslett et al, 2015). The research looks at state-corporate conduct that was exposed and censured as deviant through some form of direct action by civil society configurations. The empirical study analysed the properties of state-corporate activities that triggered social opprobrium, how censure was mobilised and strategized, how censure affected the targeted state-corporate activities, and how did they respond. The preceding case examined the illegitimacy in the arms export by the UK based producers to Israel. The case gained insight into how routine state practices enable the production of social harm by managing and facilitating economic transactions of organised capital; the mediating forces of state-corporate symbiosis; traditions of resistance specific to UK's trajectory of capitalism influenced the censure of the Government and UAV Engines Ltd (UEL); and, what are the qualities of an effective direct action.

This case examines the censure of a biotechnology<sup>11</sup> (biotech) company Mahyco-Monsanto Biotech Ltd (MMB) and the Government of India by a biotech opposition. The case study looked at the processes of state-corporate crime in a context where capitalist development followed a different trajectory and produced divergent traditions of resistance, and a different field of struggle. Unlike Case 1, this case revolves around an ineffective deployment of direct action against conduct that lacked clear illegitimacy. The social harm around which resistance was mobilised was produced by different processes than it was claimed. While the deviant property was ascribed on state-corporate activities, the illegitimate property was absent. This case demonstrates that social harm is not always produced by illegitimate state-corporate activities, but rather can be a consequence of broader issues, e.g. economic development.

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<sup>11</sup> Biotechnology is the 'technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use' (United Nations Convention on Biological Diversity 1992, Article 2).

The case revolves around an opposition to transgenic cotton, commercially known as Bollgard, with insecticidal properties. It was introduced to India in 2002, against the background of neoliberal reforms (1990-2002). The transgenic plant was developed by a joint venture between the conglomerate Monsanto and an Indian seed company Mahyco. An amorphous movement founded on national-populist, Gandhian sentiments opposed the development on the grounds that it would lead to corporate control of agriculture and the dispossession of smallholders (Shiva et al, 1999; Shiva, 2001; Nanjundaswamy, 2001; Shiva and Jalees, 2006). The movement censured MMB as criminal, linking farmer suicides to Bt cotton. The censure was performed through campaigns dubbed ‘Operation Cremate Monsanto’ and ‘Monsanto, Quit India’. It then censured the Government for authorising the commercial release of Bt cotton. The resistance was led by Karnataka State Farmers’ Association and an ecological NGO, Navdanya. However, the censure by the Association and Navdanya was unsuccessful. Then, a new organisation emerged from the struggle, namely the Coalition for GM-Free India. The Coalition employed a different narrative and resistance strategy.

Isolated from the mainstream-populist thrust, NGOs such as the Gene Campaign opposed biotechnology without linking Bt cotton to indebtedness or suicides. Indebtedness and suicides are, *de facto*, a development issue (Herring, 2006, 2009). The chapter begins by outlining the background context in Section 5.2. India has been experiencing an agrarian crisis for several decades due to politico-economic instability following Independence, famine and productivity issues in the period 1950-80, outdated means of agricultural production, and the rolling back of government support because of liberal reforms in the 1990s. Section 5.3 explores the state-corporate illegitimacy. It considers how the policy and regulatory ‘regimes’ mediated the Government-MMB symbiosis and enabled the Bt cotton release.

Section 5.4 analyses how the opposition to biotechnology mobilised and strategized resistance to transgenic cotton. It details the sequences of events, examining the rise and the subsequent failure of the resistance. The section considers the flowing and ebbing of resistance, the shift in tone and supersession of leading organisations. The empirical content consists of interviews with activists, NGO and organisational leaders, commentators and scientists; policy papers and legislation; organisational documents; archives; video footage; secondary interviews; public lectures, and; government reports. The data is corroborated with published studies and research.

## **5.2 Setting the context**

The phenomenon studied has a real-life context, to capture the processes that produced the researched events one must understand how these processes came about. Case studies produce context-bound knowledge, it is important to set the case in its historical specificity to preserve the real-life sense of events (Stake, 1978; Yin, 2003; Flyvbjerg, 2006). Furthermore, in a narrative presentation of findings events cannot be separated from their historical specificity (Elliot, 2005). The case study approach requires that the case is set against a historical background. This study does so by including the roots of the relevant branch of capitalist production; the specific features of state practices that are considered as mediating forces of symbiosis with organised capital and ‘regimes of permission’; and, the field of struggle the biotech opposition emerged from. To this end, the section considers agricultural development in India, looking at the pivotal moments, namely the colonial legacy, the ‘Green Revolution’, the liberal reforms and the Gene Revolution. Next, the section gives background information on the biotechnology industry and Monsanto. Lastly, it looks at the historical trajectory of the field of struggle that Navdanya and KRRS came from.

### **5.2.1 Indian agriculture, cotton cultivation and colonial history**

Colonisation of the Indian Subcontinent left a lasting legacy on its economy, especially agriculture. The colonial rule, Siddiqui (2015) holds, inhibited independent development of industry, whilst maintaining agrarian social formations and pre-capitalist modes of exploitation, from tributary tax collection to the most abusive forms of tenancy and bonded labour. Colonisation of Indian subcontinent began with the East India Company (1757-1858), chartered by Queen Elizabeth I, before the British Crown assumed direct rule in 1858 until 1947. Colonisation integrated India into the capitalist world system, but imposed an international division of labour, with unequal terms of trade (Frank, 1966; Wallerstein, 1979). India supplied mills in Manchester and Liverpool with cheap indigo and cotton lint, and in turn imported high consumption goods, such as textiles.

Prior to colonialism, the subcontinent was under a tributary mode of production, whereby peasantry – the primary productive force – was subjected to taxation by the state through a system called *Manasabdari* or *Zamindari* established by the *Mughal* Empire (1555-1857) (Banaji, 2010). The *Zamindari* was a system in which landowners, known as *Zamindars*, levied taxes on behest of *Mughal* rulers from their respective tributary jurisdictions (Randhawa, 1983; Kumar and Desai, 1989). Under direct British rule the

tributary jurisdictions of *Zamindars* were converted into estates with masses of *raiyyats* (peasant tenants or cultivators) 'living from hand to mouth' (Banaji, 2010: 39). Indian peasants were simple-commodity producers, under internalised logic of subsistence production (Randhawa, 1983; Kumar and Desai, 1989; Banaji, 2010). The British Empire imposed cultivation of cotton for its own trade, often at the expense of subsistence farming that left peasants without a means of existence. Subsistence production is characterised by small-scale, parcellised land property or tenure and employment of the household in the production process.

The entire Indian economy was fashioned to meet the textile production of industrial England. India was 'deindustrialised' and transmogrified into a cotton-growing nation, a subservient producer of raw material for British manufacturing (So, 1990). Accumulation by dispossession was projected on India as colonialism drew more labour, lands and resources into the capitalist circuit of accumulation concentrated in Western Europe (Harvey, 2003; Weis, 2007). By means of colonialism India was integrated into the 'world economic system', where cheap raw materials are transmitted from 'the periphery' to 'the core', and transfer of high profit consumption goods and technology was inverted (Wallerstein, 1979). Capitalist development in India has, thus, been articulated, unevenly, through historical trajectory linked to colonialism, and merged with India's socio-political and cultural formations. Capitalism, in different regions of the planet, has taken an 'uneven and combined development'. As Trotsky (2011: 28) theorised,

Unevenness, the most general law of the historic process, reveals itself most sharply and complexly in the destiny of the backward countries. Under the whip of external necessity their backward culture is compelled to make leaps. From the universal law of unevenness thus derives another law which, for the lack of a better name, we may call the law of combined development – by which we mean a drawing together of the different stages of the journey, a combining of the separate steps, an amalgam of archaic with more contemporary forms.

Two centuries of colonial rule left India in a state of 'underdevelopment'. Primary industries, mainly agriculture, became the main source of national gross income. The colonial rule inhibited India's own development trajectory and forced the preservation of agrarian relations. After independence, as a former colony, India was given an inconceivable task of 'catching up' with industrialised nations (see Frank, 1966). As an agrarian nation, agriculture was, and still is, the dominant economic sector. The restructuring of the agricultural sector in the first four decades after independence proved crucial to India's economic development. The agricultural reforms and development programmes in the post-independence decades have shaped Indian agriculture and heralded the social issues that ensued in the 1990s.

### 5.2.2 Agriculture after Independence and the Green Revolution

The prolongation of pre-capitalist relations caused stagnation and backwardness of agriculture, weak industrial base etc. (Thorner and Thorner, 1962; Patnaik, 1984). After independence in 1947, productivity in agriculture plummeted against the rapid population growth; land ownership remained in the hands of the *Zamindars*; heavy taxes caused indebtedness and landlessness (Thorner and Thorner, 1962). India's harsh climate combined with traditional farming practices (rainfed cultivation, natural fertilisers, wooden ploughs etc.) made it difficult to meet the needs of a growing population. Additionally, between the 1940s and 1970s India experienced frequent famines and droughts. More than 70% of India's population lived in rural areas, and around 70% were employed in agriculture (Chand, 2005). Subsistence farming still dominated – except in cash crops e.g. cotton and tobacco – thus less agricultural produce was sold on the market. Yet, agriculture was the dominant sector, with a 55% share in the GDP (Chand, 2005). Thereupon, the agricultural sector became the basis for the overall economic growth.

To achieve this, the Jawaharlal Nehru's Indian National Congress government (1947-64) initiated successive Five-Year Planning Strategies for the formulation and execution of reforms, policies and development programmes (currently 14<sup>th</sup> Five Year Plan). The first major reform was the Zamindari Abolition Act (1950) to give land rights to the tillers and stimulate an improvement in the quality of the landholding (Arora, 2013). Nehru's government prioritised rural development through tenancy reforms and ceilings on maximum landholding, which secured tenure and regulated rents (Chand, 2005). To minimise exploitation of smallholders by traders and moneylenders a cooperative credit system was expanded between the 1950s and late 1990s. India maintained a highly protectionist economy in those decades. Agriculture was protected from foreign influences and extensively supported by central government to stimulate internal development.

Notwithstanding, the output of food grains was so low it led to rampant malnutrition and starvation. Shortfalls in production from 1957 to 1971 made India heavily dependent on food imports from the US, under the US government's PL 480 (Colding and Pinstrup-Andersen, 2000; Sahai, 2004). Chand (2005: 2) posited that 'as this was considered a threat to national integrity, the government decided to follow a policy of self-sufficiency in food.' To achieve this objective the government took the decision to adopt a development programme, which later came to be known as the 'Green Revolution'. The programme was based on

intensification of agriculture through higher yielding varieties (HYV), chemical inputs (fertilisers, pesticides and herbicides), monocultures and machinery.

The HYVs were funded by both the Rockefeller Foundation and the Ford Foundation (Shiva, 1991). The technology was disseminated by scientists through a system of International Agricultural Resource Centres, a quasi-public domain (part of Consultative Group on International Agricultural Research, based at World Bank) (Weis, 2007). The World Bank and United States Agency for International Development (USAID) provided the credit for countries that accepted the intensive agricultural model and the technology package transferred by the Ford and Rockefeller Foundations (Shiva, 1991; Engdahl, 2007). Starting from 1975, the World Bank funded National Seed Projects, to provide infrastructural facilities for seed production and distribution (Shiva and Jalees, 2006). This meant that HYVs were a public technology, hence free of any proprietary or exclusionary clause.

Between 1960-1980 the central government, under Indian National Congress (1964-77; 1980-89), and Janata Party (1977-80), established several state institutions to enhance credit flows, expand services, and subsidise inputs to ultimately stimulate investment in agriculture: Commission for Agricultural Costs and Prices, the Food Corporation of India, the Central Warehousing Corporation, State Agricultural Universities, the Seed Corporation of India, State Seed Corporations, Indian Cotton Corporation, the National Bank for Agriculture and Rural Development (Arora, 2013). Simultaneously, the central government put restrictions on private seed firms, kerbing imports and exports of seeds (Pray and Ramaswami, 2001). Other policies included minimum support prices, procurement and distribution of food grains and trade protection measures (Shiva and Jalees, 2006; Arora, 2013). Results were quantum jumps in grain productivity, self-sufficiency, improved farming income, and increase demand for industrial goods (Chand, 2005; Arora, 2013). The success of the Green Revolution, however, had some adverse consequences.

The Green Revolution prompted the industrialisation of agriculture through monocultures, chemical inputs, capital intensive cash crops, and relocation of input production from the farm to the factory (Harris, 1987). By the late-1980s the productivity gains of the HYVs began to slow down and deplete natural resources and international competition depreciated the price of the agricultural produce (Chand, 2005). Subsidies offered through the institutional credit system burdened fiscal resources, causing a decrease in public investment from 1981 (Chand, 2005). The HYVs and the credit system favoured well-endowed farmers who had sufficient capital and irrigated regions, thereby creating regional disparities (Siddiqui, 2015). Although, productivity increased the distribution of food remained as before,

the costs were bore by the farmers whose returns decreased, apart from large landowners who turned to industrial farming (Weis, 2007). By the 1990s the population growth once again surpassed production. Shiva (1991) argues that the food-sufficiency objective projected to match the aggregate demand with supply of domestically produced grains at consistent market prices, and not securing food for every household. The Revolution had one significant impact, it set the foundations for the liberalisation of agriculture.

### 5.2.3 Liberal reforms and the WTO

India began to liberalise its trade and markets as early as 1986, at the pressure from the World Bank and the IMF to adopt a structural adjustment policy (Pray and Ramaswami, 2001; Arora, 2013). Agriculture's contribution to the GDP began to decline considerably after the Green Revolution, despite half the nation's labour force working in agriculture (Pray and Ramaswami, 2001). The exhaustion of the Green Revolution led to a shift in cropping pattern from food-grains to export crops (Siddiqui, 2015). Input subsidies and formal credit declined, and trade liberalisation drove the prices down (Patnaik, 2003). The new international trade regime, GATT (1994), under the World Trade Organisation (WTO) brought the controversial Agreement on Agriculture (AoA). By signing up to the WTO India entered the neoliberal phase of capitalism.

Before the 1990s, agricultural policies focused on land reforms, expansion of cultivated land, self-sufficiency, rural development, subsidies and agricultural credit, trade was regulated through quota restrictions and high tariffs (Patnaik, 2003; Tripathi and Prasad, 2009; Arora, 2013). After the Green Revolution, the policies shifted to private investment, diversification into cash crops, export oriented production, and increasing India's competitiveness in international markets (Tripathi and Prasad, 2009). The National Bank for Agriculture and Rural Development, for instance, invested 40% less between 1990 and 1999, than in the Green Revolution era (Shiva and Jalees, 2006: 67). To meet the World Bank and the IMF recommendations, the GI reduced agricultural subsidies from 14.5% in 1985-90 to 6% in 1995-2001 (Siddiqui, 2015: 5). The policies favouring private financial institutions caused a 'decline in the extension of the institutional credit to cultivators per capita' (Shiva and Jalees, 2006: 58). Commercial banks were unwilling to lend to smallholders due to a lack of credible collateral security, as there was a high default rate on interest repayments by smallholders. Thus, formal loan facilities became unattainable to smallholders.

The seed market became one of the most salient markets within Indian agriculture. India's rich biological diversity makes its seed market very desirable to foreign companies. 90% of our planet's biological wealth is concentrated on 10% of land around the equator occupied by developing nations which are also among the poorest (UN, 1999: 70; Venkataraman and Latha, 2008: 326). In 1986, the list of core industries of the Industrial Policy Act (1969) was extended to agriculture, which allowed companies with more than 40% a foreign equity to enter Indian seed markets (Pray and Ramaswami, 2001). The New Policy for Seed Development (1988) opened the Indian seed market to private capital. These reforms increased the commercial viability of private research on hybrids cash crops – cotton being a significant one. This encouraged companies such as Cargill and Monsanto to invest in India. The AoA demanded promotion of export crops, hence the agricultural policy was revamped toward export-oriented growth (Arora, 2013). Millions of hectares, between 1995 and 2002, were transferred to the cultivation of cotton, sugar cane, tobacco etc. (Government of India, 2013). Hybrids became the new trend, at the expense of straight line and indigenous varieties, traditionally maintained by and exchanged between farmers.

Liberal reforms have strengthened domestic demand, increased exports, raised private investment, and raised the GDP (Tripathi and Prasad, 2009). Having said this, the decline in subsidies and institutional credit pushed farmers toward more usurious sources of loans, leading to indebtedness; opening of agriculture to international markets diminished domestic prices; private investment increased at the expense of public investment; cropping patterns changed from food-grains to cash crops; self-sufficiency was abandoned in favour of export-oriented growth; and privately-owned hybrids replaced farmer saved varieties. Siddiqui (2015: 18) found that 'indebtedness among the small cultivators rose from 20% in 1991 to 35% in 2002.' The National Sample Survey Office (NSSO, 2013: 32) reported that 52% of agricultural households were estimated to be indebted, and the average outstanding loan per agricultural loan was, approximately, Re. 47,000. Between 1997 and 2012 around 300, 000 indebted farmers committed suicides (Vaidyanathan, 2006; Government of India, 2010; Mishra, 2014).

Today, 67% of landholdings average 0.38 ha<sup>12</sup> and another 17.9% average 1.42 ha (Arora, 2013). According to the 2011 census there were 118.9 million farmers, constituting 24.6% of the total workforce of 481 million, and 144.3 million are employed as agricultural labourers (Salve, 2014). Currently, the agricultural sector contributes 17% of the GDP, a significant drop from 60% in 1951, while it provides employment to 57% of India's work force, compared to 70% in 1950 (Chand, 2005; Siddiqui, 2015; Department of Agriculture,

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<sup>12</sup> Hectare

2017). The astounding growth of indebtedness and suicides – around 300,000 since 1999 (Thomas and Tevernier, 2017: 2) – correlates with economic liberalisation. Because of this correlation New Social Movements blamed the agrarian crisis on international institutions and foreign corporations, e.g. Monsanto. An anti-globalisation movement, founded on Hindu-nationalist ideology, mainly Karnataka Rajya Raitha Sangha (KRRS [Karnataka State Farmers Association]) and Navdanya, perceived foreign corporations through a neo-colonial lens as a threat to India's independence. These organisations placed liability on corporations, such as Monsanto, for causing farmer suicides.

#### 5.2.4 The resistance movement

The opposition to transgenic cotton and censure of Monsanto is associated with three organisations: KRRS, Navdanya and Coalition for GM-Free India (CGMFI). The Gene Campaign is another prominent organisation, though it is critical of the movement. Respective organisations have their own unique history, but they are part of the larger movement that sprouted in the era of neoliberal restructuring (Assadi, 2002). Present-day farmers movements have evolved from: past struggles for land reforms following independence (1948-1970s); issues concerning state interventions and subsidies in the wake of the Green Revolution, and debt (1970s-1990); opposition to globalisation symbolised by the WTO and transnational corporations (1990-2000s) (Lipton, 1977; Lindberg, 1997; Pai, 2010). The KRRS was formed in August 1980 by Sundarash Rudrappa, Baba Gowda Patil (first president) and M. D. Nanjundaswamy among several others as 'a direct-action programme' [Interview: Dolohov, KRRS, Shivamogga, May 2016]. The struggle called 'land to the tiller' – the tillers of the land are its rightful owners – is the origin of the KRRS [Interview: Bolkonskaya, KRRS, Bangalore, Sept 2016; Interview: Dolohov, 2016]. The association was involved in struggles for greater political representation, input subsidies, electricity subsidies, pricing issues and against the urban bias of development (Reitan, 2007; Gowda, 2010). Bolkonskaya [Interview: 2016], a prominent member of the KRRS, informed the interviewer that the Association 'began in 1980 as a result of farmers' revolt against the bad policies on the pricing of agricultural produce.'

The KRRS, though a Gandhian movement, was heavily influenced by the Socialist teachings of Rammanohar Lohia (Gowda, 2010). The late Professor Nanjundaswamy (former leader of KRRS 1991-2003) was the leader of Samajvadi Yuvajana Sabha, a youth wing of the Yuvajana Sabha, a socialist party directed by Gopala Gowda and Rammanohar Lohia (Gowda, 2010). Nanjundaswamy carried over Lohia's social, political and economic ideals to the KRRS. The Association gained prominence under Nanjundaswamy's leadership during a

new phase of contentions stirred by the GATT negotiations. The KRRS coalesced as a broader farmers movement in response to,

IMF austerity measures introduced in the early 1990s that abruptly reversed the Nehruvian socialist-developmental trend. Austerity was compounded with trade liberalization under the GATT and subsequently WTO, which threatened Indian small farmers' interests and recently won rights (Reitan, 2007: 156).

In the early 1990s Nanjundaswamy became KRRS's new president, as liberal reforms and IMF's structural adjustment policies stirred a new phase of contention. Pursuing an agitational style of politics, Nanjundaswamy launched an anti-globalisation programme in the early-1990s. The KRRS took direct actions against a Cargill office in 1992 and a Cargill Seed plant in 1993, as well as a Kentucky Fried Chicken outlet in 1996 (Assadi, 1995, 1997; Nanjundaswamy, 2003). These actions earned KRRS international recognition among international networks, e.g. La Via Campesina and People's Global Action.

Navdanya calls itself 'a movement for Earth Democracy'. It is a Gandhian-nationalist principled NGO working in the fields of biodiversity conservation, organic farming, and farmers' rights (Shiva and Shroff, 2015). Navdanya was founded in 1987 by an outspoken physicist and environmentalist, Dr Vandana Shiva. Since 1991 Navdanya has been campaigning against the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement on the grounds that it undermines farmers' 'seed sovereignty'. Navdanya (2013: 35) explains, 'seed sovereignty, in terms of informal exchange, means self-governance by farming communities...seed sovereignty implies the recognition in law, the sovereign rights of farmers.' The organisation has been campaigning against biotechnology, especially Monsanto, since 1998.

The Gene Campaign is a research and advocacy NGO, founded by Dr Suman Sahai together with a group of environment experts in 1991 (Gene Campaign, 2013). It started up as a campaign against patents on genetic material, working to ensure legal rights for farmers in Indian law. An interviewee from the Gene Campaign explained,

[T]he initial trigger for the organisation was Intellectual Property Rights (IPR) regime coming through the WTO, which meant shifting in the ownership of genetic resources because of patent demands on biological materials. That is the reason for the name of campaign – campaign to protect genetic resources [Interview: Bourienne, the Gene Campaign, New Delhi, Aug 2016].

The ratification of TRIPS by the Indian government in 1994 obliged India to confer *sui generis* IPR protections in 2000 (Paarlberg, 2001). The Gene Campaign opposed this, because it permits foreign companies to appropriate India's genetic material, without compensation (Sahai, 1999a). The Gene Campaign was involved in drafting legislation and policy (e.g. Protection of plant variety and Farmers' Rights Act, 2001), to ensure farmers' rights as custodians of indigenous knowledge *vis-à-vis* farming and seeds (Sahai, 2003a).

The CGMFI (2011) describes itself as 'a loose, informal network of scores of organizations and individuals from across India, campaigning and advocating to keep India GM-Free, and to shift our farming towards a sustainable path.' A CGMFI convenor, described it as an 'amorphous network of hundreds of disconnected organisations across 23 states of India' [Interview: Karagina, CGMFI, Bangalore, May 2016]. The network was set up in 2006 as a joined effort between environmental and farmers' groups. It is central to the broader education of farmers about biotechnology and building of alternatives to the industrial agriculture that dominates the farming landscape. The coalition pioneers organic farming and sustainability in agriculture. In a way, the CGMFI is a direct response by farmers' and environmental organisations to Bt cotton. Karagina [Interview: 2016] explained, the CGMFI's role is to synergise a wide set of organisation and individuals, put pressure on the GI through lobbying, policy advocacy, organise protests, promote sustainability and devise viable alternatives to hybrids and biotechnology. The resistance communities organised the resistance to Bt cotton and the censure of MMB in the context of neoliberal reformation and the Gene Revolution. Next, the section considers the politico-economic background of the field of struggle from which the resistance to Bt cotton emerged.

### 5.2.5 The Gene Revolution

The term 'Gene Revolution' denotes the rise of the biotechnology industry and its dominance over agriculture in the 1990s. Biotechnology is defined in the Convention on Biological Diversity as 'technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use' (United Nations, 1992: 3). It is the genetic modification of living organisms to achieve desirable traits. Swaminathan (2004: 7) postulated that 'the 20th century began with the rediscovery of Mendel's law of inheritance.' Gregor Mendel's pea plant experiments (1856-63) established the rules of heredity and genetics on which genetic engineering is based. In 1953, James Watson and Francis Crick discovered the double helix structure of DNA, the

molecule that contains the genetic code of every living organism. Their research gave birth to molecular biology and spurred a frantic race for biotechnology.

Monsanto was at the forefront of the race. This US based company was one of the first to genetically modify a plant cell with published results in 1983 and conducted one of the first field trials of a genetically modified crop in 1987 (Engdahl, 2007; Robin, 2010). Monsanto was established in 1901 as a chemical company and is behind some of the most controversial chemicals, including Dioxins (toxic environmental persistent organic pollutants), Agent Orange (defoliant used in the Vietnam War), and glyphosate, the active component in the herbicide Roundup (Navdanya, 2004). The company increased its involvement in seed industry under Robert Shapiro in 1995. Monsanto consolidated its dominance over the biotech industry in a wave of mergers and acquisition of seed companies, e.g. Agracetus in 1996 and Cargill's seed business in 1998 (Robin, 2010). Concurrently, Monsanto was working on a potentially lucrative transgenic hybrid cotton in India.

In May 1998, Monsanto entered into a 50/50 joint venture with Mahyco, procuring a 26% stake in Mahyco's operations, forming Mahyco-Monsanto Biotech Limited (MMB) (Bharathan, 2000; Ramanna, 2006). MMB is the sole company behind the Gene Revolution in India. Between 1998 and 2002, MMB developed a hybrid cotton containing *Bacillus thuringiensis* (Bt). *Bacillus thuringiensis* is a soil bacterium that produces Cry endotoxins upon sporulation which have insecticidal properties (Barathan, 2000; Kalaichelvi et al, 2008). Bt gene confers insect resistance, which is expected to protect the yield potential from American bollworms (Herring and Rao, 2012). In April 2002, the Government of India approved (event MON531) the commercial release and cultivation of three Bt hybrids (MECH-162, MECH-184 and MECH-12) for three years (Kalaichelvi et al, 2008: 273; Gandhi and Namboondiri, 2009; Choudhary and Gaur, 2015;). MMB released its seeds under the commercial name Bollgard-I, which contained single a Bt gene, Cry1Ac. This was the first approval event, but by no means the only.

The second approval event (MON15985), Bollgard-II, was in 2006 which featured two Bt genes (Cry1Ac and Cry2Ab), also developed by MMB (Chaudhary and Gaur, 2010; Chaudhary and Gaur, 2015). There were several other approval events of Bt hybrids developed by other companies, e.g. JK Seeds and Nath Seeds, following the 2009 wide scale adoption of Bollgard-II and multiple Bt gene hybrids (Chaudhary and Gaur, 2010). By 2010 more than 90% of cotton cultivated in India were Bt hybrids, and by 2014 95% (Chaudhary and Gaur, 2015). Within the space of 10 years MMB achieved a monopoly over the cotton seed market. All indigenous varieties were pushed out of the market. Cotton cultivators ceased the practice

of seed saving, eventually causing indigenous varieties to disappear. Today the only seeds available to cotton farmers are Bt hybrids. In this context, KRRS and Navdanya have ascribed farmer suicides to Monsanto. Simultaneously, they have censured the GI for enabling the production of social harm by approving Bt cotton. Although, MMB has been stigmatised as deviant, we ought to consider whether the state-corporate conduct was objectively illegitimate.

### **5.3 State-corporate symbiosis between MMB and the Government of India**

The politico-economic circumstances have a determining influence on types of investment, business activities, labour market, development, economic growth etc. (Quinney, 1977). In a neoliberal state, the government's responsibility is to create stimulating conditions for production, exchange and accumulation of capital. It does so through specific 'regimes of permission' that facilitate the operations of organised capital (Tombs and Whyte, 2009; Tombs and Whyte, 2015). Having said this, it does so within already existent conditions, inherited from the past (Marx, 2010a). In the case of India, neoliberal reforms meant that, in order to achieve 'desirable finalities', e.g. economic growth, the Government had to improve agricultural production through exports and direct foreign investment. One of the primary areas of agricultural production in India is cotton. The Department of Textiles (2016) reported that cotton 'contributes 4% of GDP and 12% to industrial production...cotton production sustains the livelihood of an estimated 5.80 million cotton farmers and 40-50 million people engaged in cotton processing and trade...' Cotton contributes Rs 360 billion (US\$8 billion) towards the overall export income (Witjaksono et al, 2014). As of 2016 India is the largest cotton producer, having produced nearly 6.21 million metric tons in 2015-16 (Department of Agriculture, 2016; Ministry of Textiles, 2016).

These underlying circumstances led to the opening of the agricultural market to Monsanto, facilitated the development of biotechnology and expedited the introduction of Bt cotton. There was an intersection of interests between the Government and the biotech industry. India pursued a market-led growth in target areas, such as cotton, and Monsanto pursued viable investment in agriculture. This 'symbiosis' was mediated by the regulatory and policy 'regimes' (Tombs, 2012; Whyte, 2014). It is argued that an assessment system and the Agricultural Biotech Policy enabled Monsanto's investment and the release of Bt cotton, which later had an adverse consequence. The section examines this state-corporate symbiosis, delving into the criminal potential of 'routine practices.'

### 5.3.1 ‘Regimes of permission’: the regulatory framework and assessment

The previous section set the context of the events and processes that produced the claimed illegitimacy. This chapter examines whether said events and processes were of illegitimate character. The regulation controls negative externalities and assures transgenic crops serve public interest (Kolady and Herring, 2014). Biosafety and agro-economic performance are the key areas of biotechnology regulation. Since the 1980s the Government anticipated a tremendous economic potential of biotechnology (Mahendra, 2012; Shah, 2012; Arora, 2013; Kolady and Herring, 2014). An intricate regulatory system was devised in a bid to secure biotech investment. The Government began by setting up the National Biotechnology Board in 1982 – the Department of Biotechnology (DBT) from 1985 – under the Ministry of Science and Technology (MST). The role of the DBT is to promote, screen, approve and monitor the development of biotechnology. As an apparatus of a neoliberal state, the role of DBT is to manage the capital creating activities (Tombs, 2012). The purpose of regulation is not just control, which are within state’s coercive capacity, but as Whyte (2014) highlighted, enabling the industry and commerce, i.e. maintenance of stable system of production, distribution and consumption.

The core legislations that affect biotechnology are the Environmental Protection Act (EPA) 1986 and ‘The Rules for the Manufacture, Use, Import, Export and Storage of Hazardous Microorganisms/Genetically Engineered Organisms or Cells’, 1989 (Rules 1989). The EPA, 1986 contains no direct reference to genetically modified organisms. Instead, it lays down the legislative provision to control ‘hazardous substances.’ The EPA Rules, 1989 include genetically modified organisms (GMOs) in the legal definition of ‘hazardous substances’ (Kolady and Herring, 2014). As such, genetically modified material is subject to environmental and biosafety regulation. Biosafety means, the prevention of large-scale loss of biological integrity (United Nations, 2000). Biosafety was brought into the regulatory light by the Convention on Biological Diversity (CBD) 1992 and further advanced by the Cartagena Protocol on Biosafety (CPB) 2003.

The DBT provisioned the Biosafety Guidelines 1994 and the Guidelines for Research in Transgenic Plants 1998, which outline the structure of committees and regulatory bodies. The environmental safety assessment and commercial release are also governed by: The Seed Act 1966 and the Seeds (Control) Order 1983, the Protection of Plant Varieties and Farmers’ Rights Act (PPVFRA) 2001 and Biological Diversity Act (BDA) 2002. The main areas addressed by the biotechnology regulation are: toxicity and allergenicity, environmental risks

(gene flow, invasiveness of GMOs, changes to biodiversity), horizontal gene transfer (i.e. genetic pollution through pollen or seed dispersal and transfer of foreign gene to microorganisms), resistance/tolerance of target organisms, intellectual property rights, and agronomic performance (Samal and Bhattacharya, 2017). Apart from environmental safety, the transgenic crop must show superior agronomic performance against other varieties in order to be considered for commercial release.

Before the commercial release of transgenic crops, genetically modified organisms are subjected to extensive evaluation. The Recombinant DNA Advisory Committee (RDAC) oversees the initial application stage for import, research and production of transgenic products (Swaminathan, 2004). The Review Committee on Genetic Manipulation (RCGM), comprised of experts from molecular biology and biotechnology background, monitors biological and environmental safety aspects of biotech research; evaluates applications; and assesses transgenic products through laboratory and greenhouse tests (Swaminathan, 2004). The data from laboratory and greenhouse tests is monitored by Institutional Biosafety Committees (IBSC), technical bodies appointed by the RCGM.

A successful product is passed on for further evaluation to the Genetic Engineering Approval Committee (GEAC), which is part of the Ministry of Environment and Forestry (MoEF). The GEAC assesses environmental releases, i.e. large-scale field trials, seed multiplication and commercial release (Swaminathan, 2004; Samal and Battacharya, 2017). While the RCGM provided the technical, scientific advice to the GEAC, the GEAC is ‘the formal, bureaucratic rubber-stamping body’ (Scoones, 2006: 61). After the commercial release, the monitoring of transgenic crops is the responsibility of respective state governments (Scoones, 2006). State Biotechnology Coordination Committees and District Level Committees monitor the progress of the transgenic crop after the commercial release (Swaminathan, 2004). Whilst, the MoEF issued the approval of Bt cotton release into the environment, the licence for commercial sale of Bt seeds was administered by state governments under the provision of the Seed Act 1966 and Seed (Control) Order 1983.

Again, the regulatory system anticipated the development of biotechnology. In the context of neoliberal reforms, opening of markets to foreign private investment, i.e. Monsanto, and shift to export-led agricultural development in policy regulation appeared to serve two purposes. The first, control of Bt cotton for environmental and health safety. The second, assuring of high agronomic performance of Bt cotton. This suggests that biotech regulation is as much about advancing transgenic products for economic growth, as it about safety concerns. In the discussion of the Factory Act 1832, Marx (1976) documented how the

apparently coercive imposition on factory owners of legal protections for workers was fundamental in the transition to factory production, ‘the shift from extraction of *absolute* to *relative* surplus value’ (Tombs, 2012: 172). Regulation develops in contradictory ways and combines the interests of organised capital and the state. Regulation neutralises conflicts and coalesces interests, i.e. public interest with private interest (Poulantzas, 1978). Regulatory authorities are not mere “policemen”, but agencies that reproduce the conditions necessary for stable capitalist processes. That is, regulation maintains the uninterrupted functioning of industry, distribution and commerce; and so, it maintains the process of capital reproduction. Another element of the regime that permitted the investment from Monsanto is the policy.

### 5.3.2 Enabling the biotech industry: the agricultural biotechnology policy

The agricultural biotechnology policy (ABP) refers to several policies across different sectors. It was constructed during the assessment and introduction of Bt cotton, though policies in the seed industry and agriculture that affect biotechnology were established much earlier. Policy is a functioning mechanism used to fulfil the economic potential of biotechnology application in agriculture (Samal and Battacharaya, 2017). The architecture and implementation of the ABP spans across Ministry of Commerce and Industry, MST, Ministry of Textiles, Department of Agricultural Cooperation and Farmers Welfare etc. The DACFW provides broad policy guidelines, but its implementation is the responsibility of respective state governments. The Government of India has taken several noteworthy policy actions: The National Textile Policy (NTP), 2000; the Technology Mission on Cotton, 2000; the National Seeds Policy, 2002; the National Science and Technology Policy, 2003; the Report on the Application of Agricultural Biotechnology, 2004; National Biotechnology Development Strategy (NBDS), 2007. Additional policy action that ought to be considered is the New Policy on Seed Development, 1988, including the 2002 amendment.

The policy addresses matters of investment, R&D, technological transfer, intellectual property rights and patenting, pricing, laboratory and production, promotion of industry and trade, regulatory issues, agricultural development infrastructure and public confidence (Samal and Bhattacharya, 2017). Conservation of biodiversity, environmental safety, market volatility and farmers’ needs are amalgamated with the priority areas for safe planning. The policies, in general, aim to stimulate growth in agriculture through technology and innovation, private sector investment, export-oriented production, market competition (Spielman et al, 2014; Dang et al, 2015). The focus is on enhancing productivity, cost-effectiveness of cotton production, environmental safety and rural development (Kuruganti, 2009). Agricultural

biotechnology is a bequest of the post-reform era, where private investment economic growth and technology form the same package (Scoones, 2006). As such, the growth of foreign private investment in agriculture precipitated the arrival of Bt cotton.

Under neoliberalism, policymaking combines entrepreneurial flair, liberal ideology and capital accumulation with scientific credibility and national interests (Larner, 2000). Where development, growth and innovation are led through export-oriented production policymaking is decentred, diffused, fragmented and network-based (Newell, 2002). The ABP was formulated by molecular biologists, biotechnologists, industry stakeholders (agribusiness and farmers) and biotech entrepreneurs (Dang et al, 2015). The policy must accommodate entrepreneurial interests as well as public interest. Biotechnology is considered a ‘public good technology’, even though it is a private enterprise (Newell, 2002). Although, environmental considerations and public interest are amalgamated, the ABP promotes transgenic crops as economic exigency. The former Prime Minister, Atal Bihari Vajpayee, proclaimed at the Science Congress in Delhi in 2001 that ABP was based on the vision of ‘shaping biotechnology into a premier precision tool of the future for creation of wealth and ensuring social justice especially for the welfare of the poor’ (Herring, 2005: 204). The prevailing perception is that biotechnology is necessary for India’s productivity demands.

Policymaking involves a network of stakeholders. In the case of the ABP, the network includes the seed and biotech industries (Dang et al, 2015). The Association of the Seed Industry (ASI), the Seed Association of India (SAI), the Confederation of Indian Industry (CII) and All India Biotech Association (AIBA) were heavily involved in making of the National Biotechnology Development Strategy (Scoones, 2006). Industries were represented on policy teams, vision groups, advisory groups and committees by organisations such as CII and SAI. Additionally, private companies were represented in policy networks by Kiran Muzumdar-Shaw, the CEO of Biocon a biotech research firm, and Dr B. R. Barwale, director of Mahyco, among others (Scoones, 2006). Scientists, such as, M. S. Swaminathan (director of the Indian Agricultural Research Institute), C. N. R. Rao (Professor at the Institute of Economic Growth), Keshev Kranthi (director of the Central Institute for Cotton Research and member of the International Cotton Advisory Committee), worked closely with the private sector on policy seeking funding/research opportunities (Arora, 2013). The involvement of agronomists and scientists who brought the Green Revolution, namely M. S. Swaminathan, signalled continuity in the Gene Revolution (Dang et al, 2015). They brought institutional influence from the Indian Institute of Science, the Tata Institute for Fundamental Research, the Indian Council for Agricultural Research etc. This section has looked at how the ABP was

formed, with varied influences from the industry and neoliberal ideology. Next, we need to examine the key policy documents and how they influenced the growth of biotechnology.

### 5.3.3 'Desired finalities': the ABP at work and Bt cotton

To begin with, the National Textile Policy (NTP) 2000, is one of the key policy actions that affects cotton cultivation. Its key objectives expansion of the textile industry, augmentation of production output, and increase of India's share of the international textile market (Ministry of Textiles, 2000). Whilst, the NTP highlights farmers benefit from growth consistent with environmental safety standards, it stipulates a commitment to liberalisation of controls to maximise India's performance in a competitive environment, enhancing productivity through technological upgradation and private investment (Ministry of Textiles, 2000). In relation to cotton production, the NTP's commitment is to 'achieve increase in cotton productivity by at least 50% and upgrade its quality to international standards, through effective implementation of the Technology Mission on Cotton (TMC)' (Ministry of Textiles, 2000: 4). The TMC is a programme launched in February 2000 under the Department of Agricultural Cooperation and implemented by the national agricultural research system comprised of Indian Council of Agricultural Research (ICAR) institutions, e.g. the Central Institute for Cotton Research (CICR) in Nagpur. The Mission was launched to help with enhancement of cotton productivity through technology and innovation.

The TMC was implemented in three phases: 2000-1 to 2006-7, 2007 to 2012 and 2012 to 2017. In the first phase, the TMC emphasised improved management systems for control of biotic stress and improvement of cotton varieties through hybridisation (ICAR, 2000). In the second phase, following the three-year conditional release of Bt cotton, the TMC began to promote Bt hybrids. The Mission statement 1.4 of the second phase set an objective for the agricultural university in Dharwad to transfer Bt hybrid events to varieties developed by public institutions to reduce the high costs of Bt seeds (ICAR, 2007). Phases two and three had a special interest in the promotion of Bt cotton. CICR is the principle institute that works on development and promotion of Bt cotton, under the leadership of Dr K. R. Kranthi (Scoones, 2006). The research is used to find the most optimal pathways for enhancing cotton productivity. Agricultural universities and institutes under the ICAR system led the research in transgenic cotton, and high number of research output concludes positively on transgenic cotton.

In the Report on the Application of Agricultural Biotechnology 2004, M. S. Swaminathan, doyen of agricultural development in India, explicated the potential of biotechnology application to agriculture and policy priorities. Chapter 2, section 1.2 of the report stipulated

biotechnology provides an opportunity to convert bioresources into economic wealth...The bottom line of our national agricultural biotechnology policy should be the economic wellbeing of farm families, food security of the nation, health security of the consumer, protection of the environment and the security of our national and international trade in farm commodities. Recommendations of the Task Force are based on these considerations (Swaminathan, 2005: 12).

The Report further emphasised, in section 1.3, that infusion of technology is necessary to raise competitiveness and remuneration of agricultural enterprise. The long-term policy on biotechnology application prioritises commercialisation of transgenics, increasing productivity and profitability, environmental sustainability and conservation, reducing costs of production, generating employment, and enhancing competitiveness in global markets (Swaminathan, 2005). The Report also recommends that 'transgenic approach should be considered as complimentary and resorted to when other options to achieve the desired objectives are either not available or not feasible' (Swaminathan, 2005: 13). Despite the push for technological innovation in agriculture through biotechnology, the report recommends a cautious approach.

The National Seed Policy (NSP) 2002, has brought some changes to the seed industry that have benefited the private sector. The policy promotes and encourages private seed sector (Department of Agriculture, 2002). Additionally, it encourages investment in non-traditional areas, e.g. cotton hybrids and transgenics (Department of Agriculture, 2002). The NSP stipulates,

Globalization and economic liberalization have opened up new opportunities as well as challenges. The main objectives of the National Seeds Policy, therefore, are the provision of an appropriate climate for the seed industry to utilize available and prospective opportunities, safeguarding of the interests of Indian farmers and the conservation of agrobiodiversity. While unnecessary regulation needs to be dismantled, it must be ensured that gullible farmers are not exploited by unscrupulous elements. A regulatory system of a new genre is, therefore, needed, which will encompass quality assurance mechanisms coupled with facilitation of a vibrant and responsible seed industry (Department of Agriculture, 2002).

The NBDS 2007 (drafted in 2005), is the most comprehensive policy action addressing the application of biotechnology. The NBDS put forward a 10-year vision plan for the development of biotechnology in agriculture. NBDS places the premium in agricultural development on biotechnology, generating new products and expanding existing ones, namely Bt cotton (DBT, 2007). Among several important proposals, the report recommended an independent regulatory body, the National Biotechnology Regulatory Authority (NBRA), and a single-window process to make regulation less cumbersome and to facilitate private investment (DBT, 2007). The problem is that an independent regulatory body would give the private sector easier access to India's resources at the expense of farmers (Bourienne, 2016; Karagina, 2016). Although the NBRA was not implemented, the policy promotes biotechnology as the best route to agricultural growth. To understand how, one must look at how the regulatory assessment enabled and the ABP promoted Bt cotton.

#### 5.3.4 Uncertainty of Bt cotton and the assessment process

The very fact the Union Government began to prepare the regulatory framework in anticipation of biotechnology since the 1980s shows government's interest in transgenic crops. Although, management of risk is the fundamental purpose of biosafety regulation, only risks that can be approximated, measured and defined technically are relevant; uncertainties about long-term effects on the ecosystem are omitted (Sahai, 2004). According to some interview respondents, the state is willing to accept a certain level of risk to accommodate investment [Interview: Bourienne, 2016; Interview: Scientist 1, Agricultural University, Raichur, Aug 2016; Interview: Berkley, Independent Researcher, Mysore, Sept 2016]. The regulators generate trust in the industry by sustaining the belief that risks are containable [Interview: Karagina, 2016]. In fact, the regulatory process is a rigorous one. The assessment of Bt cotton took 7 years, from the initial application by MMB in 1996. However, it ignored two uncertainties: 1) the impact of transgenic cotton on biological diversity and the ecosystem, especially the impact on pest populations; and 2) Bt's agronomic performance in India's diverse landscape and dry semiarid climate.

A campaigner from the Coalition for a GM-Free India (CGMFI), contended that 'the government tries to design and pass acts for the [biotech industry] ...global pressure and economy are most important' [Interview: Kutuzov, CGMFI, Wardha, Apr 2016]. Indeed, regulation, as a government function, facilitates investment, innovation and growth (Tombs, 2012; Whyte, 2014; Lasslett, 2014c). Of course, within broader considerations of environmental safety and public/national interest. Kutuzov [Interview: 2016] added that the

state '[frames] regulation for the industry.' A renowned critic of biotechnology from CGMFI argued that the Congress Party government, under Atal Bihari Vajpayee's leadership, sought to advance transgenic crops, like Bt cotton, as the new Green Revolution [Interview: Wilarski, CGMFI, Skype, Oct 2016]. Despite formal warnings to the Prime Minister, by figures such as Vandana Shiva and Devinder Sharma, the government pursued Bt cotton as a 'bailout for India's indebted farmers' ([Interview: Wilarski, 2016]; GM Watch, 2012). The aim of testing transgenic products is to ensure there are no risks before commercial release. In the case of Bt cotton, despite uncertainties it was pushed through the assessment process. Wilarski [Interview: 2016] contended,

the government represents the industry interests...except for one or two scientists, who were there to stick their neck up, [would not] say that GM is not required. If they said that Bt cotton is not required, they would be hounded out...everybody has a job to protect...who cares whether people support the environment or not. I think agriculture scientists have to be held responsible...

The scientists who were involved in the assessment of Bt cotton had a special interest in biotechnology and transgenic crops as their field of research [Interview: Karagina, 2016]. Scientist 1 [Interview: 2016], a plant breeder from an agricultural university involved in the assessment of Bt cotton, explained the main problem with the evaluation of Bt cotton was that it did not consider uncertainties associated with ecological imbalances caused by hybrid monocultures (uncertainty 1) and rainfed agriculture (uncertainty 2). The main problems faced by Bt cotton producers are pest resistance and drought.

Regulation of biotechnology, Newell (2002: 10) argued, tends to ignore effects 'beyond an immediate, visible impacts on ecosystem, regard long-term studies as an unnecessary burden and potential harms as restricted to those that are predictable and precedential.' What matters is an efficient and speedy turnaround to realise the commercial potential of the product. Regulation aims to provide an efficient environment for business, not to impede it (Tombs, 2012; Lasslett, 2014c). As assessments are conducted in a controlled environment, on a specific temporal and spatial scale, issues of uncertainty are excluded [Interview: Bourienne, 2016; Interview: Scientist 1, 2016]. Regulators and scientists agree that 'assessments are only able to look at relatively short-term impacts...they have to be concentrated in artificially small spatial scales because otherwise the requirements for containment and pre-release testing would not be met...in any case longer term and broader scale impacts are picked up through monitoring later on' (Scoones, 2006: 272). Due to the lack of long-term assessment there was high uncertainty about pest resistance and agronomic performance. Bourienne [Interview: 2016], from the Gene Campaign, pointed out that Bt

cotton was intended only for irrigated land and financially endowed farmers, the risk assessment did not consider the outcomes of Bt cotton cultivation by smallholders in draught prone regions.

Scientist 1 [Interview: 2016] added that ‘many trials were conducted...and I said at the time, when the technology is new, when the Cry Protein is new the pests will not survive. However, the ones that survive will become resistant. It takes a while, resistance does not happen in a year or two.’ There are certain aspects of biotechnology which regulatory evaluation is, quite simply, unable to predict or control. The evaluation side-lined many of the uncertainties to push Bt cotton through the evaluation. Bourienne [Interview: 2016] maintained,

GM technology is fraught with risk. You don’t know where the genes are inserted, and you cannot control how many genes will be inserted...when you are modifying a chromosome you are sending in large numbers of genes either through agrobacterium or through gene gun pushing it into the cell. You cannot control where they are going...Scientifically this doesn’t exist. Monsanto do not say they can control this. Monsanto is not stupid...If this process cannot be controlled, then it cannot be known what that cell is producing...That is the crux of the problem with this technology. That is why biosafety regulation is very important, because it tests the safety of the product...Why are these tests done? Because new proteins can and will be formed in a genetically modified plant. They can be harmless or harmful. That is why biosafety testing of every GMO is paramount. Then all the data fudging takes place. The industry goes on saying that their products have been tested a thousand times, it’s been tested in the best possible way, there has never been any problem with it, but there are problems. All the data that comes out showing problems is immediately suppressed...Until you can control this there will be an uncertainty of something toxic or allergenic being produced in the cell. It happens all the time, there are several studies that show you that this will happen. It’s not that every new protein is always poisonous, that’s not the case, but if two out of ten are poisonous that’s enough. That’s the flaw in the technology. My position is that testing must be done transparently and the data must be shared. Monsanto or any GM industry is not the depository of all the brains, there is a whole scientific community outside that understands genetics and can read that data.

Howbeit, regulation of agricultural biotechnology lacks transparency. The evaluation of transgenic products is a private matter between the applicant and the regulator, the public does not have open access to data or trial results (Newell, 2002). Regulation, Scoones (2006) claimed, often involves backdoor negotiating and lobbying. It is difficult to gauge how MMB might have influenced the evaluation of Bt cotton. Notwithstanding, Monsanto maintained dozens of PR companies and regulatory affairs office in Delhi to engage in routine negotiations with government officials over assessment developments and policy ([Interview: Kutuzov, 2016; Interview: Scientist 1, 2016]; see also Newell, 2002). Lobbying played an

important role when the issue of Bt cotton release in rainfed regions came up. Bourienne [Interview: 2016] asserted,

there was at that time of Bt cotton trials a condition that it should not be released in states with rainfed agriculture, but only in irrigated areas. That's when lobbying comes into play, and that's when Monsanto lobbied very successfully. Somehow this condition that was present in the early years of Bt cotton was lifted...

Bt cotton was assessed in the ICAR institutes, state agricultural universities and CICR in Nagpur. For example, Dr P. K. Ghosh, who came from ICAR and was heavily involved with MMB, was the key architect of the assessment process having served as chief advisor to the DBT Secretary and served on the RCGM during Bt cotton trials (Scoones, 2006; Newell, 2002). Additionally, Dr B. R. Barwale was a member of several committees and regulatory panels within the DBT (Dang et al, 2015). There might have been potential bias of data produced by MMB. The composition of policy and regulatory committees alerts observers of potential 'revolving door'. Committees are composed of cliques of scientists who often rely on largesse from DBT and the industry (Samal and Bhattacharaya, 2017). Of course, biotech experts have a special interest in biotechnology as their field of research. Therefore, regulation of biotechnology has drawn more attention to the positive outcomes of testing, reinforcing the notion of predictability and ignoring uncertainty. The guiding premise of the emerging policy and regulation was increase of cotton productivity through technological innovation and export-oriented production (Sahai, 2000; Ramana, 2006). It is, thus, argued that the assessment process was conducted in a narrow spectrum, one which excluded an alternative outcome. No clear illegitimacy has been observed, but rather a regulatory framework and policy that pushed Bt cotton through, supported by a neoliberal agenda of economic growth through private investment and export-oriented production. Yet, we need to take a closer look at Monsanto's role in the state-corporate symbiosis.

### 5.3.5 The introduction and release of Bt cotton

Thus far, the section considered the regulatory and policy regimes that enabled the introduction of Bt cotton. Now, the section examines how Bt cotton was released into Indian agriculture. The Department of Agriculture (2016: 169) reported that 'cotton exports used to be subjected to quantitative restrictions...With sufficient availability to meet domestic demand and stable prices, export of cotton has been made free since October 2011.' Until 1990s India's agricultural sector was subject to quantitative restrictions, strict licensing regulation, quotas and high tariffs (Dholkia, 1997; Chand, 2005). The 1990s saw a shift from

Nehruvian-protectionist economic planning to neoliberalism. The shift entailed deregulation of imports and export-oriented production (Tripathi and Prasad, 2009). Furthermore, reorientation of regulatory priorities, decline of government support, promotion of private investment, devaluation of the exchange rate etc. encouraged the transfer of private technology to stimulate agricultural development (Chand, 2005; Tripathi and Prasad, 2009; Siddiqui, 2015). These changes set forth the conditions for the introduction of Bt hybrids. Monsanto was the first conglomerate to approach India with a transgenic crop.

Monsanto initiated negotiations with the DBT in 1990-3 to backcross Bollgard cotton with Indian varieties, but the request was rejected by the DBT committee headed by V. L. Chopra of the Indian Agricultural Research Institute (Bharathan, 2000; Ramanna, 2006; Shah, 2012). The application was rejected because Monsanto's technology fee was too high (Panagariya, 2004). Additionally, importation of foreign germplasm and seeds for research by private companies was restricted by the Seed Protection Act 1966 and Industrial Policy Act 1969 (Panagariya, 2004). Pray and Ramaswami (2001: 409) noted, 'the Industrial Policy Act, 1969 restricted Indian firms that had more than Rs.1 billion in assets to "core" industries...The seed industry was not a core industry. Therefore...firms with more than 40% foreign ownership were not allowed to enter the industry.' The liberalisation of the seed industry began with its inclusion on the list of core industries in 1986. Then, the New Seed Industry Development Policy, 1988 permitted the import of commercial seeds. Next, came the neoliberal reforms which opened Indian agriculture to foreign capital, deregulated markets and created space for private technology.

In 1991, the government extended liberal reforms to technology transfer and foreign investment in agriculture. In March 1995, the initial rejection of an application was revised and Mahyco obtained permission from the RCGM to import 100 grams of Monsanto's Bt seeds to conduct laboratory studies for biosafety and agronomic performance (Shah, 2012). This time round, Mr Chopra was no longer member of the committee (Bharathan, 2000). Greenhouse trials were permitted in 1996, before limited field trials were permitted in 1997-8 (Shah, 2012). In May 1998, Monsanto embarked on a joint venture with Mahyco, procuring 26% stake in Mahyco's Bt cotton operation, forming Mahyco-Monsanto Biotech Limited. The introduction of Bt cotton 'proceeded...through marriage of convenience between western biotechnology firms and national seed companies' (Shiva et al, 1999: 601). It meant that Bt cotton was associated with a local enterprise and the technology was supported by the state. Nevertheless, Bt cotton still had to be subjected to extensive evaluation.

1997 was a watershed of neoliberal transformation for Indian agriculture. In July that year, the US government filed a complaint to the Dispute Settlement Body (DSB) of the WTO over India's quantitative restrictions on import of agricultural, textile and industrial products (Shiva et al, 1999). As a signatory to the WTO, India was legally bound to remove trade barriers. India's import policy restricted imports of more than 2,700 agricultural and industrial products to protect home markets (WTO, 1999). Seeds were included in the restricted items list, meaning that a licence had to be procured to import foreign seeds. The quantitative restrictions violated Art XI:1 and XVIII:11 of the GATT and Article 4.2 of the AOA (WTO, 1999). The Government of India failed to defend quantitative restrictions and in December 1999 was forced to fully comply with the Agreement (Bhat, 2011: 12). By April 2001 the Government eliminated all import restrictions and fully opened its markets to foreign capital.

Between July and August 1998, the MMB was granted permission for small-scale, multicentric field trials in 40 locations (Bharathan, 2000; Ramanna, 2006). In 1999 GEAC expressed satisfaction with trial results, however due to popular resistance requested more tests (Shah, 2012). In July 2000, MMB commenced open field trials on 85 hectares as well as seed production on 150 hectares in 395 locations (Barathan, 2000; Barwale et al, 2004). In March 2002 ICAR submitted "satisfactory" results of Bt cotton trials and in April GEAC authorised commercial cultivation of three single Bt gene hybrids for three years (2006; Kalaichelvi et al, 2008; Gandhi and Namboodiri, 2009). The crop was released in six states: Andhra Pradesh, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Tamil Nadu. The progress of Bollgard-I was to be monitored by State Biotechnology Coordination Committees and District Level Committees until an assessment of the three-year-period in 2006 (Scoones, 2006). By 2006 Bollgard-I was cultivated on 1.3 million hectares (Khadi, 2007; Chaudhary and Gaur, 2010). Due to the increase in area under Bt cotton, productivity of cotton increased by 71% between 2002 and 2006, and in some regions, it increased by up to 259% (Shah, 2012). The rapid adoption rate suggested popular support of the technology.

In the early period, MMB owned the only Bt gene that could be legally introgressed into cotton seeds (Kalaichelvi et al, 2008; Kuruganti, 2009; Chaudhary and Gaur, 2010). Following the assessment of the three-year period, the three single Bt gene hybrids were withdrawn due to a poor performance in 2005-6, but 30 new Bt hybrids were approved and released by three companies: MMB, JK Seeds and Nath Seeds (Kalaichelvi et al, 2008; Chaudhary and Gaur, 2015). In 2007, 62 Bt gene hybrids were released by 15 different companies; in 2008, 131 Bt hybrids were released by 24 companies; in 2009, 274 Bt hybrids were released by 30 companies; and, in 2010, 522 different Bt hybrids were released by 35 companies (Chaudhary and Gaur, 2015). In 2009, however, all new Bt cotton were double

gene varieties, Bollgard-II hybrids or stacked gene hybrids. They were introduced because Bollgard-I became susceptible to pink bollworm, a monophagous cotton insect. The insect developed resistance to the Bt gene and caused substantial crop losses in 2008-9. Pest resistance to Bt became a recurrent problem and crop losses are more common.

An agronomist from an agricultural university in Raichur commented that 'Bt cotton is needed because...there is an international demand for cotton. In a black soil this is the most profitable crop. Cotton takes around 40 days for initiation of flowers. In case of Bt cotton there will be continuous flowering' [Interview: Scientist 2, Agricultural University, Raichur, Aug 2016]. The commercialisation of Bt cotton was not a simple case of a state working for the industry, but an economic pressure to increase productivity and the overall output. Additionally, international pressure exerted by the DSB compelled India to open its agricultural markets to private capital (Shiva et al, 1999; Sahai, 2001). In terms of farmers' welfare, the rationale for Bt cotton was that it would alleviate the agrarian indebtedness by reducing costs of production and raising farmers' returns (Swaminathan, 2004; Sahai, 2004). The main problem cotton producers faced were crop losses to bollworms and high expenditure on insecticides. Stone (2012: 62) posited that 'Bt cotton seeds...entered [the market] just as the widespread adoption of hybrid pesticide-intensive seeds was sending smallholder farmers onto a catastrophic treadmill of pesticide and debt.' The introduction of Bt cotton was not, as claimed by some, done illegitimately. Rather, the economic and international pressures engendered changes that made Indian agriculture conducive to biotechnology, and in turn transgenic cotton was necessary to India's economic objectives. The proliferation of Bt cotton indicated wide support for the crop, but controversy surrounding its introduction revealed certain issues concerning its release.

### 5.3.6 Adoption of Bt cotton

As of 2014, 95% of cotton available on the market are Bt hybrids. There are two opposing arguments as to how Bt cotton became the only cotton seed available. The KRRS and Navdanya saw Bt cotton as a conspiratorial ploy by Monsanto to extract inordinate profits from Indian smallholders. On the other spectrum of resistance, proliferation of Bt cotton was attributed to market forces and farmers' choice. There are many factors involved in the proliferation of Bt cotton. Having said this, the way Bt cotton was marketed had a significant influence on farmers' choice. Farmers switched to Bt cotton because they were promised by the Indian Government and MMB lower costs of production, higher yield and higher income (Visawadi et al, 2006; Venugopalan et al, 2009; Swaminathan and Rawal, 2011). Additionally,

several interviewees contend that Bt cotton was pushed by the Government [Interview: Bolkonskaya, 2016; Interview: Karagina, 2016; Interview: Wilarski, 2016]. The Union Government was, indeed, actively involved in the promotion of biotechnology through policy and regulation. However, there were many more factors involved.

Navdanya and KRRS saw Monsanto as a threat of globalisation to farmers' independence and sovereignty. From this standpoint they reasoned that Monsanto duped farmers with a 'miracle seed' story (Nanjundaswamy, 1999, 2003a; Navdanya, 2004: 24). Representatives of seed companies 'came to villages with leaflets and seeds and told farmers to grow Bt cotton...' [Interview: Bolkonskaya, 2016]. A documentary by Michael X. Paled entitled *Bitter Seeds* captured one such transaction in a village in the state of Maharashtra. Seed company agents distributed brochures advertising a high yielding cotton variety – a Bt hybrid (Paled, 2014). Farmers were uninformed about biotechnology or Bt cotton. The Gene Campaign conducted a study on farmers' perception of biotechnology and found that 'the level of awareness and perception about biotechnology and Bt cotton is very low' [Interview: Bourienne, 2016]. Farmers trust the government and agronomists to tell them what to grow, but they are uninformed about how Bt cotton works is potential effects [Interview: Karagina, 2016; Interview: Scientist 1, 2016]. However, it is an oversimplification of a dynamic phenomenon to state that farmers were simply duped by the industry. Bourienne [Interview: 2016] asserted,

Between 2003 and 2014 there is this whole period when Bt cotton proliferated in an insane way. However dramatic and fanciful the NGO rhetoric is, it is something that was...a gradual process...the market forces played out, and the industry played with the market forces...It is much more complex than this dramatic rhetoric, "Monsanto crushed the indigenous seed industry". I think the process that happened is something that came from many sources, and underlying again Monsanto's big influence in policy, regulation and government is such that its hybrids, despite failing, continued to get approval.

Bt cotton was adopted because it was considered to be a 'wonder product' [Interview: Karagina, 2016; Interview: Bourienne, 2016]. It was thought of this way because the industry and the Government promoted it as a 'miracle seed', an alternative to expensive insecticides and debt [Interview: Bolkonskaya, 2016]. The seed companies expected that Bt cotton would be very popular with farmers, so starting in 2006 seed companies began buying licences for the Bt trait until every company supplied only Bt seeds [Interview: Bourienne, 2016]. These are the market forces that played out: competition, consumer choice, demand and supply.

Farmers adopted Bt cotton out of interest calculation for higher yields, less expenditure on pesticides and higher returns. The high pesticide demand in cotton production was sending Indian smallholders on a ‘treadmill of debt’ (Stone, 2012). The cost saving on pesticides and superior performance were a strong influence on consumer choice (Herring and Rao, 2012; CCI, 2016). Scientist 1 [Interview: 2016] maintained that farmers are rational actors, they understand their industry and know what will bring profit. This reflects with Herring’s (2009) criticism of the opposition to Bt cotton, where he pointed out that KRRS and Navdanya represented Indian farmers as gullible and irrational actors, easily duped by the industry and with no understanding of agriculture. Scientist 2 [Interview: 2016] concurred,

farmers calculate what will bring them money...cotton is known among farmers as ‘white-gold’, because it’s so profitable...Bollgard was a solution to pesticides and low yields...today, they won’t take any other variety than Bt cotton. In a sense, the farmers were given a cake with honey...The farmer will not take the dry bread instead.

Another factor in the proliferation of Bt cotton was the appearance of seed dealers. The seed dealers are a new institution that appeared with the release of Bt cotton [Interview: Karagina, 2016]. These dealers, according to two respondents, became the primary source of input packages, information, knowledge and credit [Interview: Scientist 2, 2016; Interview: Scientist 3, Agricultural University, Raichur, Aug 2016]. They became an unofficial advertising and promotional mechanism for Bt cotton. Dolohov [Interview: 2016] commented,

these middle people [seed dealers] go to the farmers and try to convince them to buy Bt cotton...but they don’t explain these are GM seeds...they just say: “buy this seed, it will give higher yield and it does not need pesticide for bollworm”.

The credit function that seed dealers stepped into was, according to Bourienne [Interview: 2016], a decisive factor that led to widespread adoption of Bt cotton. The respondent expounded,

The formal credit systems [became] practically unavailable to farmers. The banks do not lend to the farmer because they consider it high risk...They used to go to private money lenders and get ruined in the process with usurious interest rate. Then there was a new agency that developed, and that was the seed dealer, import provider...He became the credit source by default. This the industry understood, this the companies understood. That was began by Bt cotton, because by that time many companies were producing Bt cotton. Whichever gave the seed dealer a better commission the seed dealer would recommend that. The seed dealer doesn’t care what the farmers want to plant. If a company is giving him 10% commission and another is giving him less, obviously he will promote the company with 10% commission because he will

make more money. The finance shifted from the private money lender to the seed agent. For the farmer it was less usurious interest rates because the seed dealer would give farmers credit with the seed and chemical and pay up when the farmer was done. This made the seed dealer or the input provider a very powerful figure and would influence what would be cultivated... This is a very powerful and very important reason why farmers selected what they did. They didn't select it because they wanted to, but it was the selection that came with the credit. The farmers were given seed and credit, but only for specific product. This brought in a huge influence, and companies used this, which is really the reason why the non-Bt seeds disappeared. Nobody was pushing them. That is how the choices at the seed shop became more and more restrictive to the extent that ultimately only Bt was available and a few of the companies that were able to input commissions stayed in the market [Interview: Bourienne, 2016].

The government supported biotechnology through policy and regulation. The farmers trusted the Union Government's seal of approval. In fact, many thought that it was a Government product because it was assessed by state institutions, e.g. ICAR, CICR, SSI [Interview: Bourienne, 2016; Interview: Karagina, 2016; Interview: Denisov, 2016]. The National Congress Party had a vision of India as a modern, industrialised nation. Biotechnology was conceived as part of this vision. After 2006, the Union Government supported Bt cotton cultivators through the Minimum Support Price. There are annual fluctuations in net income from Bt cotton due to volatile market prices, thus the state assures farmers receive adequate return by fixing the Minimum Support Price (Choudhary and Gaur, 2015). The system was set up mainly for cash crops recommended by the Government [Interview: Scientist 1, 2016; Interview: Scientist 2, 2016]. The problem today is that farmers no longer have the consumer option to buy non-Bt seed. The KRRS and Navdanya, however, censured Monsanto and the Government claiming that the transgenic cotton was the cause of farmer suicides. The resistance movement inscribed deviant properties onto corporate actors, but the illegitimate element was absent.

### 5.3.7 Summary

In contrast to Case 1, the analysis of state-corporate practices and symbiosis revealed no illegitimate conduct. Certainly, the Government of India enabled the release of Bt cotton through regulatory and policy 'regimes', and there was a clear 'symbiosis' between the Government and the biotech industry (Tombs and Whyte, 2009; Tombs, 2012; Whyte, 2014). Notwithstanding, neither the Government nor MMB contravened the regulatory law or other normative code of conduct. The Government followed a broad policy objective of economic growth and development realised through opening India's markets to foreign capital, export-oriented production, intensification of agriculture through capital intensive monocultures etc. to achieve 'desirable finalities' (ICAR, 2000; Swaminathan, 2005; DBT, 2007; Mahendra,

2012; see also, Lasslett, 2014c). As part of this broad policy objective, the ABP prioritised technological development in target areas, e.g. cotton, to increase productivity and contribution to GDP, increase India's competitiveness in international markets, and to raise farmers' incomes (ICAR, 2000; Swaminathan, 2005). During the liberal reforms, biotechnology was envisioned as an integral part of technological progress in agriculture since mid-1980s. Furthermore, the representation of Monsanto as a malevolent entity, intending to harm Indian smallholders in order to make a profit is not helpful. Rather, what has been observed is that Monsanto took advantage of the 'market forces' [Interview: Bourienne, 2016]. Bt cotton was subjected to a rigorous assessment for environmental safety and agronomic performance. As the section demonstrated, the Government of India and MMB observed the regulatory assessment.

Bt cotton was released without careful enough consideration of risk and uncertainty intrinsic to biotechnology [Interview: Scientist 1, 2016; Interview: Scientist 2, 2016; Interview: Bourienne, 2016]. The prioritisation of free-market, export growth and industrialisation in the ABP created the conditions wherein smallholders are exposed to socio-economic stress factors. The introduction of biotechnology may have adverse socio-economic impact on smallholders with no irrigation or capital who made the consumer choice of cultivating Bt cotton (Stone, 2007; Swaminathan and Rawal, 2011; [Interview: Scientist 2, 2016; Interview: Bouriennes, 2016]). Having said this, indebtedness and suicides are a much broader issue, not specific to Bt cotton, but rather symptomatic of a market-led economic development (Mishra, 2014; Mariott, 2017; Thomas and Tevernier, 2017). Indian smallholders are transitioning from semi-subsistence agriculture, to industrialised agriculture marked by intensive farming, monocultures, and cash cropping. It is in the context of this development that Bt cotton was linked by a resistance movement to indebtedness and suicides. Next, the chapter examines how the resistance movement inscribed deviant properties to objectively legitimate state-corporate practices, and with what effects.

#### **5.4 Opposition to Bt cotton and censure of MMB**

The preceding section demonstrated that the state-corporate symbiosis in this case lacked clear, illegitimate property. This section examines the process of censure, looking at the motives of resistance, the claims on which it was based, mobilisation and strategies. The Bt cotton issue is fraught with contention. From the onset, the biosafety and agronomic performance of Bt cotton was hotly disputed. MMB sold Bt cotton to Indian farmers as a remedy to indebtedness (Shiva et al, 1999; Nanjundaswamy, 2003). The KRRS and Navdanya

censured the state-corporate conduct over Bt cotton seeds as deviant, in order to prevent its release. After the release, the CGMFI changed the tactics of resistance to stop its proliferation. The resistance can be divided into three periods: pre-commercial release period (1998-2003), post-commercial release period (2003-2009), and Bt monopoly period (2010-2016).

In the initial period, resistance was led by the KRRS through a direct-action programme, whilst Navdanya engaged in a 'public relations battle' (Stone, 2012). This period was marked by strong leadership of M. D. Nanjundaswamy from KRRS and Dr Vandana Shiva, the founder of Navdanya. The second period saw the failure of the opposition and the proliferation of Bt cotton. In this period the opposition transformed into an amorphous network, under the banner of CGMFI, made up of disjoined groups, NGOs and regional groups. It was then that many critics of biotechnology gained prominence, e.g. Devinder Sharma and Vandana Shiva. The third period saw a dramatic change in approach and tactics. Herring (2006: 469) commented on the movement, 'the movement waxes and wanes, regionally and over time, and has no coherent structure...the sum total of anti-transgenic activities bears enough commonalities to be analysed collectively.'

On the other spectrum of opposition, a more measured and composed resistance came from the Gene Campaign, led by Dr Suman Sahai, and organisations such as Alliance for Sustainable and Holistic Agriculture (ASHA). They turned their attention to the issues of neoliberal policies, regulatory defects, agronomic performance, suitability of Bt cotton to Indian agriculture and market dependency. The defining moments of the resistance were the 'Operation Cremate Monsanto' and the 'Monsanto, Quit India' campaigns. The section considers the different stages of resistance, how the state-corporate illegitimacy was framed, the mobilisation of direct-action campaigns, how Monsanto and the Government were affected and the response from the state-corporate institutions.

#### 5.4.1 Pre-commercial release period (1998-2003)

Here, the chapter examines how the claims of deviancy were inscribed on Monsanto and the Government in the initial stage of the resistance. According to some sources, the censure of Monsanto was founded on hyperbolic pronouncements and fallacious claims [Interview: Bourienne, 2016; Interview: Karagina, 2016]. There are several, crucial moments in the campaign. Karagina [Interview: 2016] asserted that 'when you are talking about direct actions against Bt cotton, you are talking about the period when Nanjundaswamy was still alive.' Nanjundaswamy was known to national and international networks through

contributions to struggles for land rights, fair pricing, and the WTO. The charismatic leadership Prof Nanjundaswamy and his agitational style of politics drove the opposition. The KRRS spearheaded on-the-ground resistance with ‘Operation Cremate Monsanto’, the Intercontinental Caravan and several attacks on Monsanto facilities in Bangalore. Simultaneously, Navdanya launched the ‘Monsanto, Quit India’ campaign. Navdanya, also, led a Public Interest Litigation against Monsanto in the Supreme Court in an attempt to stop Bt cotton through a court order.

#### 5.4.1.1 ‘Operation Cremate Monsanto’

The Operation followed from conjecture about Bt cotton containing ‘terminator technology’. The terminator technology, i.e. ‘gene use restriction technology’ (GURT), ‘is designed to control plant fertility through a genetic process triggered by a chemical inducer that...[makes] second generation seeds sterile’ (Lombardo, 2014: 995). GURT restricts replanting, thereby making farmers dependent on the seed market each season. The label ‘terminator’ was devised by the Rural Advancement Foundation International of Canada and the Genetic Resources Action International based in Spain (Herring, 2006; Scoones, 2008). The KRRS borrowed the term from international networks to galvanise farmers. Alarmed, the Indian government banned GURT via Office Memorandum No. 82–1/98 PQD, in Lok Sabha and Rajya Sabha, dated May 25, 1998 (Herring, 2005). However, as Karagina [Interview: 2016] pointed out, GURT was never used in Bt cotton. GURT was a big issue among international networks at the time, but not much was known about it and the KRRS was misinformed about the nature of Bt cotton. Karagina [Interview: 2016] asserted that ‘there were several critiques how KRRS were misinformed, they thought it was terminator technology being used because all the slogans and discourse at that time were about pushing back the terminator technology.’ The belief that transgenic cotton would cause harm to the biodiversity and farmers’ livelihoods precipitated the ‘termination’ of field trials through a direct-action programme.

The Bt cotton issue went public on 24 November 1998. During a press conference the Minister of Agriculture of Karnataka, Byre Gowda, was pressured to disclose the locations of MMB’s field trials (Nanjundaswamy, 2003; Scoones, 2006). Nanjundaswamy promptly issued an open letter calling on KRRS members to join a direct-action programme, ‘Operation Cremate Monsanto’. The letter stipulated,

Monsanto's field trials in Karnataka will be reduced to ashes, starting on Saturday...On Saturday the 28th of November, at mid-day, thousands of farmers

will occupy and burn down the three fields in front of the cameras, in an open, announced action of civil disobedience. These actions will start a campaign of direct action by farmers against biotechnology, called Operation Cremate Monsanto, which will not stop until all the corporate killers like Monsanto, Novartis, Pioneer etc. leave the country (Nanjundaswamy, 2003: 152).

On 26 November, KRRS activists conflagrated two test plots in Raichur and Bellary districts of Karnataka. Dolohov [Interview: 2016] explained that ‘when we organised Operation Cremate Monsanto, the farmers did not know anything about transgenic seeds, biotechnology or Bt cotton... We went to the farmers and convinced them that Bt cotton is bad for the soil, biodiversity and the farmer. After that the farmers joined us and burnt the crop with us.’ According to KRRS, the farmers owning the fields on which Bt trials were conducted had no knowledge of Bt cotton (Shiva et al, 2004; Nanjundaswamy, 2004; Shiva and Jalees, 2006). Bolkonskaya [Interview: 2016], a prominent KRRS activist, recalled that the Association would have received information about field trials from inside the Ministry of Agriculture and would then convince farmers to let them burn the plots.

One interviewee proclaimed that ‘the intention of these direct actions [Operation Cremate Monsanto] was to draw the attention of government. It was the main reason of our direct action’ [Interview: Bezukhov, KRRS, Raichur, Aug 2016]. Although, direct action is a performative strategy of resistance, it is not intended solely to raise awareness or attract attention, but to impose a change (Franks, 2003; de Cleyre, 2004; Moore and Shepard, 2013). In this sense, another respondent asserted that ‘direct action is the only way for farmers to be heard’ [Interview: Drubetskoy, KRRS, Raichur, Aug 2016]. Direct action is a powerful means of resistance, especially for those who do not have institutional authority (de Cleyre, 200; Thoreau, 2008). The response from the company and state authorities was different to that in Case 1. There were no arrests, charges or trials. Drubetskoy [Interview: 2016] recounted,

The police government officials came to the fields, and farmers convinced them: ‘look this is in my field, this is my crop, and it is very harmful to the society and nature... We are not [burning] others, we are [burning] our own crops and in our own fields.’ We convinced the farmers and gained their confidence. The farmers readied direct action programme themselves.

MMB and the Government let the crop burnings proceed because they were conducted with the owners’ consent. The MMB and the state ignored the resistance campaign. They were able to do so because the operation was conducted on a few fields in Karnataka district, and some farmers have blocked the campaign by not giving the KRRS consent to burn their crops. For example, Shankarikoppa Mahalingappa, from Haveri district in Karnataka precluded the burning of his crop (Herring, 2007: 137-8). He requested police protection from KRRS

activists who approached him to burn his Bt crop (Scoones, 2006). Not all farmers were against transgenic cotton, seeing the potential for profit from cost savings on pesticides and higher yields potential. The operation received considerable attention among international networks, e.g. La Via Campesina and People's Global Action, but the farmers unions supported the technology [Interview: Karagina, 2016]. A 2001 controversy of 'stealth seeds' – unauthorised Bt cotton seeds – demonstrated farmers' support for the technology (see section 5.4.1.3). Bezukhov [Interview: 2016] expounded that,

...the government ignored us...if the Government ignores then what can we do. We opposed Monsanto seeds, but government has not taken our appeal. We had to convince the farmers against Monsanto seeds. Direct action was the only way. So...we burnt Bt cotton.

Dolohov [Interview: 2016] added that 'our farmers don't believe in saying, they believe only in action. If you demonstrate action, then they will follow.' In this sense, the operation was enacted not to target MMB or the Government policies in a practical manner, but to win farmers' support for the opposition. Drubetskoy [Interview: 2016] proclaimed that,

We started direct action to educate the farmers...We picked the crops in the fields convincing the farmer not to grow Bt cotton. The farmers themselves came with us and picked all the crops and we set it on fire. This is how we staged agitation against Monsanto in Karnataka.

The KRRS did not target trial plots in State Agricultural Universities, nor did they target Monsanto facilities. Rather, the direct-action programme was conducted with the consent from Bt plot owners. Thereby, the operation did not express the key features of direct action, mainly self-sacrifice and dissent, as the crops conflagrated crops did not belong to the activists themselves. The state and MMB were able to ignore the programme, especially knowing that biotechnology was supported by the farmers' unions, e.g. the Kisan [agriculturalist] Coordination Committee (KCC) and the Bharatiya Kisan Union [Interview: Rostov, farmer, Wardha, Apr 2016]. There was another important direct action which ought to be given attention. The next subsection considers how other forms of direct action were employed and with what effect.

#### 5.4.1.2 The Intercontinental Caravan

As Bt cotton was introduced by a foreign corporation on the back of the WTO and liberal reforms, the KRRS and Navdanya linked it to globalisation. Thereby, the censure of Monsanto was immersed in the anti-globalisation rhetoric. Esteemed KRRS activists

proclaimed that the WTO, liberal reforms and foreign corporations were ‘anti-farmer’, in a sense that agriculture would be controlled by multinationals, while farmers would lose their sovereignty and control over their means of production [Interview: Bezukhov, 2016; Interview: Drubetskoy, 2016]. In an interview from 1995, Nanjundaswamy asserted ‘the new economic policy [neoliberalism]...is the entry point for multinationals...[which] will have direct effect on agriculture’ (Nanjundaswamy, 1995). Monsanto and Bt cotton were perceived as a corporate threat to Indian farmers. Bezukhov [Interview: 2016] holds that the struggle against Bt cotton was not just about biotechnology, ‘it was a struggle against corporate power, globalisation and liberalisation...’ Nanjundaswamy (2003) proclaimed that globalisation, extended through the WTO, ‘is a recolonization of the South by Northern corporations...’. He argued that the neoliberal project of the WTO set the stage for the takeover of the cotton seed market by Monsanto.

In this context, the KRRS leadership decided to take the resistance directly to the organisations they felt were threatening Indian farmers through, for instance, biotechnology [Interview: Bezukhov, 2016; Interview: Dolohov, 2016]. In May-June 1999, the KRRS held several protests across Europe to protest the WTO, transnational corporations, biotechnology etc. The campaign was dubbed the ‘Intercontinental Caravan’. Around 450 KRRS activists, farmers and union representatives travelled to Europe (Bharathan, 2000; Ainger, 2003). Demonstrations were held at WTO headquarters in Geneva, the European Commission in Brussels, the Monsanto headquarters and the Organization of Economically Developed Countries in Paris. The action coalesced issues of transgenic cotton, corporate threat, and the TRIPS (Scoones, 2006). In a speech outside of Monsanto headquarters Prof Nanjundaswamy cautioned ‘don’t come to India, don’t damage our biodiversity...if you don’t want to be cremated, don’t come to India’ (Nanjundaswamy, 1999). The campaign made KRRS famous among the international networks and Nanjundaswamy became an icon of the anti-globalisation movement (Notes from Nowhere, 2003). Notwithstanding, the ‘Intercontinental Caravan’ did not stop Bt cotton field trials. The Association, then, attempted to censure Monsanto by demolishing its greenhouse and laboratory.

In 2001 and 2003 the Association demolished Monsanto facilities in Bangalore’s Institute of Agricultural Research (Nanjundaswamy, 2008). However, the actions were disorganised and poorly executed [Interview: Karagina, 2016]. Again, the Government and MMB ignored the actions. In the 2001 action, Bolkonskaya [Interview: 2016] relayed, the police did not come, so Nanjundaswamy directed the activists to turn themselves in. However, ‘the police told them that the campus doesn’t come under our jurisdiction, you have to go to another police station...Police then filed a case against them and arrested them...they were

released the following day' [Interview: Bolkonskaya, 2016]. Similarly, in the 2003 action the police responded mildly. Karagina [Interview: 2016] recounted, 'the police didn't press any charges against us, they just took us away and kept us in a police station for a few hours.' MMB responded by moving their research facility to Mumbai. Nanjundaswamy's direct action programme had marginal impact, while the state secured farmers' support through the unions. The inscription of deviancy on Monsanto and the Government did not resonate with the farmers. The state was able to ignore the opposition and proceed with the assessment of Bt cotton, eventually releasing it in 2001. Simultaneously, Navdanya led another campaign, censuring MMB and the Government.

#### 5.4.1.3 The 'Monsanto, Quite India' campaign and 'seeds of suicide'

In the late-1990s, Navdanya launched the 'Monsanto, Quit India' campaign, centred on issues of farmers' sovereignty, corporate control of agriculture, suicides and indebtedness (Shiva and Jalees, 2006; Navdanya, 2004). Navdanya argued that due to the monopolistic tendencies of transnational corporations, transgenic cotton would lead to an increase in the costs of cotton production, loss of seed diversity and market dependency (Navdanya, 2004; Shiva and Jalees, 2006). Navdanya was the first organisation that linked Bt cotton to farmer suicides. It started with an outbreak of farmer suicides in Warangal district of Andhra Pradesh in 1998. The case was published by Navdanya in *Seeds of Suicide*, titled after MMB's *Miracle Seed* advertisement (Shiva and Jalees, 2006 [1999]). According to Shiva the suicides in Warangal were most prevalent among Bt cotton producers, even though Bt cotton was still at a trial stage (Shiva and Jalees, 2006). The publication, however, ignored the losses incurred by conventional cotton producers due to drought (Herring, 2005, 2007; Stone, 2007). The emergent rhetoric dovetailed with a nationalist-Gandhian leitmotif of corporate invaders, as Shiva and Jalees (2006) connected the losses to corporate control of agriculture.

A representative of Navdanya insisted that 'when we show the Government that Bt cotton is failing they still don't acknowledge the fact that it is failing; it is causing debt, it is causing suicides, it is causing misery to our farmers' [Interview: Kuragin, Navdanya, Dehradun, Apr 2016]. The Gene Campaign representative contested such claims, because they were based on anecdotal evidence [Interview: Bourienne, 2016]. It was surmised that the transgenic cotton was the cause of farmer suicides, just because, at the time, Warangal was one of the key districts for field trials (Stone, 2007; Herring, 2007). Bt cotton was not linked to indebtedness, nor suicides as it was still in the trial stage.

Kuragin [Interview: 2016] relayed that Navdanya's main contributions to the resistance was made through organisational literature, educational workshops and discourse in the media. Coordinating with international networks, Navdanya launched a 'public relations battle' through the 'Monsanto, Quit India' campaign (Herring, 2005; Scoones, 2006). The campaign was, primarily, an awareness raising effort via media. The slogan resonated Gandhi's 'Quit India' struggle against Britain. Navdanya used national symbols appealing to nationalist sentiments (Assadi, 2002; Herring, 2005; Reitan, 2007). For example, they employed independence and Gandhian principles in activist narratives, e.g. *Bija Swaraj* (Seed Self-Rule) and *Seed Satyagraha* (Seed Sovereignty) (Shiva, 1997; Nanjundaswamy, 1998, 2003; Navdanya, 2004, 2013). One study participant relayed that,

in 1993 KRRS launched Seed Satyagraha...Similar to Gandhi's Salt Satyagraha. During this period, we ransacked Cargill Seed Company's office in Bangalore, laboratory in Ballari district. Later, we did the same with KFC and Monsanto. The resistance against Bt cotton was part of this Satyagraha [Interview: Bolkonskaya, 2016].

Both, Navdanya and KRRS, being part of international networks, employed fallacious claims in a rhetorical, demagogic manner (Herring, 2006; Stone, 2012). Yet, they were detached from the grassroots resistance. Karagina [Interview: 2016] asserted that 'Navdanya is an international organisation...but on the ground most of the work around Bt cotton is done by grassroots groups, such as Alliance for Sustainable and Holistic Agriculture (ASHA).' Navdanya and the KRRS were closely connected to international networks, namely La Via Campesina and Peoples' Global Action (PGA) (Herring, 2005). The PGA is a 'network of direct action, urban and rural collectives for autonomy and against capitalism...inspired by the 1994 Zapatista uprising against neoliberal reforms' (Reitan, 2007: 188). La Via Campesina is a global network of peasant movements, concerned with food sovereignty, smallholders' rights, rural poverty, environment etc. (Nanjundaswamy, 2003). The KRRS and Navdanya were often criticised for the upper-caste background of the leaders who were removed from the reality of the issues they campaigned on (Reitan, 2007). Nevertheless, the Government and MMB ignored the campaign. In response, Navdanya sought to force the issue onto the state by filing a Public Interest Litigation (PIL).

This litigation contrasts with Case 1, where the resistance actors subverted the state's legal apparatus in order to put UEL on trial and to obtain data about illegitimate conduct. Similarly, the resistance actors in this case tried to use the power of the judiciary to obtain data and censure state-corporate conduct. However, in this case, rather than using the judiciary through the back door, i.e. direct action and self-sacrifice, the actors went directly to the court.

In January 1999, the Research Foundation for Science Technology and Ecology (RFSTE), headed by Vandana Shiva, filed a PIL challenging the legitimacy of Bt field trials (see Shiva and Jalees, 2006: 85). The RFSTE, associated with Navdanya through Shiva, contested the legitimacy of field trials, on alleged technical failings by the Review Committee on Genetic Manipulation (RCGM) of regulatory procedure under the Environment (Protection) Act, 1986 (Navdanya, 2004). According to the RFSTE, the first large-scale trials were conducted on 40 plots of 1 acre, in June-July 1998, in Andhra Pradesh, Karnataka, Maharashtra, Haryana and Punjab, a month before RCGM endorsed them in July-August 1998 (Shiva et al, 1999; Bharathan, 2000).

Under the additional Rules (1989) of the Environment (Protection) Act, the permission of open field trials can be granted only by the GEAC (Shiva et al, 2002). The RCGM must evaluate transgenic material for biosafety before recommending it for large scale field trials to GEAC (Bharathan, 2000). The *post facto* approval of field trials by RCGM raised questions about the legitimacy of the trials. Commenting on this, Bolkonskaya (2016) posited that ‘Bt came in very silently, nobody knew what was going on, already at that time there was a lot of resistance to GM technology all over the world, a lot of debates were going on. While we were debating about it, it already entered India through the illegal field trials.’ The PIL led to a number of court hearings where evidence was submitted against Monsanto at the Supreme Court. Albeit, the PIL never succeeded in changing the approval decision, and by 2005 was dropped. Apart from the failure of the resistance, there was another important factor that led to the release of Bt cotton. The ‘stealth seeds’, further, frustrated the resistance, revealing KRRS and Navdanya’s detachment from the issues on the ground.

#### 5.4.1.4 ‘Stealth Seeds’ and faltering resistance

In 2001, Gujarat authorities discovered ‘£30 million worth of unauthorised transgenic cotton grown in some 11,000 hectares in Gujarat’ (Jayaraman, 2001: 1090). The seeds – Navbharat-151 – containing Monsanto’s Bt gene were sold by the company Navbharat Seed (Ahmedabad), in violation of the Environment Protection Act (1986). The issue was labelled ‘Stealth Seeds’ because they came in through the cottage industry and farmers were unaware the seeds carried the Bt gene [Interview: Bourienne, 2016; Interview: Kuruganti, 2016; Interview: Bolkonskaya, 2016]. The Union Government ordered the destruction of all Bt fields. However, the authorities were met with resistance from the farmers, because the illegal cotton proved very effective. Bourienne [Interview: 2016] contended that ‘the early Bt cotton sold illegally was a good genetic material, that’s why farmers liked it.’ The crops expressed

resistance to cotton eating bollworms and had higher yield. The rumours of high yields and savings on pesticides from illegal Navbharat-151 seeds were a promotional showcase for MMB's Bt hybrids.

Indian farmers encountered Bt cotton for the first time through contradictory rhetoric; misinformation of the opposition and rumours from Gujarat (Scoones, 2006; Herring, 2007; Stone, 2012). Nevertheless, because the Navbharat seeds were effective the news that Bt gene works spread quickly throughout the country and farmers were eager to get their hands on the new technology [Interview: Bourienne, 2016; Interview: Kuragina, 2016]. On 25 March 2002 the Kisan [agriculturalist] Coordination Committee (KCC), led by Sharad Joshi, threatened with civil-disobedience if Delhi did not release Bollgard (Ramana, 2006). The following day Bt cotton was approved by the GEAC and released for commercial production in April. Farmers, *de facto*, did not oppose the technology, the anti-globalisation movement did. Herring (2009) stressed that farmers are rational, economic actors and have interest in potentially profitable technologies.

The KRRS and Navdanya were disconnected from farmers' real experience and did not represent their immediate economic interest. The misrepresentation of Bt cotton in constructs of 'suicide seeds' and 'terminator technology' played into Monsanto's hands, as Navbharat seeds contradicted the dramaturgical narrative. Herring (2007: 140) posited that 'the micro-economic success of Bt technology outweighed the more indirect, distal and hypothetical arguments about foreign control and dangerous genes: oppositional discourse outran agricultural interests.' The 'stealth seeds' episode discredited the movement.

The KRRS's leadership waned from 2004, in part, due to Nanjundaswamy's failing health and eventual death in February 2004. An internal rift within KRRS was another factor of subsiding resistance (Ramana, 2006; Herring, 2006). Following an unsuccessful State Assembly election in 1999, the Association split into two separate factions. The rift was caused by an ideological dichotomy between a camp, led by K. S. Puttanaiah, wanting to pursue electoral politics, and Nanjundaswamy's followers who remained dedicated to the agitational politics and the idea of 'village republic' (Madsen, 2014). The offshoot led by Puttanaiah took the name Sarvodaya Karnataka and pursued electoral politics.

Navdanya was heavily criticised in the academic literature for promulgating false claims about the correlation between farmer suicides and Bt cotton hybrids (Herring, 2005). Additionally, Navdanya toned down the 'terminator technology'. For instance, the new edition of the *Seeds of Suicide* insisted that Bt cotton is 'in an ecological sense terminator, it terminates

biodiversity and the possibilities of ecological and sustainable agriculture based on the conservation of biodiversity’ Shiva and Jalees (2006: 100). Other NGOs, e.g. the Gene Campaign, rebuked the claims of ‘terminator technology’ and ‘seeds of suicides’. Bourienne [Interview: 2016] expressed the following disapproval:

One thing that saddens me is a lot of what is being said is factually incorrect. A lot is hyped in rhetoric and dramatic pronouncements...I sat on a lot of committees, also on the GEAC, and I cringe with embarrassment when somebody quotes outlandish statements that there are poisonous genes in our food...it harms the struggle inordinately...It may feel popular and sound as something clever, but it is something that causes me despair because it gives an upper hand to your opponent, because they can then say: “look this is the kind of crap they are talking about, you don’t need to take them seriously”. There are others who do some fantastic work and research, make careful measured statements, but there are many who make very irresponsible and dramatic statements for effect rather than to try really change something. Monsanto is not stupid, they hire very qualified scientists. Make no mistake, every scientist hired by Monsanto or any such company is technically very qualified, so when you say such crap, they will throw it back in your face within 5 seconds. The moment somebody is able to say that you talk rubbish you have already lost credibility – with the general middle class that’s fence sitting, that’s not pro or anti, and doesn’t understand too much, but is watching this debate from the sides. That hurts your case. I wish many of our partners would understand that short term gain of something dramatic is a long-term damage.

The national, elite organisations pursued their own anti-globalisation agenda, but did not appeal to the interests of smallholders who sought some way out of indebtedness and poverty. Bt cotton was offered to Indian farmers as a market choice and an answer to unprofitable crops. The point is that farmers are rational actors, and Rostov [Interview: 2016] pointed out that ‘farmers will go for whatever gets them more money.’ The resistance failed to effectively censure the Government and MMB. Deviancy labels were inscribed on MMB, but the illegitimacy was absent from state-corporate conduct. Nevertheless, Bt cotton was released into agriculture. The struggle, then, changed from preventing the release of Bt cotton to convincing farmers to shift to non-Bt alternatives. With it new narratives and counter-narratives emerged.

#### 5.4.2 Post-commercial release (2003-2009)

In this period, resistance was mobilised around research findings on Bt cotton, rather than direct action ascribing criminal intent on Monsanto and the Government. The resistance actors used a ‘failure narrative’ to discredit MMB and link indebtedness to Bt cotton. The main architects of the failure narrative were CGMFI and Navdanya, who used research to advance their campaign objectives. Many anticipated the 2005/6 review of the three-year Bt

cotton period. There was a continuous torrent of Bt cotton performance studies published in scientific journals, media, government and industry reports. From one spectrum of the debate, economists, government institutions and industry hailed Bt cotton a success, from the other, academics working with NGOs argued that Bt cotton failed (Stone, 2012; Herring, 2013). CICR in Nagpur, Cotton Corporation of India (CCI), GEAC, International Service for the Acquisition of Agri-biotech Applications (ISAAA) focused on Bt's rapid adoption, overall growth of land under Bt cotton and yield potential (Barwale et al, 2004; Visawadi et al, 2006; Sadashivappa and Qaim, 2009; Choudhary and Gaur, 2010; Gruere and Sengupta, 2011; CCI, 2017). The CGMFI and Navdanya linked transgenic hybrids to indebtedness and suicides with poor empirical support (Kuruganti, 2009; Swaminathan and Rawal, 2011; CGMI, 2012; GMWatch, 2012). However, arguments on both sides of the debate were linked to private interests, whether corporate or NGO.

Economists Qaim and Zilberman (2003) published one of the first studies of Bt cotton performance in *Science*, entitled *Yield Effects of Genetically Modified Crops in Developing Countries*. Their study forecasted 87% yield advantage (Qaim and Zilberman, 2003). However, it was subjected to severe criticism because it was based on a single set of data obtained from Mahyco. Sahai (2003: 974) pointed out that '[based on] a single set of trial data of Bt cotton from one season in India, Qaim and Zilberman project high yields for all GM crops in all developing countries.' The evaluation conducted by the Gene Campaign (Sahai and Rahman, 2003) contradicted Qaim and Zilberman's (2003) prognostics. Sahai and Rahman (2003) found that yields in Bt cotton were lower than in non-Bt varieties due to mixed factors, e.g. technical assistance, seed price, irrigation, insect population etc. NGO-connected scientists, Abdul Qayum and Kiran Sakhari (2003) reported a 53% yield disadvantage for Bt cotton. Bourienne [Interview: 2016] revealed,

We [conducted performance studies] in Vidarbha and in Andhra. We found that in both locations the Bt cotton was way behind the normal hybrid stem from a second growing. The performance was a failure and when we did the calculation, I remember the figures, Re. 1275, I think, per acre was the loss that the farmers incurred...

The second approval event took place in 2006, as GEAC authorised the release of double Bt gene hybrid Bollgard-II, and in 2009 GEAC approved stacked gene Bt hybrids (Choudhary and Gaur, 2010; Chaudhary and Gaur, 2015). The second event included Bt hybrids introduced by two domestic companies that licensed the technology from Monsanto, JK AgriGenetics Ltd and Nath Seeds Ltd, sourced from the Indian Institute of Technology and the Chinese Academy of Agricultural Sciences (Kalaichelvi et al, 2008). The evaluation of the

Bt cotton performance was closely observed by NGOs and farmers' organisations. The KRRS was crippled by internal turmoil and Navdanya's credibility was damaged nationally. New organisations, mainly CGMFI, picked up the pieces left by KRRS and Navdanya. The release of Bt cotton and its evaluation resulted in new narratives, i.e. 'Bt cotton success' and 'Bt cotton failure'.

Stone (2012: 67) acknowledged that both narratives have problematic empirical basis 'generated, authenticated, and disseminated by a particular system of interacting parties with overlapping interests.' For example, Choudhary and Gaur's (2010) ISAAA publication, Herring (2009), Sadashivappa and Qaim (2009) etc. grounded their claims of Bt cotton success in rapid adoption rate. Rapid adoption of Bt cotton by farmers, Herring and Rao (2012) argue, 'tells a success story'. Sales performance, Stone (2007: 68) documents, was 72,000 packs in 2002 and 230,000 in 2003; in 2004 sales jumped to 1.3 million packs; in 2005 sales grew to over 3 million packs. CICR study, *Success Story of Bt cotton in India* (Khadi, 2007), attributed the adoption rate to lower pesticide demand for Bt cotton and higher yields. Studies by Barwale et al (2004), Bennett et al (2006), Gandhi and Namboodiri (2006) from the Indian Institute of Management, Subramanian (2009) and many more reported 21%-50% decline in pesticide spraying, 31% yield gains and overall 71% increase in net profit margin. Shah's (2012) review of research conducted since 2002 concluded with a positive portrait of Bt cotton, pointing out the gains in yields and savings on pesticides. Sadashivappa and Qaim, (2009: 172) concluded that 'on average, Bt-adopting farmers realize pesticide reductions of roughly 40%, and yield advantages of 30-40%.' Dozens of other studies published by the CICR, MMB, ISAAA and other institutions supported the success narrative.

The performance of Bt seeds was disputed, mainly, in independent and unofficial studies by organisations with campaign interests (Stone, 2007). The Gene Campaign contributed research output important to the construction of 'Bt cotton failure' narrative since early 2000s (Sahai, 2003; Sahai and Rahman, 2003; Sahai, 2004), CGMFI has been claiming failure of Bt cotton since 2006 (Kuruganti, 2009). Devinder Sharma, a renowned critic of biotechnology, contributed to the narrative by labelling Bt cotton as a 'scientific fraud' (GMWatch, 2002; Sharma, 2006). Navdanya, persisted with the 'seeds of suicide' narrative imbedding it in the 'failure' narrative by claiming Bt cotton failed to deliver industry's promises, exacerbated indebtedness and caused suicides (Navdanya, 2004; Shiva and Jalees, 2006; CGMFI, 2012, 2017). A respondent from CGMFI stated,

when the Bt cotton was introduced we were promised that it would raise farmers' income, it will take them out of the kind of crisis that exists today...as

we all know 70% of farmer suicides are happening among cotton cultivators. These are the farmers who should have yield, which means that they should not be committing suicide... [Interview: Wilarski, 2016].

CGMFI's (2010) report, *10 Years of Bt Cotton: False Hype and Failed Promises Cotton*, argued that Bt cotton has been effective only in the North Zone, e.g. Gujarat, where well-endowed farmers with irrigated lands have the resources to invest in capital-intensive crops. Whereas, in the Central Zone, mainly Maharashtra, and the South Zone, where 60% of crops are cultivated on rainfed land and farmers rely on informal credit, Bt cotton fared poorly (White, 2008; Kuruganti, 2009; CGMFI, 2010; Stone, 2012). Based on such findings, CGMFI argued the 'failure' case.

Herring (2009) repudiated the 'failure' narrative because it renders Indian farmers gullible and incompetent 'peasants', incapable of market rationality. Additionally, the MMB is portrayed as a malevolent actor intent on harming Indian smallholders. Take for example Navdanya's (2004) publication *Monsanto the Gene Giant: Peddling Life Science or Death Sciences*. Though, the 'failure' narrative's rendition of the actual scenario is imposing with its sensational tone, it exaggerated the situation. Herring (2007: 136) argues that, just as the 'terminator technology' and 'seeds of suicide', the 'failure' narrative, although 'strategically partisan', is 'empirically groundless'. Attacking the 'Bt cotton failure' story, Bourienne [Interview: 2016] accentuated that,

there is no point in being rhetorical, use facts. Facts damn this technology, in these 20 years this technology has been tested and so much has been hidden, so much subterfuge has taken place, so much of these shenanigans of the industry, all of that is on the record now. There is no need to say something [inaccurate]. When all this evidence is put together, it's demining enough.

The results of Bt cotton after seven years were 'inconclusive' (Smale et al, 2009: 21). The 'success' narrative overlooked spatio-temporal variability in performance studies. While, Gujarat demonstrated 70% surge in yields (Gruere et al, 2008), in drought prone states, e.g. Maharashtra, yields have dropped by up to 50% (Bennett et al, 2006). The common limitations of most research claiming 'success' are, the focus on brief periods and selection bias towards affluent farmers (Stone, 2011). For example, Morse et al (2007) selected Bt producers with 58% more land and 75% more non-land assets; Sadashivappa and Qaim (2009) found Bt adopters to own up to 36% more land; Lalitha et al (2009) found Bt-adopters to be better educated and more diversified. Several well-known studies were, in fact, sponsored by Monsanto (Sheridan, 2009), used data collected by Mahyco (Bennet et al, 2006; Qaim and Zilberman, 2003), and were authored by Mahyco's employees (Barwale et al, 2004).

Hence, Bourienne (2016) insisted that facts tell the truth, while hyperbolic and dramatic pronouncements weakened the arguments against transgenic cotton to their dubious empirical grounding easily denied by the success narrative. The failure narrative did not explain changed cropping patterns and did not explain why farmers shifted to Bt cotton. The resistance to Bt cotton was a struggle to 'keep the control over the cotton seed in the hands of communities, in the hands of the farmers' [Interview: Bolkonskaya, 2016]. Today, 90% of cotton seed on the market are Bt hybrids. Nevertheless, the issue of Bt cotton, in relation to indebtedness and suicides, was a development problem, not a case of state-corporate illegitimacy as claimed initially by the KRRS and Navdanya. However, this became evident only after Bt cotton became the only cotton seed available in the market.

#### 5.4.3 Eight years after the commercial release (2010-2016)

The fast adoption rate resulted, within a couple of seasons, in abandonment of seed saving practices. Kuragin [Interview: 2016], a representative of Navdanya, proclaimed that since 2009 '95% of India's cotton is Monsanto's Bt cotton. This happened in the last 15 years. All of our cotton diversity has been replaced with [transgenic hybrid].' Indeed, Chaudhary and Gaur (2015: 8) reported that 7.7 million farmers, representing approximately 95% of the total cotton producers, cultivated Bt hybrids in 2010-14. The oppositional discourse shifted from exaggerated vision of environmental and agricultural catastrophe to carefully measured criticism of biotech industry's claims, questioning the veracity of the 'success' narrative. This was evident in the resistance mounted to halt industries attempts to introduce Bt brinjal (2009-2010) and then genetically modified (GM) mustard (2014-2016). Social opprobrium was redirected at the fact that Bt cotton has not reduced indebtedness, as was promised by the industry, ecological balance between cotton and cotton insects was destabilised, and farming communities' lost control of the cotton seed. The strategies of resistance, also, changed from dramatic campaigns and direct-action programmes to awareness raising and building alternatives.

It would be somewhat inaccurate to surmise that MMB monopolised India's cotton seed market. Until 2016, MMB was the sole proprietor of the only Bt gene, the company only licensed it to domestic seed companies (Arya, 2016). In 2015, there were 45 Indian seed companies producing and distributing Bt hybrids (Choudhary and Gaur, 2015). This unique position afforded MMB the exclusive privilege to charge royalty fees on licences. Due to a high demand for Bt hybrids, other varieties of cotton seeds were pushed out of the market.

Although, not a monopoly, cotton seed market turned into an oligopoly. As cotton production became homogenised, problems with Bt gene began to emerge. Kutuzov [Interview: 2016] asserted 'it took some time, 10 years, but farmers learnt from the adverse effects about the risks of Bt cotton.' Bt cotton is a capital-intensive crop, it requires a lot of external input. There are several issues worth mentioning. The first, between 2003 and 2016 the cost of Bt cotton was four times the cost of non-Bt seeds, Rs. 1,600 compared to Rs. 400 (Pray and Nagarajan, 2010). The second, it is a high input crop, i.e. it requires fertiliser, insecticides for secondary pests, and irrigation (Kuruganti, 2009). The third, it is not suitable for rainfed agriculture, especially in drought prone regions (Sahai, 2003a). Due to these reasons the Gene Campaign and CGMFI have argued that Bt cotton is not suitable to Indian agriculture, which is still transitioning from subsistence farming to industrial farming.

In 2009-10 Bt cotton started to create problems for smallholders. While the threat of American bollworm was effectively addressed with transgenic hybrids, many secondary insects, e.g. pink bollworm, have proliferated. Pink bollworm developed resistance to Bt gene. The first pink bollworm infestation occurred in Gujarat, in 2010, and caused inordinate losses (Kranthi, 2015). More pink bollworm attacks were reported in 2014, 2015 and 2016 (Kranthi, 2015). Such incidents propped the connections made by the opposition between Bt cotton and indebtedness. This emboldened CGMFI, which persisted with the 'Bt cotton failure' narrative. In a report, entitled *15 Years of Bt cotton in India: Admission of Failure Official Now*, CGMFI (2017) documented the gradual development of resistance by pink bollworm to Bollgard.

Albeit, since the Operation Cremate Monsanto and the failed 'Bt cotton failure' narrative, the movement has changed strategies of resistance. Drubetskoy [Interview: 2016], of the KRRS, avowed that 'initially when the field trials were happening, we uprooted the crops and burnt them, that was the way of protest. Now that Monsanto is already here, we are protesting by calling on farmers and encouraging them not to plant Bt cotton.' Kuragin [Interview: 2016] asserted that currently Navdanya teaches 'farmers how to transition to organic farming; we give them financial support, we link them to markets; we empower the women; we run awareness campaigns, and seed distribution campaigns.' CGMFI, too, leads public education campaign about,

...what biotechnology [Bt cotton] is, who these corporations [Monsanto] are, and what is the decision-making process regarding transgenic crops [regulation]... To make resistance effective we need people to come together. As far as that goes, collectivism and voluntarism is important. There is lack of people coming together... Yes, there are examples of some people and organisations coming together, but that is not the majority. We must draw more support... One

way to do that is through educating farmers and winning them over [Interview: Denisov, CGMFI, Wardha, Apr 2016].

The problem, Denisov [Interview: 2016] pointed out, is that ‘public resistance is limited...it is dispersed into isolated pockets.’ Corroborating this, Kutuzov [Interview: 2016] stressed that ‘the movement is very weak, it is limited to a handful of people...It is not a mass movement. There may be many NGOs working in India, but they are isolated, and resources are limited.’ Because the CGMFI is fragmented they command limited resources, which then precludes their ability to mobilise people, events, actions etc. In addition, Denisov [Interview: 2016] identified three divergent camps and views within the campaign. The first is the environmental camp, which argues that all biotechnology should be banned because it harms the ecosystem and biodiversity. The second is the leftist camp, which opposes privately owned, but support publicly owned, biotechnology. The third, dominant camp, is the Hindu-nationalist camp, which opposes all foreign influences in agriculture and campaigns for Desi<sup>13</sup> crop varieties. As Herring (2015) emphasised, farmers and the civil society do not speak with a single voice, interests are polarised.

Therefore, Kutuzov [Interview: 2016] argued that most importantly the movement must bring all the groups together, involve farmers in campaigns, build awareness about alternatives to Bt cotton and use scientific facts to educate farmers about hazards associated with biotechnology. When farmers realise the detriments of Bt cotton, and simultaneously, are offered viable alternatives they will join the opposition to biotechnology [Interview: Kutuzov, 2016; Interview: Karagina, 2016]. Denisov [Interview: 2016] insisted that, in order for the opposition to have an impact, the movement ‘must be more than just NGOs and groups of individuals who are in different parts, working on different topics...Resistance involves public education of farmers.’ One of the key limitations previous campaigns identified by CGMFI is the lack of alternatives. In the initial stage the KRRS and Navdanya failed to offer a viable alternative to the farmers.

Although, not unanimous in their voice nor effective, opponents of Bt cotton created a powerful ‘aura’ of uncertainty and distrust towards the biotech industry, which later influenced the resistance to Bt brinjal and GM mustard (Herring, 2015). Having learnt a lesson from the Bt cotton episode, a broad coalition of diverse NGOs, movement organisations, unions etc. stopped the introduction of Bt brinjal in 2009-10 and GM mustard in 2016. Kuragin [Interview: 2016] informs us:

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<sup>13</sup> Desi refers broadly to the people, cultures, and products of the Indian subcontinent.

...there was a debate in India to get GM mustard to be the first food crop in India, and Navdanya resisted that. Right now, there is a moratorium on that. We even fought when they tried to introduce GM brinjal. We fought that and said 'no', GM crop should not be allowed in India. In fact, recent ruling comes that agricultural minister has said that Monsanto is not allowed to collect the high royalties that it has been collecting so far. Things in India have taken quite a turn that seems like it's a first major defeat for Monsanto in India right now.

Kutuzov [Interview: 2016] stated that 'there is no programme for success. Some activists do direct action...some write petitions and go to court, and nothing happens. Success is not in my hands, only action is in my hands.' According to Kutuzov [Interview: 2016], they do not have control over the outcome of resistance, they only control the action itself. Success comes as a result of a continued struggle. The failure of the Operation Cremate Monsanto does not signal the end of the resistance to transgenic cotton and corporate power it evokes (Herring, 2006). The struggle for independence took over thirty years. Likewise, this struggle may take several years or decades before Indian farmers return to seed saving practices and non-Bt cotton seeds.

Although the resistance continues, MMB profited inordinately from Bt cotton. MMB made a 45% internal rate of return on initial US \$ 2 million investment (Shah, 2012). The resistance failed to censure and prohibit the biotech industry, mainly because there was no explicit state-corporate criminality. What happened instead, was a slow process of social harm. In pursuing development objectives through neoliberal policy, the Indian Government created a situation that had a harmful, long-term effect on smallholders. Additionally, the KRIS and Navdanya did not understand the issue nor represented farmers interests. Bourienne [Interview: 2016] argued that 'most NGOs were clueless about biotechnology. Very few people knew about Bt cotton issue...hence MMB was able to work under the radar.' Instead of using facts to win the case, as Bourienne [Interview: 2016] stressed, the movement opted for sensational and hyperbolic narratives which distanced them from farmers.

Following on from the above, rather than winning farmers over by offering a viable alternative, Navdanya, KRIS as well as CGMFI entertained political rhetoric, i.e. 'terminator technology, 'seeds of suicide' and 'Bt cotton failure'. The correlation between Bt cotton and the agrarian crisis was given a causative dynamic, by linking it to suicides. In reality, Bt cotton correlated to suicides because it was introduced into a crisis situation. Illegitimacy was absent from state-corporate activities, therefore the deviancy labels inscribed on MMB and the Government were ineffective. The social harm that resulted from market monopoly by MMB, loss of seed diversity, indebtedness and suicides are a development issue, and perhaps better framed as a form of 'structural violence'.

#### 5.4.4 Summary

To summarise, the censure of the Government and MMB was performed through a rather incongruous resistance campaign. In the section the analysis divided the resistance into three stages to demonstrate how the camping initially escalated, but then receded and transformed according to the changing circumstances. Initially, the KRRS led on-the-ground resistance with a direct-action programme, including the ‘Operation Cremate Monsanto’ and attacks on Monsanto’s facilities. Additionally, 450 KRRS activists participated in the Intercontinental Caravan to protest the WTO and foreign corporations, such as Monsanto. Simultaneously, Navdanya organised the ‘Monsanto, Quit India’ campaign, mostly a public relations campaign intended to discredit MMB and to galvanise farmers to reject Bt cotton. Both organisations tried to incite a popular rejection of biotechnology through Gandhian, national-populist rhetoric. They used demagogy and Gandhian symbolisms to arouse independence sentiments, e.g. ‘Monsanto, Quit India’, *seed satyagraha*, *bija swaraj*, etc. They presented the issue of Bt cotton as one of neo-colonialism by foreign corporations, a backdoor entry to control Indian agriculture, and the threat of globalisation to farmers’ independence and sovereignty.

The deviant properties inscribed on MMB were grounded in the anti-globalisation, Hindu-nationalist rhetoric. The KRRS and Navdanya made fallacious claims about ‘terminator technology’, ‘seeds of suicides’ and malicious intent to take control over Indian agriculture (Shiva et al, 1999; Nanjundaswamy, 1999, 2001; Shiva and Jalees, 2006). However, the direct-action programme and Navdanya’s ‘public relations battle’ failed to prevent the release of Bt cotton. It is argued that, the movement elites were disconnected from farmers’ real experience; the campaign reached international networks rather than grassroots and regional organisations; the movement elites represented these international networks and not the farmers; and, stigmatisation of MMB was based on fallacious and hyperbolic allegations without revealing substantive evidence (see Frank, 2003; de Cleyre, 2004; Moore and Shepard, 2013; Schock, 2013). Additionally, direct actions lacked the element of self-sacrifice, they were disconnected from the farmers’ lived experience, they misrepresented the issue of Bt cotton, and they did not expose any illegitimacy (see Friedrichs, 2012; Lasslett et al, 2015). Rather than targeting Monsanto directly, the ‘Operation Cremate Monsanto’ was performed on farmers’ fields. The resistance actors convinced individual farmers to grant them permission to conflagrate Bt crops. However, they omitted the widespread support for the technology growing among farmers’ unions.

The experience of direct-action campaigns taught the movement that direct resistance would not work unless there is a widespread rejection of biotechnology. Direct, practical forms of resistance may be effective where resistance actors seek to censure state-corporate conduct as deviant in order to stop it. In a situation where a social struggle deals with issues created by economic development, a more subtle, sustained form of resistance works better (Sahai, 2005). Hence, a broad, decentralised coalition, viz. the CGMFI, proved an effective means for building a large support base for alternatives to Bt cotton. The coalition used farmers' experience of Bt cotton to galvanise them against biotechnology. Yet, an exaggerated narrative of 'Bt cotton failure' proved ineffective, as Bt cotton failed only under certain conditions. Other NGOs, e.g. the Gene Campaign, turned attention to different issues: 1) the monopolisation of the cotton seed market by MMB created market-dependency, dispossessed farmers of their means of production and caused loss of seed diversity. 2) MMB charged inflated royalty fees which made the costs of Bt cotton production considerably high. 3) Bt cotton is a capital-intensive crop intended for well-endowed farmers with irrigated land, not for smallholders.

The CGMFI, the Gene Campaign, scientists and independent groups pointed to the apparent failure of Bt cotton to deliver on the promises made by the biotech industry and the Government (CGMFI, 2010; Thomas and Tevernier, 2017). The industry and the Government promised lower costs of production, elimination of primary pests and higher income. Yet, cotton farmers continued to fall into debt. Unlike the KRRS and Navdanya, the CGMFI and the Gene Campaign focused its efforts on documenting the said failure, building viable alternatives, conserving biodiversity, and promoting sustainability (Sahai and Rahman, 2003; Sahai, 2004, 2005). Indebtedness and farmer suicides are not caused by an illegitimate state-corporate activity, but rather are a symptom of economic development (Scoones, 2006; Stone, 2012). The chapter revealed in the foregoing section that biotechnology and Bt cotton was part of the Government's development vision for agriculture. Bt cotton were intended for industrialising farmers, not for smallholders, to stimulate intensification of agricultural production in congruence with the neoliberal model of export-led economic growth. As such, it is argued that indebtedness and farmer suicides are better understood as a social harm produced by an accelerating transition from semi-subsistence agriculture to industrial agriculture.

## **5.5 Deconstructing social harm**

The preceding sections examined the claims of illegitimacy by analysing the state-corporate processes through which Bt cotton was introduced, viz. the regulatory assessment and the ABP. It then examined the censoring campaigns by means of which resistance actors attempted to inscribed deviancy labels on the Government and MMB. According to the evidence, the state-corporate activities were not illegitimate, and the deviancy labels were based on fallacious claims and populist-national rhetoric. The social harm that resulted from the proliferation of Bt cotton is better approached as a ‘structural violence’, because it is a development problem. Cotton is a capital-intensive crop, it requires intensive application of external inputs, mainly pesticides due to a large number of cotton eating insects. Until the introduction of Bt cotton American bollworm caused havoc to cotton cultivators. The Bt gene was supposed to reduce losses to American bollworm, reduce pesticide expenditure and raise returns. The Indian Government and Monsanto pushed transgenic cotton but did not consider the hazard of uncertainty. This section deconstructs the social harm by examining the specific aspects of Bt cotton cultivation and problems associated with capital intensive cash crops.

### **5.5.1 The current state of the Indian cotton market**

By 2010, 90% of cotton grown in India were Bollgard hybrids, and by 2016 95% ([Interview: Kuragin, 2016; Interview: Bolkonskaya, 2016]; ICAR, 2017; Choudhary and Gaur, 2015). Wilarski [Interview: 2016] explicated that ‘once you get the entire market or once you clear the entire stock of traditional seed from the market people have no choice but to go for the Bt cotton. That is because it’s a hybrid. Every year you have to buy new seeds.’ With the release of Bt cotton, farmers abandoned traditional seed saving and sharing practices. Karagina [Interview: 2016] relayed that ‘it takes just two seasons for a farming community to stop saving its own seeds...when somebody else provides you seeds you lose sovereignty over your entire farming, not seeds only, for all time to come.’ As foreshadowed by Navdanya, transgenic cotton led to corporate control of the seed market (Shiva et al, 1999; Navdanya, 2004). As Bt cotton became a success story, the rise of national cotton production was attributed to the Bt trait.

Bt was advertised as a yield enhancing technology (see Choudhary and Gaur, 2010, 2015). In reality, the Bt trait is a pest-control mechanism, it protects yield potential from biotic stress, but it does not enhance yields (Sahai, 2003a; Kuruganti, 2009; Venugopalan et al, 2009). MMB advertising promised ‘15 quintals of yields/acre and Re. 10,000 of additional

incomes' (GMWatch, 2012). Transgenic cotton increased the overall productivity by reducing crop loss to the American bollworm and it raised farmers' returns by reducing pesticide expenditure (Zilberman et al, 2010; Kathage and Qaim, 2012). Having said this, there were other factors involved in the growth of cotton production.

Since independence, the cotton area has increased from 58 lakh hectares in 1950-1 to 78 lakhs in 2000-1, and yield increased from 89 kg per hectare in 1950-1 to 180 kg in 2000-1 (Gupta and Gupta, 2006: 481; Sharma, 2007: 259-61; CCI, 2017). Since the introduction of Bt cotton, the area increased from 78 lakh hectares in 2000-1 to 118.77 lakhs in 2015-16, and yield increased from 180 kg per hectare in 2000-1 to 512 kg per hectare in 2015-16, which is still below the world average of 700 kg per hectare (Gupta and Gupta, 2006:481; Sharma, 2007; Cotton Corporation of India, 2017). National production, however, was not raised, as it is commonly believed, by the higher yield potential of Bt cotton, but rather by the overall increase of land cultivated with cotton.

An independent researcher group, who investigated pest resistance to Bt gene, concurred that contrary to the common belief that the increase of cotton production was achieved through bollworm control and yield potential of Bt trait, it was the overall cotton cultivation that increased [Interview: Bagration, Mysore, Sept 2016; Interview: Berkley, Mysore, Sept 2016]. Farmers switched to cotton cultivation because there was a general trend towards cash crops. In the words of Scientist 1 [Interview: 2016], 'cotton in India is considered to be "white gold" – Lakshmi. You will find no other crop that fetches the money cotton does.' This is one of the reasons why farmers switched to Bt cotton. With the availability of credit from seed dealers, cotton cultivation became more viable. However, there are several issues with the cost of Bt cotton cultivation and returns, i.e. pricing, input expenditure and yields.

### 5.5.2 The costs and returns of Bt cotton

Bt hybrids yield 15 quintals per hectare, against 9-10 quintals of conventional varieties, and registered profits almost Rs 15,000 more than the conventional hybrids (Kalaichelvi et al, 2008: 277-8). An agronomist from Raichur proclaimed that 'earlier, to get 10 quintals per acre was a very difficult task, but after the release of Bt cotton the yields were almost doubled...15 quintals per acre is average' [Interview: Scientist 3, 2016]. The average income reported in studies between 2003-2014, was Rs 39,000 – Rs 53,000 per hectare (Bennet et al, 2006; Gandhi and Namboodiri, 2006; Choudhary and Gaur, 2015). Accordingly, Bt cotton increased farmers profits by 45% (see Witjaksono et al, 2014). Conversely, Visawadi

et al (2006) found that the average total cost per hectare was Rs 44,553 for Bt hybrids, and Rs 39,816 for conventional hybrids; pesticide costs per hectare were Rs 3,407 in Bt hybrids and Rs 4,486 in non-Bt hybrids. The Acharya Report, by the Department of Agriculture, found that Bt cultivation required nearly Rs 48,000-54,000 per hectare in comparison Rs 8,000-12,000 required by non-Bt cotton, chiefly because of the expense incurred on fertiliser, secondary pest control and seeds (Thomas and Tevernier, 2017: 9). According to Gandhi and Namboodiri (2009: 29), because the use of 'yield increasing inputs' is considerably high in Bt cotton, the overall cost of production is high.

Until 2016, Bt cotton seeds were four times the price of conventional varieties due to MMB's royalty fee. Initially, the price for 450gm of Bt seeds was Rs 1,600 -1,800; whereas, none-Bt seeds were sold at Rs 400-500 per 450gm (Gandhi and Namboodiri, 2009; Pray and Nagarajan, 2010). In 2016 the Government of India capped MMB's royalty fee by 70%, fixing the price of Bt seeds at Rs 600-800 per 450gm. MMB's license on Bt trait application to cotton specified technology fee of Rs 1,250 per 450gm until 2010 (Tirado, 2010; Arora and Bansal, 2012). MMB was making Re 3.6 billion (72% million) in royalties, a 45% internal rate of return on a \$2 million investment (Pray and Nagarajan, 2010). Between 2002 and 2010 Monsanto made a profit of over Rs 1,500 crores (\$200 million) from royalties on Bt trait (Jishnu, 2010).

As for pesticide use, before Bt cotton, 75% of cotton pesticides were used for the management of American bollworm (Choudhary and Gaur, 2010). The industry and the state reported that the use of pesticides in Bt cotton is 50% (variable) less than conventional cotton (Sadashivappa and Qaim, 2009; Witjaksono et al, 2014). Albeit, Bourienne [Interview: 2016] stressed that 'the pesticide applications have decreased with Bt cotton, but only for primary pests (American bollworm) ...farmers still use chemicals to control secondary pests.' In a similar tone, the agricultural scientist from Raichur declared,

Initially they said Bt technology has assured that the pesticide use is reduced. You take the figures now, it has decreased in the chemicals meant for American bollworm, but chemicals used for secondary pests have been on the rise...I said, initially the technology will work well, with less sprays the cotton came up early. It was two or three sprays. Now it has reached ten sprays in one cycle [Interview: Scientist 1, 2016].

Three other respondents concurred that Bt cotton requires pest managing chemicals for insects such as, jassids, white flies, thrips, mealy bugs and mirid bugs [Interview: Scientist 3, 2016; Interview: Bagration, 2016; Interview: Berkley, 2016]. The costs of Bt cotton

production are considerably high when different factors are taken into account. Its agronomic performance is dependent on these factors.

### 5.5.3 The performance of Bt cotton in the Indian context

The performance of Bt hybrids varies greatly, due to manifold variables interacting in complex and unpredictable way, e.g. climate, soil, pest variance, weather vagaries, input availability. Its performance has been inconsistent due to several factors. According to Bourienne [Interview: 2016] the problem ‘is not the technology itself, it is the circumstance under which the technology is sold and adopted’. First of all, India’s agriculture is predominantly rainfed, in fact 68% of cotton is produced on rainfed land (Harris-White, 2008; Sharma et al, 2010: 25). The major cotton belts are located in India’s most drought prone regions: Maharashtra, Karnataka, Andhra Pradesh. Secondly, smallholders, who constitute 76% of India’s farmers, do not command sufficient capital to invest in capital-intensive cash crops, hence they depend on formal or informal credit (Kuruganti, 2009; Manjunatha and Ramappa, 2017). Bt cotton performed well in field trials where availability of water and fertiliser was not an issue but performed poorly in the field (Sahai, 2003a; Sahai and Rahman, 2003; Kranthi et al, 2011). Monocultures, like Bt cotton, are not suited to these kinds of conditions. Berkley [Interview: 2016] stressed that ‘when you introduce monocultures with clusters which spread over thousands of acres, they require a lot of management and planning.’

Monoculture is the practice of producing or growing a single crop under intensive/industrial agriculture (Shiva, 2001). Monocultures are predominantly capital-intensive cash crops, which require irrigation and yield-enhancing inputs. Monocultural cultivation of cotton hybrids in the 1990s caused a surge of American bollworm population, which in turn increased pesticide requirements [Interview: Bagration, 2016; Interview: Berkley, 2016]. Monocultures may be profitable in the right conditions but are unviable in the Indian context due to the dry climate and predominance of smallholdings. Not only does Bt cotton require yield-enhancing inputs, but further the Bt gene does not produce enough Cry toxin that is responsible for the control of bollworms [Interview: Kuruganti, 2009; Interview: Kranthi, 2015; Interview: Bourienne, 2016]. Insufficient moisture in the soil will make an entire crop vulnerable to bollworm attacks.

The pro-Bt studies are based on ‘a sample biased toward successful farmers, and Bt plots often receive extra care, making synchronic comparisons problematic’ (Stone, 2011: 387). Bt cotton performs well in tests that are conducted in a controlled environment, but when

exposed to a broader range of factors it performs poorly [Interview: Bourienne, 2016; Interview: Karagina, 2016]. Whilst the Bt cotton has improved productivity, farmers' incomes have not increased proportionately. Incomes from cotton cultivation are variable across seasons and regions (Swaminathan and Rawala, 2011; Marriot, 2016; Thomas and Tevernier, 2017). Ultimately, the performance of Bt cotton in the Indian context is not what the industry and the Government claims. The agronomic performance of Bt cotton has vacillated. The increased costs of production combined with the precarious conditions of cotton production created a precarious situation for cotton producers. Furthermore, recurrent droughts and the development of insect resistance have added to the issues surrounding Bt cotton.

#### 5.5.4 Drought, insect resistance and crop losses

Pest resistance to the Bt gene began to show in 2007-8, which prompted the introduction of Bollgard-II in 2009; then again in 2010, which prompted stacked Bt gene hybrids [Interview: Scientist 1, 2016; Interview: Scientist 2, 2016; Interview: Scientist 3, 2016]. Pesticide use has recurrently increased in the years when bollworms displayed resistance to the Cry toxin [Interview: Berkley, 2016; Interview: Bagration, 2016]. Bt hybrids disturbed the ecological balance between bollworms and cotton. Bourienne [Interview: 2016] explained that by targeting the American bollworm Bt trait removed competition for other insects, e.g. pink bollworm, which propagated on a mass scale and developed resistance. Farmers were able to save on pesticides, but as secondary pests developed resistance, farmers had to go back to using pesticides. While the problem of American bollworm was solved, secondary insects posed a new danger. The pink bollworm, a secondary cotton pest, became a major problem to Bt cotton producers.

Bt cotton was advertised as resistant to all bollworms. Scientist 2 [Interview: 2016], however, commented that 'whatever is written on that label – about Bt cotton resistance to bollworms – it is not resistant, it is tolerant. There is a difference between resistance and tolerance.' Resistance implies a permanent quality, tolerance 'is not permanent, it is dynamic' [Interview: Scientist 2, 2016]. Bt gene is only a temporary solution to a dynamic problem. Apart from applying chemical sprays for secondary pests, Bt farmers are required to sow five rows (20%) of 'refuge seeds' around the field [Interview: Scientist 1, 2016; Interview: Berkley, 2016]. The refugee seeds are cotton seeds without the Bt trait. It is provided with Bt cotton packages and is intended to reduce bollworms resistance to the Bt gene. Insects that feed on non-Bt plants will not develop resistance, but they will breed with the specimen that have developed resistance. The result is a generation with lower resistance to the Bt gene.

Farmers, however, do not follow this recommendation as the 20% refugee cotton will be lost to bollworms, and no farmer is willing to sacrifice 20% of crop [Interview: Berkley, 2016]. When one of the many conditions is not met or if the crop is exposed to weather vagaries or biotic stress, Bt cotton performs poorly, with low yields and occasional failures. Because smallholders growing Bt cotton rely on credit from seed dealers and moneylenders, they risk falling into debt. Those that do fall into debt also lose livelihoods, many are forced to migrate and in extreme situations commit suicide. However, the socio-economic pressure cotton growing farmers experience is not caused directly by Bt cotton.

### 5.5.5 The agrarian crisis and Bt cotton: indebtedness and suicides

Since 1995 around 300,000 farmers have committed suicides (Marriot, 2017; Manjunatha and Ramappa, 2017; Thomas and Tavernier, 2017). Contrary to Navdanya's *Seeds of Suicide* narrative, Karagina (2016) admitted that 'tracing a complex phenomenon, with so many variables, to transgenic cotton and its producer is next to impossible.' Suicides are caused by a combination of different factors unrelated to Bt cotton. In 2015, from a total of 1490 farmer suicides 20 were committed by Bt cotton farmers (Manjunatha and Ramappa, 2017: 11). The problem of farmer suicides is most prevalent among commercial farmers, who cultivate capital-intensive cash crops [Interview: Bagration, 2016; Interview: Berkley, 2016]. There is a general consensus that indebtedness is the chief cause of farmer suicides. Studies have shown that rising costs of production, dependence on credit, depreciated prices, low yields and low returns are correlated to indebtedness (Mishra, 2014; Thomas and Tavernier, 2016; Mariott, 2017; Manjunatha and Ramappa, 2017). Suri (2006: 1523) notes that while 'agrarian distress is not new to India...farmer suicides are insisting that what is happening today seems to be qualitatively different.' The upsurge of suicides coincided with the liberal reforms and a shift toward export-oriented production of cash crops (Mishra, 2014; Marriot, 2016). Commenting on these issues, Bagration [Interview: 2016] stated,

The economy is changed now, even the agricultural science is focused more on productivity in the name of economic growth. Once we talk more about productivity, the outcome is high input-oriented crops, like sugar cane, cotton, maize, etc. Because farmers are increasing external inputs, they have to spend more money...

Monocultures require higher investment, the problem is that Indian smallholders do not possess capital to invest in cash crops [Interview: Bagration, 2016; Interview: Berkley, 2016]. Therefore, they rely on bank loans or credit from the seed dealers. Due to ecological and agronomic uncertainties of monocultures, smallholders risk financial burden. In the past

six years failure of Bt cotton due to drought and pest attacks has become more frequent. Most notable cases were in Gujarat in 2014, Karnataka in 2015/16 and Maharashtra in 2016/17 (Buradikatti, 2015; Kasabe, 2016; Deshpande, 2017; Jain, 2017; Seetharaman, 2018). The 2015/16 season saw the largest Bt cotton failure in Raichur district, Karnataka.

During the 2015-16 season, around 80% of Bt cotton – 45,000 hectares of land – was lost to pink bollworm due to late rainfall and insect resistance to the Bt trait (Buradikatti, 2015). Studies at the Raichur State Agricultural University, based on samples from cotton fields, found that the Pink Bollworm expressed resistance to the Bt gene, while the expression of Cry toxin in plants was very low (Scientist 1, 2016; Scientist 2, 2016; Scientist 3, 2016). Farmers were blamed for the outbreak because they do not follow recommendations and guidelines for Bt cultivation, i.e. refugee seeds, crop rotation, field management (Scientist 2, 2016; Scientist 3, 2016). According to a fact-finding team, 12 Bt cotton farmers committed suicide in Raichur that year, while hundreds fell into debt [Interview Bagration, 2016; Interview: Berkley, 2016].

Indebtedness causes financial pressure which manifests itself in the daily life as farmers are forced to take out additional loans to maintain their households or sell their labour to larger farmers; many cannot afford to pay for their children's education; marriages are cancelled; and, they have no money for basic needs and medicine [Interview: Bagration, 2016; Interview: Berkley, 2016]. Apart from not being able to meet their basic needs, accumulation of these effects feeds into loss of social status and exemption from cultural participation (Manjunatha and Ramappa, 2017). This demonstrates that the social harms that have been linked by the resistance actors to MMB are not a result of illegitimate state-corporate practices, but of broader development issues. As such, the analysis of farmer suicides in India is a different phenomenon and would require a different conceptual approach.

### 5.5.6 Summary

To summarise, as discussed above, farmer suicides are not caused directly by Bt cotton nor MMB, rather it is an issue of economic development. Having said this, Bt cotton has contributed to indebtedness in certain cases in several ways. The first, until 2016 Bt seeds were four times the price of non-Bt seeds, which meant higher cost of production. The second, Bt hybrids were exceedingly susceptible to weather vagaries (Pray and Nagarajan, 2010; Shah, 2012; Stone, 2015). The third, after several years some bollworms, mainly pink bollworm, have developed resistance to Bt gene and caused large losses. In an economy transitioning

from semi-subsistence agriculture, these four factors combined in ways detrimental to the smallholders (Mariott, 2016). It is contended that these issues were enabled by a careless regulatory approach to the management of risk and uncertainty. Attention should be given to the socio-economic dynamics behind indebtedness and how Bt cotton figures in this scenario. The agrarian crisis was in the making prior to the release of Bt cotton. The Government and MMB introduced Bt cotton as a solution to indebtedness. However, the opponents of biotechnology argued that transgenic cotton is not the answer to the problems faced by Indian smallholders [Interview: Berkley, 2016; Interview: Bagration, 2016]. That is because the problem for Indian farmers is not one of productivity at a national level, but rather the cost of the means of production and prices of agricultural produce.

Rather than state-corporate illegitimacy we are seeing is the process of commodification in the cotton seed market due to biotechnology. Biotechnology extends the commodification of means of production to biological resources, e.g. seeds (Kloppenburg, 2004). Through biotechnology organised capital, e.g. Monsanto, dispossesses farmers in the developing nations of their means of production (Araghi, 2009). The cotton seed has been traditionally maintained by the farming communities through seed-saving and -sharing practices. Now, through monocultures, capital intensive cash-cropping and intensification to increase national output have facilitated the production of surplus value on smallholdings transitioning from semi-subsistence agriculture. The Green Revolution prompted the development of general commodity production in Indian agriculture. Biotechnology marked a stage in Indian agriculture, where reproduction of the means of material existence (subsistence) cannot exist outside commodity production (see Bernstein, 2010). In a neoliberal economy, Indian smallholders are compelled to produce raw materials to exchange for money in order to maintain the household.

Simultaneously, the same process of commodification relocated the provision of the means of production from the farm to the factory, as observed in the case of Bt cotton. Where means of agricultural production meet the farmer as commodities, 'agriculture no longer finds the natural conditions of its own production within itself, naturally, arisen, spontaneous and ready at hand, but these exist as an industry separate from it' (Marx, 1993: 527). Consequently, the autonomy of the simple-commodity producer is dissolved. Unlike the HYVs, for instance, Bt cotton is owned by industrial capital. By taking over the production and provision of cotton seeds Monsanto sucks up the capital produced by the farmers via the free-market, and its further extracted from the farmers by loan capital in form of interest. In the case of smallholders, because they rely on seed dealers, banks and informal moneylenders for purchase of Bt seeds, Monsanto, essentially, sucks up loan capital. However, the risk and

uncertainty intrinsic to Bt cotton is bore by the cotton producers. The producer does not control the seed, he only controls the price of his labour power, i.e. the part of value that constitutes subsistence. What appeared on the surface as a case of state-corporate illegitimacy, is an instance of economic development.

## **5.6 Conclusion: the censure of legitimate state-corporate conduct**

In conclusion, the chapter presented a case where a deviant quality was ascribed to objectively legitimate state-corporate activity. According to the process-driven approach, it is not enough to stigmatise a state-corporate practice as deviant, there must be a moment of illegitimacy (Green and Ward, 2004, 2012; Ward and Green, 2000; Lasslett, 2010a; Lasslett et al, 2015). Otherwise, as was the situation in this case study, state-corporate institutions can ignore or deny adjudication from below. This case observed a historical instance of censure by a resistance community rooted in the anti-globalisation and Gandhian-nationalist tradition of symbiosis between the Government of India and MMB (Monsanto). In contrast to Case 1, the inquiry into the state-corporate symbiosis as well as the regulatory and policy ‘regimes’ did not disclose significant evidence of illegitimate state-corporate conduct.

There was a symbiosis between the Government of India and the biotech industry; and, the regulatory/policy regimes have permitted the release of Bt seeds (Tombs and Whyte, 2009; Tombs, 2012; Whyte, 2014). Additionally, the Government enabled the investment from Monsanto to realise certain ‘desired finality’ (Lasslett, 2014c). Transgenic cotton became part of the ABP objective to increase productivity for export-oriented growth. Certainly, the opening of the Indian cotton seed market to Monsanto, without evaluation and planning for sustainable, long-term growth contributed to a much broader social harm. Notwithstanding, it does not fit the concept of ‘illegitimacy’ as conceived in the process-driven approach. Hence, this case study is observing something different to Case 1. A resistance movement censuring as deviant legitimate state-corporate conduct. A question, thus, arises; why would civil society stigmatise legitimate state-corporate practices as criminal? The chapter, then, turned attention to the resistance community’s motivations and the impact of adopting such stance to a problem that is more a development issue than state-corporate criminality.

The chapter follows the evolution of the resistance movement, from its inception and initial downfall to its restructuring. It demonstrates how framing and choice of tactics can affect the outcome of resistance. The use of direct action to stigmatise state-corporate conduct

proved ineffective when it was based on fallacious claims and hyperbolic rhetoric. Equally, by immersing the issue of Bt cotton in the anti-globalisation, Gandhian-nationalist narrative may have drawn international attention and support, but it disconnected the movement from the farmers' lived experience. The 'Operation Cremate Monsanto' and the 'Monsanto, Quit India' campaign were unsuccessful because the KRRS and Navdanya misrepresented the issues. It appears that the resistance community used the Bt cotton issue to advance their own, anti-globalisation agenda, which was evident in the 'Intercontinental Caravan'. The criminal stigma was imprinted on MMB through claims that Monsanto sought to monopolise India's seed market, by linking Bt cotton to farmer suicides, and using Monsanto as a symbol of the corporate threat to India's sovereignty. Learning from the failure to prevent the release of Bt cotton, the CGMFI built the opposition to Bt cotton and the resistance to MMB around the issues of sustainability, pricing, costs of production and market monopoly. Additionally, the coalition changed the repertoires of action to represent farmers' lived experience and to seek a solution to the issue of indebtedness.

Like in Case 1, the resistance community employed direct action to censure state-corporate conduct, but its deployment was ineffective. The state and the company disregarded the direct attempts to censure their conduct. Thereby, the resistance actors were unsuccessful in inscribing deviancy labels on the Government and MMB. The direct actions by the KRRS lacked certain features that were observed in Case 1. Thereupon, the chapter deconstructed the social harm, to demonstrate that, contrary to the KRRS' and Navdanya's claims, MMB did not cause of farmer suicides. Rather, farmer suicides are caused by a dynamic interplay of factors whence Bt cotton is just one part. The case, thus, offers insight into an ineffective use of direct action to censure objectively legitimate state-corporate. It reaffirms that in order for a state-corporate activity to be effectively censured as deviant, it must have some properties of illegitimacy.

## **Chapter VI – Conclusion**

### **6.1 Introduction**

This thesis employed the dialectically informed, process-driven approach to capture the social relations and processes that create the possibility of illegitimate state-corporate conduct and social practices that actualise this conduct as criminal. As Lasslett et al (2015) argued, deviant state-corporate conduct is a necessary precondition, but in itself it does not actualise the latent quality of being criminal. That quality is actualised through definite social exchanges, whereby consciously driven social actors engage in practices intended to censure and inscribe deviancy labels on offending institutions (Green and Ward, 2012). Oftentimes, when certain state-corporate practices cause social harm and are perceived as illegitimate civil society converges into resistance movements that expose and condemn these practices (Ward and Green, 2000; Green and Ward, 2004). Direct action is a forceful means of censuring deviant state-corporate conduct. In its varied forms, direct action is an active and a practical method of resistance.

In the case studies, the historically specific experiences of capitalism fostered very different fields of social struggle. The antagonisms specific to the different branches of capitalist production (defence industry and biotech seed industry) engendered resistance mediated by direct action with varied effects. In censuring corporate entities, the resistance actors condemned the respective governments for enabling the production of social harm. The different branches of capitalist production caused distinct forms of social harms. This thesis contends that direct forms of resistance can be very effective in exposing, defining and prohibiting state-corporate crime, but only when applied appropriately to a field of struggle. Different fields of struggle require different repertoires of action. A dramatic form of resistance, e.g. industrial sabotage, may be well suited to situations where there is a clear illegitimacy in state-corporate conduct. This was the case with the Operation Protective Edge, the London Palestine Action (LPA) sought to make an immediate impact on the UK-Israel arms trade by targeting an exporter of defence products to Israel, UAV Engines Ltd (UEL). Such form of resistance proved counterproductive in the case of Bt cotton, where the claimed social harm – farmer suicides – was produced by economic development. The illegitimacy was absent from the state-corporate conduct. Overall, the two cases reaffirm the dialectical nature of the processes through which state-corporate crime comes into *being*.

This final chapter links the empirical findings to the conceptual and theoretical literature that this study is grounded in. The analysis begins with a summary of the key findings in Section 6.2, looking at how illegitimacy was constituted and how illegitimate conduct was defined as criminal through social struggles. To understand how certain state-corporate conduct is actualised as criminal, we have to look into such struggles (Green and Ward, 2004; Stanley and McCulloch, 2012; Lasslett et al, 2015). In view of this, Section 6.3 draws on the emergent, Marxist traditions to analyse the illegitimacy in systemic, routine practices of state-corporate institutions, as well as the social process of resistance (Tombs and Whyte, 2009; Lasslett, 2010a, 2014c). This scholarly current offers insight into the ‘regimes’ that enable the illegitimate state-corporate symbiosis, and which transcends the heuristic perspective of state/corporate facilitated/initiated crime. Lastly, Section 6.4 presents a comprehensive synopsis of thesis, deconstructing the dialectic of state-corporate crime. Therewith, the chapter points to the specific contributions the thesis is making to the state-corporate crime field.

## **6.2 The multiple case study of crime-control from below: illegitimacy and deviancy**

The multiple-case study research has produced two different cases, where censure of state-corporate activities perceived as illegitimate occurs in context-specific settings. These contextual settings produced different branches of capitalist production, forms of social harm, fields of struggle and traditions of resistance. It is within these differences that the conceptual and theoretical propositions can be effectively replicated (Yin, 1981; Stake, 1995; Flyvbjerg, 2006). Furthermore, the case studies have arrived at divergent, empirical results. Case 1 offers insight into an effective use of direct action, whilst Case 2 offers insight into an ineffective use of direct action. The differences observed make a very interesting and revealing comparison. Of course, as intimated in Chapter III, comparison in a multiple-case study is implicit, rather than explicit (Stake, 1978; Yin, 2003; Baxter and Jack, 2008). This section recapitulates the key empirical findings and the knowledge they contribute about how criminal potential latent in routine state-corporate practices is realised and how it is actualised.

### **6.2.1 The criminogenic potential in state-corporate practices**

In Case 1, there was a clear illegitimacy in the symbiosis between the UK Government and UEL. The company was accused of abetting the Israeli Defence Force’s (IDF) attack on Gaza in 2014 by producing engines for Hermes drones. The UK Government was implicated

in this by enabling UEL's exports to Israel in contravention of the Consolidated Criteria of the Arms Export Controls (AEC), international law and the Foreign and Commonwealth Office's (FCO) recommendations (Amnesty, 2009b; CAEC, 2014, 2015; DBIS, 2015; CAAT, 2015). It has been observed that the Defence Industrial Policy (DIP) and the policy towards arms exports to Israel adjust export controls in ways that make defence exports to Israel legitimate (MOD, 2002, 2005; Taylor, 2009; Government, 2014; DBIS, 2014b). As a producer of engines for Hermes drones – the backbone of military operations in Gaza – and subsidiary of Elbit Systems, UEL is part of Israel's military industrial complex (Amnesty, 2009b; Dobbing and Cole, 2014; Cooper and Anderson, 2015; War on Want, 2015). The regulatory and policy 'regimes' mediated the 'symbiosis' between the UK Government and UEL (Tombs and Whyte, 2009; Tombs, 2012; Whyte, 2014). These 'regimes' are designed to enable and facilitate the stable reproduction of capital, i.e. production and trade.

In contrast, the analysis of Case 2 found no illegitimacy in state-corporate practices. The assessment of Bt cotton did not contravene any regulatory law, Mahyco-Monsanto Biotech Ltd (MMB) joint-venture was legitimate, and no direct link was found between Bt seeds and farmer suicides (Government of India, 2000, 2002; Swaminathan, 2005; DBT, 2007; Department of Agriculture, 2015). Having said this, the assessment of Bt cotton omitted the factors of uncertainty in terms of environmental safety and agronomic performance (Sahai, 2005; Swaminathan and Rawal, 2011). Although, the agricultural biotechnology policy (ABP) included farmers' welfare and growth in GDP per capita, its priorities focused on export growth, private investment, reduction in government support, industrialisation etc. (Sahai, 2000; Tripathi and Prasad, 2009; Arora, 2013; Siddiqui, 2015). There was a neoliberal reorientation of the Government's priorities in the policy, which increased the costs of production, depreciated the prices of agricultural produce, increased market dependency for means of production and subsistence, and consequently produced socio-economic pressures that cause indebtedness and suicides. These are development issues and are better understood as a form of 'structural violence', and not state-corporate produced harm. These two instances of state-corporate symbiosis were censured through direct action, with divergent effects.

### 6.2.2 The censure of state-corporate activities

In Case 1, the 'Stop Arming Israel' campaign opposed the UK-Israel arms trade configured through an intricate licensing system that authorises the exports of companies such as UEL. There was the element of intention, as the resistance was a purposeful, conscious activity performed by productive human agents. The resistance actors (human agents) used

performative repertoires of action to communicate to the Government and the public that the production and supply of drone engines to Israel was deviant/wrongful. The resistance campaign was orchestrated to make the issue public and to bring an end to the UK-Israel arms trade, by decommissioning the means of production of defence companies and/or influencing a change in the AEC. The resistance actors came from traditions of anti-imperialism, peace, anti-arms trade and solidarity movements. The campaign fused a range of forces from NGOs like the Campaign Against the Arms Trade (CAAT) and War on Want, the Boycott, Divest and Sanction (BDS) movement, and the Palestine Solidarity Campaign (PSC). These forces were the foundation of LPA's campaign, and the direct actions.

To imprint deviant properties on the observed illegitimate conduct, the 'Stop Arming Israel' campaigners performed two direct actions, the rooftop occupation in August 2014 and 'Block the Factory' action in July 2015. The occupation was triggered by the Operation Protective Edge, where international humanitarian law violations were committed by the IDF (ICC, 2015; UN, 2015). The social being of resistance actors motivated them to challenge the illegitimate state-corporate practices. Through direct action campaigners sacrificed their safety and liberty, which framed the resistance as morally and politically meaningful act (Stanley and McCulloch, 2012; Lasslett et al, 2015). The deviancy label was effectively imprinted on the Government and UEL. The state authorities responded by charging the activists with legal charges and prosecution. However, the resistance actors subverted the state's legal apparatus to put the company on trial, in order to obtain evidence of illegitimacy. The state and the company dropped the cases when the judge's attention was turned to their conduct.

In Case 2, a disconnected, amorphous movement opposed the release of transgenic cotton by the Government of India and MMB. There was a conscious effort by social actors to inscribe deviancy labels on MMB through direct action. These labels communicated to the public, the perpetrators and international networks that MMB, by introducing Bt cotton, caused indebtedness and farmer suicides. The transformative drive was in that the Karnataka State Farmers Association (KRRS) and Navdanya tried to prevent the release of Bt cotton, and later the Coalition for GM-Free India (CGMFI) worked to reverse the proliferation of Bt cotton. The resistance communities were rooted in the anti-globalisation, Gandhian, nationalist movements. These forces coalesced into an amorphous and disorganised movement, made up of isolated pockets of resistance.

The motivation was to protect smallholders' sovereignty and independence from corporate control, to protect their rights and welfare, and to conserve India's biodiversity.

However, the opposition was communicated in a demagogic, and misconceived way. The movement elites were closely connected to international networks but disconnected from the farmers' lived experience. The 'Operation Cremate Monsanto' and Intercontinental Caravan, and Navdanya's 'Monsanto, Quit India' campaign drew on Gandhian symbolism to excite independence sentiments among the farmers, however they were based on fallacious claims of 'terminator technology' and 'seeds of suicide'. The Government and the company disregarded the censoring efforts, proceeding to release Bt cotton. Learning from this experience the CGMFI changed the repertoires of action and the narrative. They came from different fields of struggle, mainly sustainability and conservationism. The CGMFI addressed the issues of market dependency, the failure to deliver smallholders out of indebtedness and seed monopoly. Though, the Coalition did exaggerate claims of 'Bt cotton failure' in order to counter the 'Bt success' narrative. The Gene Campaign pointed to regulatory defects in managing the risk and uncertainty inherent in biotechnology. Drawing on these two cases, a revealing insight can be gained about the social process of defining certain state-corporate practices as criminal.

### 6.2.3 Summary

The empirical cases offer a valuable insight into the historical and social processes that constitute state-corporate crime. Illegitimacy and deviancy are dynamic processes. Illegitimacy is a potential latent in routine practices and becomes realised when these routine practices contravene an accepted conduct norm (Ward and Green, 2000; Green and Ward, 2000, 2004, 2012). The realisation of this potential involves actions of individual human agents, influence of superstructure on human agency, institutional activities, the interdependency between the state system and organised capital etc. (Lasslett, 2010b; Lasslett et al, 2015). Deviancy actualises an illegitimate conduct as criminal, when human agents engage with the objective reality in practical and meaningful ways. The act of censure imbues a perceived illegitimacy with a criminal property. There is a dialectic process in the formation of rules that define illegitimacy and constitution of these rule in practice. The next section discusses how the process-driven approach advances a dialectical understanding of state-corporate crime.

### **6.3 The dynamics of illegitimacy and deviancy in state-corporate activities**

The thesis advances a Marxist dialectical understanding of the latent, criminogenic potential in routine state-corporate practices. Not because of the incessant compulsion pushing the normative boundaries in order to achieve organisational goals (Kramer et al, 2002), but because the achievement of ‘desired finalities’ under neoliberal capitalism require the capital reproduction to exceed the limits imposed by social as well as natural/environmental bounds (Lasslett, 2014c). The routine state-corporate practices – activities through which states and corporations reproduce their existence and ensure the functioning of social metabolism – bear impact on human beings and their environment in unpredictable and deleterious ways. Sometimes it erupts into an ‘overt moment of rupture’, for example the space shuttle challenger explosion or the crash of ValuJet Flight 592 (Kramer, 1992; Matthews and Kauzlarish, 2000). Oftentimes, routine activities contribute to crime or produce social harm in mediated and indirect ways, for example arming Israel during the 2006 attack on Lebanon or the 2008/9 crisis and austerity (Lasslett et al, 2015; Tombs, 2016). From this approach, state-corporate crime is not a mere omission, regulatory failure, accident or an aberration caused by corporate avarice or a structural weakness of the state as “policeman” (Whyte, 2014). It is actively produced by activities integral to state system and organised capital.

As a social practice, resistance shapes our social, political and cultural environment, and in turn this environment fosters resistance traditions that shape resistance actors (see Marx, 2010a). Throughout history direct action has been used in social struggles for justice, emancipation, rights etc. (de Cleyre, 2004; Thoreau, 2008; Roberts and Ash, 2011). Resistance can be also conceived as a means of engaging with our institutions, in practical and meaningful ways. The four defining features of resistance are opposition, intention, communication and transformation (Rothe, 2009; Stanley and McCulloch, 2012; Friedrichs, 2012). In resistance there is a drive to oppose something perceived as unjust or illegitimate, communicate it to the perpetrator as well as the wider audience, and enforce a change. Direct forms of resistance are a powerful means of enforcing a change (de Cleyre, 2004). It is argued that this drive for change is fostered by resistance traditions, where the counter-hegemonic consciousness germinates within civil society (Green and Ward, 2004). The reproduction of ideas and practices that sensitise social actors to the illegitimate state-corporate practices takes place through specific ‘mode of life’ experienced in day-to-day life (Lasslett et al, 2015). This section links the thesis back to its core conceptual and theoretical foundations to demonstrate how the thesis contributes to the field.

### 6.3.1 State-corporate symbiosis, regimes of permission and routine practises

The dominant, neoliberal formulation of the private-public relationship is that the public and the private are separate spheres (Whyte, 2014). The public sphere encounters the private sphere only as a “policeman” which controls and mitigates harmful activities of private organisations (Whyte, 2014). State-corporate collusion occurs when this liberal-democratic segregation is “ruptured”, and both spheres collude in anomalous ways that break the normal procedures (Whyte and Tombs, 2015). According to the integrated theoretical framework these unique, criminogenic events are motivated by organisational goal seeking, e.g. profit maximisation or taxation, and regulatory disfunction or state corruption (Kauzlarich and Kramer, 1998; Kramer et al, 2002; Michalowski and Kramer, 2006). This is an important starting point that points to specific, criminogenic properties of the state-corporate conduct. Albeit, in order to understand what creates these properties we have to transcend the focus on ‘discrete acts’ and adopt a more systematic analysis of practices integral to the existence of state system and organised capital (Tombs, 2012). As the empirical cases revealed, state-corporate crime or social harm are often produced in mediated, indirect ways by the practices intended to preserve the stable functioning of ‘social metabolism’ (Lasslett, 2014c; Tombs, 2016). This study looked at these systemic, enduring and less ostensible moments of state-corporate crime.

Though, the classical liberal view might have been true in the early 20<sup>th</sup> century and during the Keynesian economic era, ‘neoliberal era intensified and made more visible the interconnectedness of public and private sphere’ (Whyte, 2014: 239). The neoliberal project relegated the government’s role in the economy to a manager of profitable business, investment, free trade etc. (Chomsky, 1999; Larner, 2000; Harvey, 2003). Rather than standing in opposition to free-market, the neoliberal order encourages close collaboration with organised capital. The fundamental tenet of state-corporate crime scholarship should be taken seriously, viz. the intersection of state-corporate functions is subject to political-economy of capitalism (Michalowski and Kramer, 2007). Yet, the state-corporate symbiosis is not a simple case of an interaction motivated by an alignment of politico-economic interests and goal seeking (see Matthews and Kauzlarich, 2000; Kramer et al, 2002; Mullins and Rothe, 2008). The state and the corporation exist in a symbiotic relationship (Tombs, 2012). That is, mutually reinforcing interaction that reproduce the conditions for the existence of both institutions, e.g. regulation, policymaking, provision of infrastructure, production,

employment, investment, trade etc. The concept of 'regimes of permission' alerts us to the enabling role the state plays under conditions where economic production is controlled by private enterprises (Whyte, 2014). These varied relations and processes constitute broader structural determinations of the material, social existence. By looking at these relations and processes we can uncover the causes of state-corporate crime. Whether a company produces engines for defence products or seeds for agricultural production, they are products of expanded reproduction through which capital is accumulated.

The two enterprises in the case studies invest their capital in two different spheres of production. UEL manufactures industrial commodities, i.e. engines for drones. MMB makes transgenic seeds for agricultural production, i.e. Bt cotton. As a subsidiary of a larger company, Elbit Systems, UEL is part of a larger network of production. It produces parts for other products, assembled and finished in another country, by another company. Its engines are produced for export. MMB, which is a venture between a biotech conglomerate Monsanto and Indian seed company Mahyco, makes the means of agricultural production, the Bt cotton seed. By claiming a monopoly over the cotton seed market, MMB was able to charge an inflated royalty fee on each packet of cotton seed. The company sucked up capital from the cotton producers making instant profit on the sale of seeds, while the risk of an unproven technology was bore by the farmers. However, the farmers with no available capital to invest in the expensive seeds, rely on banks and private moneylenders for loans, or on credit provided by the middlemen, i.e. the seed dealer. In essence, MMB sucked up loan capital via cotton producers, while taking advantage of the market forces to monopolise the cotton seed production.

In both cases, despite empirical disparities, we can observe the same dynamics. Both UEL and MMB produced commodities with definite value and surplus value realised through exchange (Marx, 1976, 1982). In both branches of production, regulation and policymaking are intended to facilitate investment, production, trade etc. Regulation provides the legal environment for economic processes (Tombs, 2016). To facilitate their own interests, national interests and private interests, governments structure conducive environment for investment, production and trade through policy design (Miliband, 1969; Poulantzas, 1978; Lenin, 1996; Callinicos, 2007). Investment, production and trade are needed to create jobs, generate national income, provide consumer goods and means of production. Industrial policies, which are sector specific, are a government's official strategic frameworks to stimulate the development and economic growth. As such, policies stipulate a government's approach to an industry, plan for support and growth, implementation framework and regulatory considerations. Within these practices lies a hidden possibility of illegitimate acts or events.

In order to be actualised it must be defined as criminal, and oftentimes it is defined as such through censure enacted by diverse communities of resistance.

### 6.3.2 Resistance to illegitimate conduct: the process of censure

As the thesis theorises, the criminogenic potential of state-corporate practices is realised when state-corporate practices breach conduct norms and/or cause social harm (Hillyard and Tombs, 2004; Green and Ward, 2004; Lasslett, 2010a). The criminal property of state-corporate practices is actualised when it is stigmatised as deviant by a substantial social audience (Green and Ward, 2000; Lasslett et al, 2015). Censure in the case studies was performed by resistance communities with diverse historical origins. The historical specificity of resistance traditions and the unique fields of social struggle shaped the resistance campaigns in diverse ways and with different outcomes. Past, historical struggles have brought forth standards of behaviour that are now recognised as codes of conduct against which state-corporate behaviour is judged (Green and Ward, 2012; Lasslett et al, 2015). Resistance is a consciously driven social practice and by enacting practical forms of resistance human agents engage with the objective reality, inscribing it with meaning.

Human beings are the agents of historical process, they create and change the conditions they find themselves in (Marx, 2010a; Trotsky, 2011). Through resistance social actors engage materially in social struggle, by means of which norms of behaviour are grounded and against which future generations can draw on to control state-corporate conduct. Gramscian concepts of civil society and hegemony or counterhegemony represent the processes that shape our political, economic and cultural reality (Boggs, 1976; Mouffe, 1979; Ward and Green, 2000). As Lasslett (2010b: 4-5 emphasis added) observed, ‘human consciousness, by being absorbed into the concrete processes of *social being*, has become an instrument through which individuals can appropriate certain social culture, and engage creatively in historical practices with a fluctuating degree of agency and freedom.’

Human beings are conscious, sensuous agents. Consciousness drives human agency to engage in specific social practices (Lukács, 1971; Gramsci, 1992). As sensuous, conscious agents, resistance actors perceive the world around them and imbue it with concrete meaning. It is argued that resistance is associated with certain form of consciousness, one that sensitises groups of people to illegitimate state-corporate conduct and through which they engage in productive practices (Ward and Green, 2000). In Marxist theory consciousness and action are bonded, human beings acquire consciousness through purposive, material and socially

necessary actions (Lukács, 1971). In *A Contribution to the Critique of Political Economy*, Marx wrote: 'It is not the consciousness of men that determines their existence, but their social existence that determines their consciousness' (Marx, 2010b: 263). Social consciousness corresponds to 'mode of life' (social being) experienced by human agents (Lasslett et al, 2015). It was observed in the case studies that the respective traditions of resistance the campaigners came from influenced their perception of state-corporate conduct and their actions.

Adopting the conceptual foundations of the resistance and state crime scholarship, the study considered what caused and motivated resistance in the case studies, who were the agents of resistance, what were the objectives, and how resistance emerged (White, 2009, 2012; Friedrichs, 2009; Rothe, 2009). Exploring these determining aspects of resistance, the researcher was aware of White's (2009) observations that resistance is context-bound (culturally, socially, nationally), it is related to specific consciousness (New Social Movements or grass-roots organisations), and is determined by social experience (victim, activist, citizen, observer). Drawing on the definitional features and suggested motivations of resistance the study found that resistance is multidimensional and dynamic, it cannot be reduced to simple set of variables or factors, but rather must be represented in its dynamic and contextual form (Friedrichs, 2009; Rothe, 2009; Stanley and McCulloch, 2012). The documented instances of resistance were motivated by specific values, caused by breach of norms that express these values, structured by context and driven by productive and conscious social actors. Even though the research's case studies represent only instances of historical process, these instances are part of a larger social and political relations that shape the institutional, political, economic, and cultural environment. In other words, these instances are part of a greater totality.

### 6.3.3 Summary

To recapitulate, state-corporate crime's *being* is constituted through dialectical processes that interact in a dynamic way. To understand how state-corporate practices become defined as criminal we must look at the social processes through which it is inscribed with deviant properties. However, deviancy must have an objective basis, which is conceptualised through the concept of illegitimacy. Illegitimacy informs us that an observed state-corporate crime is wrongful. Yet, to explain how this illegitimacy is produced, we ought to look at the specific features of state-corporate practices. Oftentimes, the less ostensible crimes are produced by routine practices, that are integral to the state system and organised capital. That

is, practices through which states and corporations reproduce each other. Both institutions enter into definite relations with one another in the social metabolism functions, through which social existence is reproduced. The routine practices that reproduce social existence pertain to activities such as: regulation of contracts, markets and trade; policymaking, economic production, investment, trade, taxation, provision of infrastructure, employment, exchange etc. (Tombs, 2012; Lasslett, 2013). These activities are undertaken in pursuit of ‘desired finalities’, e.g. economic growth, provision of subsistence, increasing market share, decreasing unemployment, geopolitical advantage etc., and are crucial to everyday social metabolism functions (Lasslett, 2014c). By looking at such practices dialectically we can reveal their criminogenic features. Additionally, the focus on routine practices, rather than unique instances of collusion, can sensitise criminology to less ostensible, yet significantly harmful, state-corporate crime events.

The study observed that state-corporate actors and resistance actors experience very different ‘modes of life’, which shaped their consciousness and influenced their actions. Whereas, resistance actors were sensitised to state-corporate illegitimacy, compelled by the values they upheld to act appropriately to influence change, state-corporate institutions approach their reproducing practices as ‘business as usual’. When confronted by palpable and practical opprobrium state-corporate institutions responded with prosecution in one case and disregard in the other. Such reactions signify ‘a sense of managerial and administrative [governmental] alienation from the concrete impacts of their actions...’ rather than malice (Lasslett et al, 2015: 530). This kind of reaction might suggest that, because state-corporate actors are disconnected from the lived consequences of their practices, they ‘bear no meaningful sense’ of harms caused and thereby are able to continue the same operations as “business as usual” (ibid). This poses serious difficulties in establishing and enforcing normative codes of conduct, as state-corporate institutions can ignore norms that designate certain practices as wrong and dismiss attempts by civil society to hold them accountable.

#### **6.4 Last words: the dialectics of state-corporate crime**

This research study is one of the first, substantive attempts to investigate how different civil society configurations, i.e. resistance communities, mobilise to censure and deliver stigma on illegitimate state-corporate practices. It does so in a context laden way, which revealed that the way social actors perceive objective reality in terms of state-corporate illegitimacy and the way they imprint deviant labels on these institutions are subject to specific historical trajectories of capitalism and social struggle. The study advances the process-driven and a

Marxist dialectical approach to understand how state-corporate crime comes into *being*. In the case studies we can observe that crime's being is historically constituted through structurally situated social practice, organised from below through historical struggles of resistance communities (Green and Ward, 2000; Green and Ward, 2004, 2012; Lasslett, 2010b). These communities inscribe deviancy labels on certain state-corporate practices by engaging in concrete, material exchanges through practical forms of social action, e.g. direct action.

These resistance communities emerged from different traditions and different fields of struggle. The way in which these communities mobilised was influenced by the specific development of different branches of capitalist production and how organised capital has entered a symbiosis to realise capital accumulation. Moreover, the cases contributed understanding of what makes the use of direct action effective. Its effectiveness hinges on the conduct being censured, meaning that the stigmatised state-corporate practices must indeed be illegitimate in order for deviancy labels to hold (Lasslett et al, 2015). As such, the process through which state-corporate crime comes into being as a phenomenon is a dynamic one. It involves socially mediated exchanges between state-corporate institutions and social actors.

The study contributes to the emergent Marxist tradition in state-corporate crime research, by demonstrating how routine state-corporate practices, rather than 'discrete acts', cause less ostensible, yet significantly harmful state-corporate crime events (Tombs and Whyte, 2009; Tombs, 2012; Whyte, 2014). It offers an understanding into subtle, mediated forms of institutional activities that are systemic, enduring and have latent, criminal potential. The cases contribute further insight into how resistance is mobilised, what motivates resistance actors, and how resistance is strategically performed. They demonstrated that, indeed, resistance is defined by four features: opposition, intention, communication and change (Rothe, 2009; Stanley and McCulloch, 2012; Friedrichs, 2012).

Again, resistance is context-bound, subject to cultural traditions; it is related to specific consciousness that this thesis argues can be found within the counter-hegemonic spheres of civil society; and is determined by social experience, or as Lasslett et al (2015) put it by 'mode of life', i.e. individual's social being (White, 2009, 2012). These defining elements of resistance can be categorised through Gramscian concepts of counter-hegemony and civil society. Additionally, the motivating forces of resistance (consciousness and values) can be identified by looking at the traditions of struggle particular resistance communities emerged from. Now, what we recognise as illegitimate state-corporate conduct has been established by previous struggles in written rules, regulations, laws and norms. Furthermore, these norms express certain values and ideas that are upheld by hegemony or counter-hegemony. The

resistance actors in the case studies judge perceived state-corporate illegitimacy against these rules, norms and values.

Human beings are conscious agents who engage with the objective reality that they perceive. Lukács (1971: 19) postulated, 'Marx urged us to understand 'the sensuous world', the object, reality, as human sensuous activity...[man is] simultaneously the subject and object of the socio-historical process.' When acting upon objective world human beings, as active subjects, reproduce it and imbue it with definite meaning. In this way, when resistance actors enact direct action to censure illegitimate state-corporate practices, they engage with objective reality and create its meaning. It is argued that such actions require consciously driven agency, which is shaped by the 'mode of life' experienced by the social actors (Lasslett et al, 2015). According to this, state-corporate actors experience a mode of life that elevates the goal of capital accumulation in mediated ways. Whereas, resistance actors experience a mode of life that sensitises them to the wrongdoings by the powerful and fosters subversive practices. These dimensions of state-corporate wrongdoing and social struggle pose questions of human consciousness and how it comes into being. The thesis contends that different modes of life produce opposing forms of consciousness that correspond to specific 'modes of life' experienced by human agents (Lasslett et al, 2015). Moreover, the civil society is the space wherein counter-hegemonic traditions/communities emerge.

Following from the above, state-corporate crime has its own process of becoming. This process is dynamic and constituted through a dialectical process that entails the interaction of conscious, social actors with objective reality of state-corporate crime events. The norms against which resistance actors sanction illegitimate conduct were cemented by past struggles. Therefore, to capture what constitutes illegitimate or criminal behaviour critical criminologists ought to look at past, historical struggles. The case study research, informed by a Marxist dialectical thinking, is a helpful approach as it produces context-specific knowledge, embedded in real-life events. This is an advantageous approach, as long as case studies are used to reveal the more substantive relations and processes underlying state-corporate crime and resistance. The empirical cases capture significant moments in the resistance campaigns researched. However, social struggle is a continuous process which drives social development.

Moreover, under neoliberal capitalism many state-corporate crimes become less ostensible, but no less destructive. To capture, effectively, the increasingly routinised practices of illegitimate state-corporate conduct criminology as an intellectual endeavour must develop approaches that are more sensitive. The emergent Marxist traditions advanced by Lasslett, Tombs and Whyte offer such sensitive approaches. While state-corporate crime and social harm

of development have not been overcome, the struggle continues. Case 1 demonstrates that direct action is a powerful means of resistance, where clear illegitimacy is present. Case 2 demonstrates that direct action is rather counterproductive in a situation where a social harm is a product of very slow, gradual processes that do not have the property of being illegitimate. Nevertheless, by forcing state-corporate institutions to respond to censure, both institutions have demonstrated their commitment to capital accumulation over other considerations. In these ways, the thesis confirms the dialectical nature of the state-corporate crime phenomena.

# Appendix 1

UNIVERSITY OF ULSTER  
GOVERNANCE

RESEARCH

## RG1a APPLICATION TO UNDERTAKE RESEARCH ON HUMAN SUBJECTS

**PLEASE REFER TO THE NOTES OF GUIDANCE BEFORE COMPLETING THIS FORM. (Available from the Research Governance website at <http://www.ulster.ac.uk/research/rq/>)**

All sections of this form must be completed (use minimum font size 11). If the form is altered in any way it will be returned unconsidered by the Committee.

This form should be used for research in categories A, B and D

Do not use this form for research being conducted in collaboration with the NHS/HPSS (category C).

### SECTION A

Chief Investigator

Dr Kristian Lasslett

Title of Project

Prohibiting State-Corporate Crime through Non-Violent Direct Action: A Comparative Study of Crime-Control from Below

Student and course (if applicable)

Dawid Stańczak

Additional Investigators

Dr Rachel Monaghan

Goretti Horgan

### Declaration - Chief Investigator:

I confirm that

- this project meets the definition for research in category\* (***please insert***)
- this project is viable and is of research or educational merit;
- all risks and ethical and procedural implications have been considered;
- the project will be conducted at all times in compliance with the research description/protocol and in accordance with the University's requirements on recording and reporting;
- this application has not been submitted to and rejected by another committee; and
- Permission has been granted to use all copyright materials including questionnaires and similar instruments

Signed:

Date:

**\*In addition, you should complete form RG1d for all category D research and form RG1e for both category B and D research**

### **Peer Review**

- *Those conducting peer review should complete form RG2 and attach it to this form (RG1). RG1, RG2 and all associated materials should then be returned to the Chief Investigator.*
- *Depending upon the outcome of peer review, the Chief Investigator should arrange to submit to the Filter Committee, resubmit the application for further review or consider a new or substantially changed project. The application must not be submitted to the Filter Committee until the peer review process has been completed (except as permitted below)*
- ***Please note that peer review can be conducted by the Filter Committee if time and capacity allow. This is at the discretion of the Chairperson of each Filter Committee and is subject to change.***

### **Filter Committee**

- *The application must be considered by the Filter Committee in accordance with the requirements of the University*
- *The Filter Committee should complete form RG3 and write to the Chief Investigator indicating the outcome of its review*
- *Depending upon the outcome of the Filter Committee review, the Chief Investigator should arrange to proceed with the research OR submit to the University's Research Ethics Committee OR resubmit the application for further review OR consider a new or substantially changed project*
- *The Filter Committee should retain a complete set of original forms.*

## **SECTION B**

### **1. Where will the research be undertaken?**

United Kingdom (Northern Ireland, England) and India (Kerala, Tamil Nadu and Karnataka)

### **2. a. What prior approval/funding has been sought or obtained to conduct this research? Please also provide the UU cost centre number if known**

External funding has been sought from Socio-Legal Studies Association to travel to India. Decision still pending.

**b. Please indicate any commercial interest in/sponsorship of the study**

N/A

**3. Duration of the Project**

Start: 01/10/2014

End: 01/10/2017

Duration: Three Years

**4. Background to and reason(s) for the Project**

**Please provide a brief summary in language comprehensible to a lay person or non-expert. Full details must be provided in the description/protocol submitted with this application (see Notes of Guidance)**

This project investigates how and why state-corporate criminality is resisted by civil society through direct action. It tests whether understanding of state-corporate 'crime' as a socially constructed phenomenon through direct acts of censure and prohibition by social audiences is indeed a useful approach. The study also adopts Marxist literature to understand more deeply the structures and social forces that foster criminal state-corporate collusion. To this end the project employs a comparative case study method. Two case studies will be researched and compared: first, resistance through direct action to arms industry in United Kingdom; second, resistance through direct action to agricultural biotechnology industry in India. The reasons for this study are to cover the lacunas in criminological literature on state and corporate 'crime', to advance academic knowledge on crimes of the powerful and to advance an alternative avenue of understanding state-corporate 'crime'. The project also anticipates extending academic knowledge that can support diverse social movements by theorising vehicles for nonviolent censure and stigmatisation of state-corporate practices.

**5. Aims of the Project**

**Please provide a brief summary in language comprehensible to a lay person or non-expert. Full details must be provided in the description/protocol submitted with this application (see Notes of Guidance)**

The aims of this project are:

- To explain the social processes through which state-corporate practices acquire the quality of being criminal.
- To empirically document how social audiences, employing different forms of direct action, censure and stigmatise state-corporate actors who engage in socially harmful practices that contravene fundamental conduct norms.
- To theorise the social content and dynamics of state-corporate practices.
- To examine how different strategies of direct action impact on criminal collusions between state and corporate actors.
- To identify common motives and reasons for action, how distinctive class configurations influence unique resistance struggles and what connects distinctive resistance movements unique to their field of struggle.

**a. Methods**

Please provide a brief summary in language comprehensible to a lay person or non-expert. Full details must be provided in the description/protocol submitted with this application (see Notes of Guidance)

This project adopts qualitative research methods. It will employ semi-structured interviews and documentary research. There are essentially two participant groups. Group 1 is made up of activists, campaigners, campaign supporters, and social movements' members. Group 2 is made up of politicians, government agencies' officials and company officials. Interviews will use open-ended questions and purposive sampling. Snowball sampling will also be employed to make contacts with other interviewees. There will be two sets of interview schedules with different questions designed for Group 1 and Group 2. To view the question plan please refer to interview schedules attached to this form.

Documentary sources will be obtained from UK and Indian governments and relevant government agencies, as well as companies/firms that are researched. Some documents are available under public domain. However, due to their probative nature, internal documents will be obtained through Freedom of Information requests.

**b. Statistical techniques**

Please provide details of the statistical techniques to be used within the project description/protocol (see Notes of Guidance)

N/A

**7. Subjects:**

**a. How many subjects will be recruited to the study (by group if appropriate)?**

Group 1 - Activists, campaigners, campaign supporters.	50
Group 2 - Politicians and government agencies officials, politicians and company officials.	10 - 15

**b. Will any of the subjects be from the following vulnerable groups -**

	YES	NO
Children under 18		X
Adults with learning or other disabilities		X
Very elderly people		X
Healthy volunteers who have a dependent or subordinate relationship to investigators		X
Other vulnerable groups		X

**If YES to any of the above, please specify and justify their inclusion**

**c. Inclusion and exclusion criteria**

Please indicate, with reasons, the inclusion criteria for the project

Inclusion of Group 1 will be based on participants' engagement in direct action campaigns orchestrated by activist groups and social movements to censure and prohibit practices of state/corporate actors they perceived as criminal. In UK I will approach activists from: Derry Anti-War Coalition, Foyle Ethical Investment Campaign and London Palestine Action, as well as Stop the War Coalition. In India I will approach: Karnataka State Farmers' Association, Adivasi Gothra Mahasabha activists and Bhatiya Kissan Union activists. These participants will have first-hand experience in resisting practices of states and corporations they stigmatised as 'criminal', which is valuable to study's understanding of motives and repertoires involved in direct action.

Group 2 participants will be made up of politicians and other government officials, and company officials. In UK I will approach the Ministry of Defence, Stormont Politicians and Westminster Politicians, as well as government agencies such as Invest NI. Companies to be approached are Raytheon Systems Ltd and UAV Engines Company. In India I will approach the Department of Agriculture and regional governments. I will also approach Mahyco, Indian subsidiary of Monsanto, and other subsidiary firms of companies such as DuPont and Syngenta. State and corporate actors have direct insight into practices their institutions pursued, in terms of why their governments and companies named above cooperated together, what policies they followed, what are their interests and how/why they responded to direct actions orchestrated by social movements.

Please indicate, with reasons, any exclusion criteria for the project

There are no specific exclusion criteria for this project.

**d. Will any inducements be offered? If 'Yes', please describe**

No inducements will be offered.

**e. Please describe how and where recruitment will take place**

Potential participants in the first group have been identified through Google/media search and on NGO/activist groups' websites. Additional contacts have been also obtained from a friendly contact who previously conducted research on environmentalism in India. They will be contacted via email, phone or social media (Facebook) available on NGO/activist groups' websites. Participants in the second group will be recruited through participants already identified. Government and corporate officials will be identified through documentary research, media searches and internet trawls. Contact details will be obtained from company and government websites.

## 8. Ethical implications of the research

Please provide an assessment of the ethical implications of the project

This doctoral project is supervised by Dr Kristian Lasslett, Dr Rachel Monaghan and Goretti Horgan. The researcher will use their expertise to address any ethical issues and to mitigate any risks to the participants as well as the researcher. Dr Kristian Lasslett is a leading global expert on state and corporate crime, who has conducted complex fieldwork in conflict and post-conflict environments. He has extensive experience interviewing community activists and elite actors involved in contentious social issues. Dr Rachel Monaghan is a leading terrorism expert, who also has wide-ranging experience conducting fieldwork with activists engaging in different forms of direct action, in addition to senior state officials working on national security and counter-terrorism. Goretti Horgan is a widely acclaimed activist academic, who has extensive experience working with marginalised communities on a range of sensitive issues including economic marginalisation, poverty, and gender discrimination. She also has been involved in direct action campaigns centring on the weapons industry, and is especially well positioned to understand the sensitivities this type of research may involve.

As interviews will be conducted with activists who participated in contentious actions against powerful institutions, some who live in India and some who live in UK, important ethical challenges must be handled in a culturally sensitive manner, while also meeting best disciplinary practice.

- 1) Voluntary participation – it is important that no one is pressured to participate and that consent is given on purely voluntary basis.
- 2) Informed consent – participants need to be made informed in language and terms meaningful to them what the research is about, why it is being undertaken and who is it funded by and how findings are to be disseminated before they consent to participate. Participants will be asked to consent to participate in the study by signing the consent form. However, oral consent will also be available as an option for participants who do not wish to sign a written form. Gordon (2000) advises to have procedures for both written and oral consent as to assure the participation of all potential interviewees. Oral consent might be preferred by participants from India who might not be able to read English. Oral consent might be preferred by participants who are cautious about signing written documents, in fear of having their names recorded by authorities. In such cases oral consent can be audio recorded with the rest of the interview. Consent forms and information sheets will be translated to relevant language when conducting research in India.
- 3) Translation – in India, interviews will be conducted with experienced and some internationally recognised activists who speak English. However, some participants will not be speaking English, in which case an interpreter will have to be hired to translate the information on the information sheet, questions and responses from participants.
- 4) Confidentiality and disclosure – all personal information concerning participants must be kept confidential to protect their identity. This applies particularly to activists who speak negatively about their government and thus might be fearful of repercussions. Activists may fear that the authorities will read their testimonies. Interviewees will have a choice of whether to remain anonymous, however it is expected that participants from the first group will want to be named in the research. Participants from the second group, i.e. state-corporate actors, may be more hesitant

to have their names included in the study, thus in the study they can be referred through their institutional affiliation if they prefer to remain anonymous.

5) Intrusion – participants' must not be asked sensitive or personal questions, so as not to intrude on their privacy or personal life. Intrusive questioning may cause discomfort, unpleasant experience, stress and/or anxiety. This might be experienced particularly by activists who might fear their testimonies will be seen by the authorities who will identify them. In relation to this they might fear of being arrested or harassed by the police.

6) Interviews will be audio recorded. However, participants will be given a choice whether to be recorded or not.

7) Withdrawal – Participants will be informed they have the right to refuse permission or withdraw from the research at any time or stage. In case a participant does withdraw from the research all personal information and testimony she/he gave will be terminated.

8) Incrimination - interviewees may be in danger of incrimination if they disclose information about offences they have not been convicted for, or if they disclose information about activities that could potentially harm other persons. Participants must be informed that in case they do disclose such information the researcher is legally obliged to pass the information to the appropriate authorities.

**9. Could the research identify or indicate the existence of any undetected healthcare concern?**

Yes  No

If **Yes**, please indicate what might be detected and explain what action will be taken (e.g. inform subject's GP)

**10. Risk Assessment \*\***

Please indicate any risks to subjects or investigators associated with the project

Potential Harm to Participants:

1) Incrimination - some interviewees may be in danger of incriminating themselves as the information they will be disclosing could be regarded by some as 'criminal'. Or is they disclose information about offences they have not been prosecuted for, or if they disclose information about activities that could potentially harm others or damage property. Activists who will be interviewed will have been involved in direct actions which involved trespassing and/or damaging property in the past.

2) Information disclosed by participants - especially activists in India who participated in contentious actions against governments and corporations - and published in the final report might be used against them by the authorities. India has a long history of resistance and direct action dating back to the Independence

Movement led by Mahatma Gandhi. However, it also has a history of political violence and repression of dissent by the state. Cases of violent attacks and beatings of peaceful demonstrators by the police are very common in India. Interviewees may face arrest or harassment by the police if they are found to malign the government. For instance, following a demonstration in 2012 against GM field trials a number of Adivasi Gothra Mahasabha activists have been arrested and severely beaten by the police. The leading members and organisers, including Chekot Karian Janu, remain under close police monitoring. However, such incidents occur when violence erupts and they are not part of this study.

Safety and Security of the Researcher:

3) Whenever engaging in research abroad, in new social, cultural and political environments, there are risks to the researcher's health, safety and security that must be addressed.

## 11. Precautions

1) In order to minimise the risk of incrimination all participants will be informed before conducting the interview, and on the information sheet, about the danger of incrimination. They will be informed that the researcher is legally obliged to pass the information about any illegal activity, past or future, to the police. Greater caution shall be taken when interviewing, for instance the researcher will ask questions solely about direct actions he knows about from the media and the internet. This means that if there has been any illegal activity the activists would have been already prosecuted. This will reduce the opportunity for interviewees to speak of any illegal activities which fall outside of what is being discussed and for which they have not been prosecuted. Additionally, all information obtained from interviewees will be stored on encrypted USB pen-drives. This will include participants' contact details (email addresses, phone numbers), names, and testimonies.

Finch (2001) informs us that it is the researcher's discretion whether to inform the authorities of a criminal conduct. Finch (2001:41) states:

'Although the law cannot compel the researcher to maintain confidentiality, it cannot compel him to disclose the information in the absence of a court order. The decision on whether to maintain the confidence becomes an ethical one. Ethical decisions arise when one has to decide between one course of action or another...by reference to standards of what is morally right or wrong. Formulation of ethical principles is contingent on the subjective moral evaluation of the situation made by the researcher.'

Group 1 – it is not necessary to report testimonies for potential illicit activities to the authorities, if this is done in the best interest of the participant or if they are not harming other people. Fitzgerald and Hamilton (1996:1597) assert that the researcher may refuse to disclose confidential information about illegal behaviour when harm resulting from disclosure outweighs the harm done by refusing to disclose such information, especially when future potential to conduct research into illegal behaviour is threatened.

Group 2 – public figures are susceptible to public scrutiny, thus any illicit behaviour they engage in has to be made known to the public. According to BSA (2002) code of ethics 'where the public interest dictates otherwise and particularly where power is

being abused, obligations of trust and protection may weigh less heavily.’ The BSA suggests that in cases where power is being abused by those in power, or when it is in the public interest, then researcher’s obligations of trust, protection and confidentiality do not apply as strictly. Similarly, Finch (2002:39) argues that when public interest is at play, and potential harm resulting from illicit conduct outweighs the obligations of confidentiality, then the researcher under his discretion should reveal it to the public.

2) All testimonies and information disclosed by the participants will be kept in utmost confidence. All personal information, data from the interviews and consent forms will be available solely to the researcher and no one else. It will be stored on password protected computer, password protected hard drive or encrypted USB pen-drive, and in a locked filing cabinet in the Research Graduate Office on Ulster University premises. Participants will be assured greater confidentiality so that they cannot be identified by the authorities, as some may fear repercussions for speaking out critically about their government. If activists desire they have the option to remain anonymous in which case their testimonies will be attributed using a pseudonym, meaning that those participants will be unidentifiable by their names. If state-corporate actors decide to remain anonymous their testimonies will be attributed through their institutional affiliation. Also, if any interview testimony risks of revealing a participant’s identity it will not be used in the final output.

Additionally, the actions undertaken by activists, such as crop burning, field trampling, occupation of private buildings etc. are very common strategies of direct action employed regularly by activists in various fields of struggle. These may seem as extreme forms of sabotage, but these forms of resistance are nonviolent and are seldom a reason for severe police treatment.

3) The researcher shall follow all Foreign and Commonwealth Office (FCO) guidance and recommendations on traveling to India. As advised by FCO the researcher will monitor the progress of approaching storms, cyclones and any earthquake warnings issued by local media/authorities. Destinations that fall within the areas to which the FCO advises against all travel will be avoided. These include Jammu, Kashmir, Phalgam, Gulmarg, Sonamarg and any boarder region between India and Pakistan. The FCO states that: ‘Over 800,000 British nationals visit India every year. Most visits are trouble-free.’ I will produce photocopies of all documents as advised by the FCO. I will travel only with hotel or airport designated transport, and keep to designated travel routes and roads avoiding all high risk areas. When away in the field I will email the PI several times a week to keep them updated on my progress and movements. Also, someone will be expecting me each day, if I do not return at the end of the day that person will know to sound the alarm. I will be in regular contact with my supervisors and family. Additionally, a trusted interpreter, recommended by someone who conducted research in similar area in India, will be hired. He will be able to advise the researcher on safest means of travel.

## 12. Consent form

**It is assumed that as this study is being conducted on human subjects, an information sheet and associated consent form will be provided. A copy of the information sheet and form must be attached to this application. See Notes of Guidance.**

**If a consent form is not to be used, please provide a justification:**

**13. Care of personal information**

Please describe the measures that will be taken to ensure that subjects' personal data/information will be stored appropriately and made available only to those named as investigators associated with the project.

All personal information and data from the interviews and documentary sources shall be stored in a secure manner by means of encrypted pen drive, password protected computers or password protected hard drives, and in a secure locked filing cabinet in the Research Graduate Office on University premises.

The consent forms will also be stored in a locked filing cabinet in the Research Graduate Office on University premises, and will not be available to anybody other than the researcher.

**14. Copyright**

Has permission been granted to use all copyright materials including questionnaires and similar instruments?

Yes  No

If **No**, please provide the reason

**Once you have completed this form you should also complete form RG1d for all category D research and form RG1e for both category B and D research**

## RG1c - Risk Assessment Record

**Faculty/School/Research Institute**

Faculty of Social Sciences

**Name of Chief Investigator**

Dr Kristian Lasslett

**Room No/Campus**

Jordanstown, Room 3C11

**Project Title**

Non-Violent Direct Action: A Comparative Study of Censuring State-Corporate Actors

**Hazard(s) – Please identify and describe**

Potential Harm to Participants:

1. Incrimination – Interviewees may be in danger of incriminating themselves if they disclose information about offences they have not been prosecuted for, or if they disclose information about activities that could potentially harm others or damage property. Activists who will be interviewed will have been involved in direct actions which involved trespassing and damaging property in the past for which they have not been arrested or caught.
2. Information disclosed by participants - especially activists in India who participated in contentious actions against governments and corporations - and published in the final report might be used against them by the authorities. India has a long history of resistance and direct action dating back to the Independence Movement led by Mahatma Gandhi. However, it also has a history of political violence and repression of dissent by the state. Cases of violent attacks and beating of peaceful demonstrators by the police are very common in India. Interviewees may face arrest or harassment by the police if they are found to malign the government. For instance, following a demonstration in 2012 against GM field trials a number of Adivasi Gothra Mahasabha activists have been arrested and severely beaten by the police. The leading members and organisers, including Chekot Karian Janu, remain under close police monitoring. However, such incidents occur when violence erupts and they are not part of this study.

Safety and Security of the Researcher:

3. Whenever engaging in research abroad, in new social, cultural and political environments, there are risks to the researcher's health, safety and security that must be addressed.

**Who is exposed to the hazard? (e.g. University staff/students/other research subjects)**

Research participants, the researcher.

Inherent Risk (i.e. the risk present before any precautions are put in place) – Please refer to the table overleaf to assess the risk and then record it below

None

Low

Medium

High

Very High

### **Controlling the Inherent Risk**

1) In order to minimise the risk of incrimination all participants will be informed before conducting the interview, and on the information sheet, about the danger of incrimination. They will be informed that the researcher is legally obliged to pass the information about any illegal activity, past or future, to the police. Greater caution shall be taken when interviewing, for instance the researcher will ask questions solely about direct actions he knows about from the media and the internet. This means that if there has been any illegal activity the activists would have been already prosecuted. This will reduce the opportunity for interviewees to speak of any illegal activities which fall outside of what is being discussed and for which they have not been prosecuted. Additionally, all information obtained from interviewees will be stored on encrypted USB pen-drives. This will include participants' contact details (email addresses, phone numbers), names, and testimonies.

Finch (2001) informs us that it is the researcher's discretion whether to inform the authorities of a criminal conduct. Finch (2001:41) states:

'Although the law cannot compel the researcher to maintain confidentiality, it cannot compel him to disclose the information in the absence of a court order. The decision on whether to maintain the confidence becomes an ethical one. Ethical decisions arise when one has to decide between one course of action or another...by reference to standards of what is morally right or wrong. Formulation of ethical principles is contingent on the subjective moral evaluation of the situation made by the researcher.'

Group 1 – it might not be necessary to report testimonies for potential illicit activities to the authorities, if this is done in the best interest of the participant or if they are not harming other people. Fitzgerald and Hamilton (1996:1597) assert that the researcher may refuse to disclose confidential information about illegal behaviour when harm resulting from disclosure outweighs the harm done by refusing to disclose such information, especially when future potential to conduct research into illegal behaviour is threatened.

Group 2 – public figures are susceptible to public scrutiny, thus any illicit behaviour they engage in has to be made known to the public. According to BSA (2002) code of ethics 'where the public interest dictates otherwise and particularly where power is being abused, obligations of trust and protection may weigh less heavily.' The BSA suggests that in cases where power is being abused by those in power, or when it is in the public interest, then researcher's obligations of trust, protection and confidentiality do not apply as strictly. Similarly, Finch (2002:39) argues that when public interest is at play, and potential harm resulting from illicit conduct outweighs the obligations of confidentiality, then the researcher under his discretion should reveal it to the public.

2) All testimonies and information disclosed by the participants will be kept in utmost confidence. All personal information, data from the interviews and consent forms will be available solely to the researcher and no one else. It will be stored on password protected computer, password protected hard drive or encrypted USB pen-drive, and in a locked filing cabinet in the Research Graduate Office on Ulster University premises. Participants will be assured greater confidentiality so that they cannot be identified by the authorities, as some may fear repercussions for speaking out critically about their government. If activists desire they have the option to remain anonymous in which case their testimonies will be attributed using a pseudonym, meaning that those participants will be unidentifiable by their names. If state-corporate actors decide to remain anonymous their testimonies will be attributed through their institutional affiliation. Also, if any interview testimony risks of revealing a participant's identity it will not be used in the final output.

Additionally, the actions undertaken by activists, such as crop burning, field trampling, occupation of private buildings etc. are very common strategies of direct action employed regularly by activists in various fields of struggle. These may seem as extreme forms of sabotage, but these forms of resistance are nonviolent and are seldom a reason for severe police treatment.

3) The researcher shall follow all Foreign and Commonwealth Office (FCO) guidance and recommendations on traveling to India. As advised by FCO the researcher will monitor the progress of approaching storms, cyclones and any earthquake warnings issued by local media/authorities. Destinations that fall within the areas to which the FCO advises against all travel will be avoided. These include Jammu, Kashmir, Phalgam, Gulmarg, Sonamarg and any boarder region between India and Pakistan. The FCO states that: 'Over 800,000 British nationals visit India every year. Most visits are trouble-free.' I will produce photocopies of all documents as advised by the FCO. I will travel only with hotel or airport designated transport, and keep to designated travel routes and roads avoiding all high risk areas. When away in the field I will email the PI several times a week to keep them updated on my progress and movements. Also, someone will be expecting me each day, if I do not return at the end of the day that person will know to sound the alarm. I will be in regular contact with my supervisors and family. Additionally, a trusted interpreter, recommended by someone who conducted research in similar area in India, will be hired. He will be able to advise the researcher on safest means of travel.

**For inherent risk in the medium to very high range, please describe the precautions to be put in place:**

N/A

**Will these precautions eliminate, significantly reduce or otherwise reduce the inherent risk? Please comment:** By means of these precautions the inherent risks will be, if not eliminated, significantly reduced.

**Residual Risk**

Please refer to the table overleaf to assess the remaining risk and then record it below

None       Low       Medium       High       Very High

Please note that if the residual risk is not in the none/low range, you might need to take further steps to address the risk or consider redesigning your research proposal

I confirm that an appropriate risk assessment has been conducted

Signature .....  
(Chief Investigator)

Date.....

Please use the table below to assess the inherent risk and then the residual risk. For example, where the **potential harm** is assessed to be minor (e.g. slight physical discomfort or pain, temporary emotional upset or similar) and the **probability** is assessed to be likely, then the risk is deemed to be in the medium range.

It is expected that research being conducted by staff or students of the University will fall within the None to Medium range of risk. Studies that are likely to fall within the High to Very High range of risk are unlikely to be permitted to proceed.

PROBABILITY	POTENTIAL HARM				
	NONE	INSIGNIFICANT	MINOR	MODERATE	MAJOR
UNLIKELY	None	Low	Low	Medium	High
POSSIBLE	None	Low	Medium	High	Very High
LIKELY	None	Low	Medium	High	Very High
ALMOST CERTAIN	None	Low	High	Very High	Very High

**POTENTIAL HARM**

INSIGNIFICANT – reflective of trivial, routine or commonplace day-to-day levels of harm

MINOR – unexpected event requiring minor remedial action e.g. first aid attention sufficient to treat minor injury, interview suspended due to temporary upset of participant

MODERATE – e.g. results in time of work, broken bones, hospitalization, reversible disablement, serious emotional upset or psychological reaction, threat of violence to researcher, potential legal challenge to the researcher or the University

MAJOR – e.g. loss of limb, loss of sight in one or more eyes, permanent disablement, death, irreversible psychological harm, violence against researcher

**PROBABILITY**

UNLIKELY – probably will never happen

POSSIBLE – might happen but would be an unusual occurrence

LIKELY – expected to happen sometimes

ALMOST CERTAIN – expected to happen frequently

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## Short Activities Plan

Arriving to India (Delhi) 31<sup>st</sup> March:

On 31<sup>st</sup> March I will be travelling to Navdanya Biodiversity Farm, just off the Shimla Bypass 16km from Dehradun. There I will be attending a course *Making Peace with the Earth & Each Other: Gandhi, Globalisation & GNH*. The course will take place from 1st April to 10th April, where I will learn about biodiversity and natural alternatives to industrial farming.

Fieldwork in Maharashtra 11<sup>th</sup> April – 18<sup>th</sup> May:

Between Tuesday 12<sup>th</sup> and Friday 15<sup>th</sup> April I will meet with activists from Kalpavriksh organisation to establish further contacts with potential interviewees (exact days and times to be confirmed). I will be meeting 'gatekeepers' to potential participants. I intend on conducting interviews with activists campaigning on issues around corporate takeover of agriculture, GM crops (Bt cotton), land grabs, debt bondage, farmer suicides, field trials etc. I also intend on interviewing farmers who have been affected directly or indirectly by the agricultural biotech industry and the GM crops.

I will be meeting journalists writing critically about state's relaxation of laws that facilitate corporate takeover of Indian agriculture. The second week of my stay in Pune I will travel to Gujarat to meet with activists struggling against land grabs by corporates. I intend on meeting with some representatives from Mahyco Company, as well as state actors from the department of agriculture to ask their opinion on the issues that I am exploring.

I am leaving India and returning back to Ireland on Thursday, 19<sup>th</sup> May at 17:00.

## Travel Plan and Record of Stay

I will arrive to Delhi on 31<sup>st</sup> March. From Delhi I will travel with the Navdanya organisation to their Biodiversity Farm/Bija Vidyapeeth (see address below) to attend a course *Making Peace with the Earth & Each Other: Gandhi, Globalisation & GNH*. The course will take place from 1<sup>st</sup> April to 10<sup>th</sup> April, it will be conducted by Dr Vandana Shiva who is an important contact for the research. During the course I will be staying at the Biodiversity Farm where I intend on networking and making further contacts for fieldwork.

On 11<sup>th</sup> April I will travel from Delhi to Pune in Maharashtra where I have affiliated to Symbiosis Law School of the Symbiosis International University (see address below). Professor Shashikala Gurpur, director of the school, will be the point of contact. I will be accommodated in Symbiosis University guest house from 11<sup>th</sup> April to 19<sup>th</sup> May. There I have offered to share my research with Symbiosis Law School.

In Pune I will be coordinating with activists from Kalpavriksh and Gomukh organisations who are active in the anti-GM movement, anti-Bt cotton campaigns, land grabs and other related environmental and social issues. Suhas Kolhekar, Bharat Mansata and Seemu Kulkarini are the gatekeepers to interviewees in farming communities and activist groups.

### **Navdanya Office - Delhi**

A-60, Hauz Khas  
New Delhi - 110 016  
Phone: 91-11- 26968077 / 26532561/ 26532124  
Email: [navdanya@gmail.com](mailto:navdanya@gmail.com)

### **Navdanya - Biodiversity Farm/Bija Vidyapeeth**

Village Ramgarh / Shishambara  
Old Shimla Road, P.O Sherpur  
Dehradun, Uttaranchal  
Phone: 91-135-2693025 / 2111015  
Email: [dehradun@navdanya.net](mailto:dehradun@navdanya.net)

### **Symbiosis Law School Pune**

Opp. Pune International Airport,  
VIP Road, Viman Nagar,  
Pune - 411014.  
Email: [sgurpur@symlaw.ac.in](mailto:sgurpur@symlaw.ac.in)



Dear

My name is Dawid Stańczak, I am a PhD student at Ulster University currently doing research on social movements and direct action. I'm writing to you because you have been involved in the occupation of UAV Engines Ltd in August 2014. Your campaign had a significant stigmatising effect on this company exposing its involvement in commissioning war crimes abroad. The process by which private companies are censured and stigmatised is the focal point of my PhD research. The study examines specifically the way direct action is employed by social movements to censure and stigmatise private companies which engage in socially harmful practices. The study also examines the relationship between private companies and the governments.

Through this research I hope to achieve a greater understanding of how direct action can be employed to effectively censure and prohibit deviant state-corporate practices. Additionally, this research aims to support those working on social justice to connect with one another in order to provide opportunity for collective action. Your experience in employing direct action to censure arms companies and knowledge of the issues I'm exploring are of significant value to this study, thus I'm hoping you might be willing to be interviewed for my research.

I will contact you in seven working days to confirm you're availability. Alternatively, you may contact me using the information below. I appreciate your consideration of my request.

I look forward to hearing from you.

Kind regards,

A handwritten signature in black ink, appearing to be 'DS', written over a light green rectangular background.

Dawid Stańczak

Tel: +44 (0)28 9036 8243  
Mobile: +44 (0)7518800185

## **Appendix 2**

### **Interview Schedule (template)**

1. What tradition of activism would you say you come from?
2. Why have you become involved in the anti-GM movement?
3. What is your position on the agricultural biotech industry and GM seeds?
4. Tell me about the problems associated with cultivation of GM crops, and how is this related to other social issues and corporate takeover of Indian agriculture?
5. Would you define the conduct of biotech companies, such as Monsanto and Mahyco, as wrong? If so, then on what bases?
6. Does the biotech industry receive any form of support from the government and local/regional authorities? If so, what support does it receive?
7. How did the Indian government facilitate the corporate takeover of Indian agriculture?
8. How did the resistance campaign against agricultural biotech industry begun?
9. What triggered the decision to undertake a direct action against Mahyco's field trials?
10. What were your motives and objectives behind the direct action, as well as the entire campaign?
11. Tell me what happened prior, during and after the direct action?
12. What was the response from the police, the media, the public, the government and the company?
13. Were you charged? If so, what were you charged with?
14. Have the charges and/or response from the government and the police deterred future actions?
15. Have you received any support from outside organisations, NGOs, politicians or political groupings?
16. What do you think was achieved by the campaign and the direct action you undertook, and why do you think it was important?

## Appendix 3

### Consent Form

**Project Title:** Prohibiting State-Corporate Crime through Non-Violent Direct Action:  
A Comparative Study of Crime-Control from Below

**Name of Researcher:** Dawid Stańczak

- I confirm that I have been given and have read and understood the information sheet for the above study and have asked and received answers to any questions raised. Yes    No
  
- I understand that my participation is voluntary and that I am free to withdraw at any time without giving a reason and without my rights being affected in any way. Yes    No
  
- I understand that the researcher will hold all information and data collected securely and in confidence and I give permission for the researchers to hold relevant personal data. Yes    No
  
- I confirm that I have been given the choice to remain anonymous, in which case any information I disclose will be attributed using a pseudonym. I would prefer my testimony to be used anonymously. Yes    No

I, \_\_\_\_\_, agree to take part in this study.

\_\_\_\_\_

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Name of Researcher**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

### Researcher's contact information

Email address: [stanczak-d@email.ulster.ac.uk](mailto:stanczak-d@email.ulster.ac.uk)  
[dawids154@gmail.com](mailto:dawids154@gmail.com)

## **Appendix 4**

### **Foreign Travel Advice – India: Foreign and Commonwealth Office’s Advice** <https://www.gov.uk/foreign-travel-advice/india>

The Foreign and Commonwealth Office (FCO) advise against all travel in the immediate vicinity of the border with Pakistan, other than at Wagah.

The FCO advise against all travel to Jammu and Kashmir with the exception of (i) travel within the city Jammu, (ii) travel by air to the city of Jammu, (iii) travel within the region of Ladakh. The FCO advise against all but essential travel to the city of Srinagar and travel between the cities of Jammu and Srinagar on the Jammu-Srinagar national highway. The tourist destinations of Pahalgam, Gulmarg and Sonamarg fall within the areas to which the FCO advise against all travel. See Local travel and Terrorism

The India Meteorological Department has issued a red alert about extremely heavy rain expected on 7 October 2018 in the districts of Idukki, Palakkad and Thrissur in Kerala state. The Kerala State Government recommends that travel into hilly areas, especially to the hill station of Munnar, is avoided during this period. If you’re in or travelling to any of these districts, you’re advised to monitor media and weather reports closely, follow the advice of local authorities and keep up to date with this travel advice.

Terrorists are very likely to try to carry out attacks in India. Recent attacks have targeted public places including those visited by foreigners. There have been recent media reports suggesting Daesh (formerly referred to as ISIL) interest in attacking targets in India. There may be an increased threat to places visited by British nationals such as religious sites, markets, festival venues and beaches. You should be vigilant at this time, monitor local media and take all precautions for your safety. See Terrorism

If you’re travelling in or through Srinagar you should remain vigilant, avoid protests or large gatherings, follow the advice of the local authorities and your travel company and monitor the curfew restrictions in place and the local media. Srinagar Airport is currently open as is the road leading to Srinagar Airport. Take all precautions for your safety. If you’re travelling with a tour operator you should keep in touch with them and contact them for further information on arrangements they may be making for you to leave the area. Due to the accessibility and current unrest the level of consular assistance that the British High Commission can provide in Jammu & Kashmir is extremely limited. Additional security measures have been implemented at airports across the country. If you’re travelling through an airport you should allow additional time to complete check-in and security as you and your baggage may be required to undergo random x-rays and baggage checks.

Authorities across north-eastern states have increased security presence after the publication on 30 July of a revision of the National Register of Citizens in the state of Assam. Anyone travelling to the region should check the latest travel news before they travel, and if you’re in the region take precautions like avoiding large crowds. Severe air pollution is a major hazard to public health in Delhi, and a serious concern in many other Indian cities. See Health

UK health authorities have classified India as having a risk of Zika virus transmission. For information and advice about the risks associated with Zika virus, visit the National Travel Health Network and Centre website. If you’re abroad and you need emergency help from the UK government, contact the nearest British embassy, consulate or high commission.

Before you travel, take out comprehensive travel and medical insurance and read the India specific health information and advice published by the National Travel Health Network and Centre.

## Appendix 5

### Consolidated EU and National Arms Export Licensing Criteria (Brook-Holland, 2018: 13)

#### Box 2: The Consolidated Criteria

This is a summary. A detailed explanation of the criteria, including each criterion's sub-sections, can be found in a [written statement](#) on 25 March 2014. There is also a [User's Guide](#) to help apply the criteria.

##### Criterion One

Respect for the UK's international obligations and commitments, in particular sanctions adopted by the UN Security Council or the European Union, agreements on non-proliferation and other subjects, as well as other international obligations.

##### Criterion Two

The respect for human rights and fundamental freedoms in the country of final destination as well as respect by that country for international humanitarian law.

##### Criterion Three

The internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts

##### Criterion Four

Preservation of regional peace, security and stability

##### Criterion Five

The national security of the UK and territories whose external relations are the UK's responsibility, as well as that of friendly and allied countries

##### Criterion Six

The behaviour of the buyer country with regard to the international community, as regards in particular to its attitude to terrorism, the nature of its alliances and respect for international law.

##### Criterion Seven

The existence of a risk that the items will be diverted within the buyer country or re-exported under undesirable conditions

##### Criterion Eight

The compatibility of the transfer with the technical and economic capacity of the recipient country, taking into account the desirability that states should achieve their legitimate needs of security and defence with the least diversion for armaments of human and economic resources.

## **Primary Sources**

### **Interviews**

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- Barklay de Tolly, (2016), Interview, Independent Fact Finding Team, India, 15 September 2016
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- Denisov, V. (2016) Interview, Coalition for GM-Free India, India, 22 April 2016
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- Karagina, M. (2016) Interview, Coalition for GM-Free India/Alliance for Sustainable and Holistic Agriculture, India, 12 May 2016
- Kuragin, A. (2016) Interview, Navdanya, India, 7 April 2016.
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- Official B, (2016) Interview, ECO, London, 23 October 2016.
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- Peshkova, N. (2016) Interview, War on Want, London, 3 February 2016.
- Politician, (2016) Interview, Conservative Party, London, 4 February 2016.
- Rostov, N. (2016) Interview, Landlord/Industrial farmer, India, 24 April 2016
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