

**In plain sight - examining the harms of professional wrestling as state-corporate crime**

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**Abstract**

**Purpose** – To explore critically the potentially harmful business of professional wrestling in the United States as state-corporate crime.

**Design/methodology/approach** – This paper comprises desk-based research of secondary sources. The lack of official data on the harms experienced by professional wrestlers means that much of the data regarding this is derived from quantitative and qualitative accounts from Internet sites dedicated to this issue.

**Findings** – A major finding is that with regard to the work-related harms experienced by professional wrestlers, the business may not be wholly to blame, but nor is it entirely blame-free. It proposes that one way the work-related harms can be understood is via an examination of the political economic context of neo-liberalism from the 1980s onwards and subsequent state-corporate actions and inactions.

**Practical implications** – The paper raises questions about the regulation of the professional wrestling industry together with the misclassification of wrestlers' worker status (also known as wage theft and tax fraud) and the potential role they play in the harms incurred in this industry.

**Social implications** – The potential wider social implications of the misclassification of workers are raised.

**Originality/value** – The originality and value of this paper is the examination of work-related harms within the professional wrestling industry through the lens of state-corporate crime.

**Key words** Professional Wrestling, Work-related Harms, Worker Misclassification, State-Corporate Crime

**Paper type** Case study

**Background and Introduction**

[...] wrestling wasn't life lived as some kind of larger-than-life character; it was a way to make a living (Bateman, 2016).

While many people think of wrestling as a big joke, there is one thing about wrestling that isn't funny. The death rate among wrestlers is alarmingly high (Cohen, 2016a).

O'Sullivan (2015) describes professional wrestling's history as one of "worker exploitation, hostile corporate practices, and crippling injuries", wherein "the flashy personalities and memorable feuds that dazzled the fans were nothing more than a smokescreen obscuring the somatic toll of an unregulated sport played by uninsured athletes" (cited in Bateman, 2016). In addition the career prospects of professional wrestlers "amounted to working for the national conglomerate or toiling in relative obscurity" for one of the many poorer independent promotions (O'Sullivan, 2015 cited in Bateman, 2016). This paper explores the impact of deregulation on professional wrestling. It is one amongst a second generation of writings on professional wrestling that moves beyond a consideration of professional wrestling as 'fake' (Mazer, 1998; Wilson and Johnson, 2003; Sammond, 2005). Due to the cultural popularity of professional wrestling some journalists, documentary makers, fans and academics have begun to take a serious interest in it. Given its cultural relevance, Bateman (2016) comments "perhaps it's time to consider seriously how the sport works". Like many others, prior to investigating this area, the author was guilty of not understanding the complexities of professional wrestling, its relationship with fans and the harmful underside of this sports entertainment business. Although academics in some fields have become attracted to this area, there is very little, if any, attention being paid to it by criminologists, victimologists or zemiologists<sup>1</sup>. This is an attempt at addressing this gap in the criminological, victimological and zemiological research imaginations and literature. Corteen and Corteen (2012) noted that the nature and extent of the harmful business of professional wrestling, "together with the lack of redress and the political economy of the business warrants further academic exploration and discussion" (p. 52). This paper intends to do that.

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<sup>1</sup> Those who study social harms.

It is difficult to access official data on the deaths of those whose careers have been spent in the wrestling ring, as no official body collects statistics on such deaths. Therefore this desk-based research predominantly relies on Internet sites that are dedicated to collecting data on this issue. Some of the more well-known wrestlers who have died prematurely in 2017 include Timothy Wells aged 55 (kidney failure), Rex King aged 55 (kidney failure) Nicole Bass aged 52 (stroke) and Matt Anóí (Rosey) aged 47 (heart failure). In the United States (US) professional wrestlers and former professional wrestlers are dying prematurely at an unprecedented rate (Corteen and Corteen, 2012; Cohen, 2016a; 2016b; 2017; Corteen, 2016). Many are dying before age 65 – the usual age of retirement. For example: Chris Von Eric died at age 21 (suicide); Andrew ‘Test’ Martin died at age 33 (accidental overdose); Owen Hart died aged 34 (fatal accident in the *Over the Edge ’99 Pay Per view event*); Davey Boy Smith (British Bulldog) died at age 39 (heart attack); Rick Rude died at age 40 (heart attack); and Miss Elizabeth died at age 42 (accidental overdose). Perhaps the most disturbing was the death of Chris Benoit at age 40 (suicide: he killed himself, his wife Nancy and his son at their family home). As workers and performers of their craft, professional wrestlers are not only dying prematurely they are also suffering from a range of additional work-related harms (Corteen, 2016). Corteen and Corteen (2012) explored the shocking situation of professional wrestlers’ premature deaths, this paper continues and expands that exploration. The discussion moves from looking victimologically at professional wrestlers as the ‘victimological other’ (see Corteen and Corteen, 2012), to looking at the premature deaths and shattered bodies of professional wrestlers through the lens of state and state-facilitated corporate crime.

Testimonies from wrestlers in the territory era<sup>2</sup> demonstrate that professional wrestling has always been a painful and harmful occupation (See Shoemaker, 2013). However, contemporaneously the WWE (World Wrestling Entertainment) has become global social phenomenon. Thus, more recent

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<sup>2</sup> This refers to the territory system (the dividing up of territories in the United States between different subsidiary bodies) operated by the US National Wrestling Alliance between the 1950s and the late 1980s.

pressures on professional wrestling to be continually even more entertaining and exciting have meant that such pain and injury have become more severe and routine (Atkinson, 2002). Thus one way of understanding the accumulating premature deaths and work-related harms is through looking at the historical commercialisation and deregulation of this industry, together with the parallel commodification and celebrification of professional wrestlers. Efforts on the part of the WWE, the world's largest and most popular wrestling company to improve professional wrestlers' wellbeing are flawed (Wrestling Scribe 2012; Snipes, 2015). The professional wrestling industry largely acts with immunity and impunity with regard to the lack of health, well-being and safety of its workers and former workers. The corporate misclassification of professional wrestlers as independent contractors, as opposed to employees, exacerbates this situation. Focusing on professional wrestling in the US this paper documents the work-related harms of this industry. The US hosts the WWE, the most popular and powerful professional wrestling corporation (WWE was WWF – World Wrestling Federation - until 2002). The focus of this paper is confined to the WWE and this limitation is acknowledged. However, the WWE has been selected due to its public visibility, the dominance of this corporation and the availability of information of the deaths of high-profile professional wrestlers who worked for the WWE (or the WWF).

To begin with, the work-related harms of professional wrestling will be documented. A discussion of the nature of professional wrestling and the relationship between professional wrestlers and their fans follows. The myth that professional wrestling is fake and that its fans are mere dupes will be expelled. Then, in order to understand this harmful business from the mid to late 1980s there will be a discussion of the changes in professional wrestling. An analysis of the corporation and the ordinariness of harmful and illegal corporate activity will come next. Finally, the lens of state-facilitated corporate crime and state crime will be drawn on to provide a way to examine the crimes and harms of professional wrestling.

### **The Work-related Harms of the Professional Wrestling and Sports Entertainment Industry**

For a fake sport, pro wrestling sure has a lot of real casualties (O'Sullivan, 2015, p. 75).

Pro wrestlers' bodies endure a physical toll that very few athletes in other sports can even imagine (Michael, n.d).

Cohen published an article on the Internet called *Wrestling's Dirty Secret* (Cohen, 2016b). This continually updated article was written as a result of the death of Eddie Guerrero - a Professional Wrestler Super Star. Guerrero died of a heart attack at age 38. Although he was free from substances at the time of his death, he had enlarged organs, which is symptomatic of long-term steroid abuse. Cohen (2016b) saw this death as "one tragic piece of a scary epidemic" of "wrestlers dying young". Cohen (2016a; 2017) lists over 100 famous on-air personalities involved in making wrestling entertainment who have died prematurely. The deaths are an under estimation as the list is limited to those working in the wrestling business who are either stars or major forces in the industry – meaning that they have appeared on national television.

Corteen and Corteen (2012) discussed the self- and occupationally-inflicted victimisation and harms of professional wrestlers. However, this is in need of reformulation as the self-inflicted harms *are the product* of the expectations and demands of the professional wrestling industry. Thus, for the purpose of this paper such harms are grouped under the concept of work-related harms. These include individual physical, emotional, psychological, financial, and familial harms. The work-related harms entail premature deaths as a result of enlarged hearts, heart attacks and accidental and intended fatal drug and alcohol overdoses. They also include non-fatal drug overdoses; short-term and long-term or permanent injuries including deadly concussions; serious neck and spine injuries; chronic physical ill-health and poor mental and emotional well-being especially in relation to depression and 'burn out'; individual and familial breakdown; addiction to painkillers, alcohol and other drugs including heroin, anabolic steroids and human growth hormones.

### **“This Is As Real As Real Can Be”<sup>3</sup>: Professional Wrestling, Wrestlers and their Fans**

If it [a comparable high rate of premature deaths] happened in baseball, well it couldn't - people would have stopped it long ago ... It's like people think that wrestling is fake, they have this weird mental pass, like they are somehow not real people (Melzer, in Applebome, 2012, p. 2).

Chow and Laine (2014) characterise professional wrestling as “[s]ituated between sport and theatre” (p. 44). They define professional wrestling as performed in the US and elsewhere, as presenting “a simulacrum of grappling and combat sport practices with ancient roots, framed by serial narratives of rivalry, jealousy and deceit that present a simplistic universe” (Ibid). Most wrestlers work for professional wrestling promotions that promote and produce wrestling events and regular shows. As freelance workers and hired independent contractors, wrestlers are not salaried employees - “wrestlers sell their labour power to the promoter in exchange for a fixed wage per performance” (Chow and Laine, 2014, p. 44). In the performance the wins and losses of professional wrestlers are decided well in advance and the predetermined victory or defeat of a wrestler is an integral part of an ongoing storyline, which comprises ‘faces’ (good guys) and ‘heels’ (bad guys or villains) (which can be interchangeable). Whilst wrestlers participate in staged performances and predetermined victories or defeats, the “performance labour” (Ibid) that professional wrestlers sell to promoters (and to fans) comprises physical, risky, excessive, violent, and harmful performances, maneuvers and stunts.

At the time of writing, globally WWE is the biggest, wealthiest, most powerful and most influential professional wrestling corporation. Indeed “WWE is the trailblazer for all other wrestling promotions in the world” and “the company’s influence on every promotion is undeniable” (Howard, 2016). It is a monopoly that keeps other wrestling promotions alive. It is a publically traded company and it is also privately owned. Currently former professional wrestler and

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<sup>3</sup> This quote comes from wrestling commentator Jim Ross, when he repeatedly tried to explain to the live audience that Owen Hart’s deadly fall was not scripted.



commentator Vince McMahon and his family own over 50% of the WWE shares and Vince McMahon is the Chief Executive *and* the Chairman of the Board of Directors (Howard, 2016). The McMahons hold ten times more voting power than the rest of the shares and thus, “Vince is still firmly in control of his company” (Ibid). WWE headquarters are based in Stamford, Connecticut and it has offices across the globe. Its revenues are vast – the revenue for the first quarter of 2017 is \$188.4 million. The corporation makes its money through performance labour via: pay-per-view events; home entertainment (DVDs); a WWE digital network channel and WWE shop merchandise such as WWE paraphernalia, some of it trading on the image of particular wrestlers.

Prior to 1989, professional wrestling was regulated by the Athletic State Commissions but such regulation came to end due to the sports reclassification. Vince McMahon stated that professional wrestling should be defined as ‘providing entertainment to spectators rather than conducting a bona fide athletic contest’ (McMahon cited in Hoy-Browne, 2014). Professional wrestling was subsequently coined ‘sports entertainment’ by Vince McMahon (Sammond, 2005; O’Sullivan, 2015; Solomon, 2015). This has resulted in the deregulation of professional wrestling in over half of the states in the US (McAuliff, 2012). It has been argued that professional wrestling is “entertainment sport” (Atkinson, 2002, p. 62) and an “avant-garde sport” (Richardson Walton and Williams, 2011, p. 100). Professional wrestlers are commodified in a similar fashion to other professional athletes and they engage in an exceptional athleticism that requires the fitness, skills, and daily hours of training mirrored in other sports. Also while unlike other sports the outcome of the fight is predetermined, the physical impact is very real and there is no way of fans knowing the outcome of the fight. This too is in keeping with other sports. However, with regard to regulation, professional wrestling is neither pure sport nor pure entertainment. The Scribe (2014) sums up this situation: “pro wrestlers – too often treated like circus animals – cannot join an actors’ union or sports unions because they are dismissed as artists on the one hand and athletes on the other”. It therefore occupies an ambiguous position that enables the multiple harms experienced by



professional wrestlers to go largely unchecked. There is a debate as to whether professional wrestlers can or cannot join the Screen Actors Guild. Either way, such a move has been fiercely resisted by the McMahons and they maintain that professional wrestlers 'independent contractor' status legally prevents them from forming unions – as actors or athletes. As can be seen below, whilst this is advantageous for the WWE corporation it is disadvantageous to professional wrestlers.

Unlike amateur wrestlers, professional wrestlers are paid. Within WWE, commodified male professional wrestlers or sports entertainers, are known as 'stars', 'super stars' or 'talent' and female professional wrestlers or sports entertainers are known as 'divas'. They are also known as 'workers' (Chow, 2014). Wrestlers *work* as in they "attack a specific body part"; they *work* the crowd via "selling" the staged violence as real" and they *work* together in that they cooperate and take care of one another (Chow, 2014, p. 74). *Work* is also the "conditions of labor in wrestling" (Ibid) which "relies entirely on the ruthless economic, mental, and physical exploitation of its performers" (O'Sullivan, 2015, p.75). For Bateman (2016) "[p]ro wrestling is a form of labor – and extremely hazardous labor, at that". Professional wrestlers *work* to produce surplus value at the expense of their bodies (Chow and Laine, 2014; O'Sullivan, 2015).

Professional wrestling and the relationship between professional wrestlers and their fans are widely misunderstood by the general public. Professional wrestling is far more than staged combat and the majority of fans, rather than being duped, understand this - indeed this is part of its appeal (Chow and Laine, 2014; Solomon, 2015). Wrestling fans comprise 'Marks' - who believe that what happens is real, and 'Smarks' – who know that what happens is a performance, comprising the unreal *and* the real. Indeed fans play a fundamental collaborative role in the creation of the performative spectacle. Chow and Laine (2014) encapsulate this collaboration - "the audience have a large and active role in the spectacle, participating as if the results of matches were not determined before the performers enter the ring" (p. 44).

Violence is simulated in the spectacle of professional wrestling, yet actual violence and real injuries happen (Mazer, 1998; Chow and Laine, 2014; Bateman, 2016). The Official WWE website actually contains exclusive “detailed backstage photos” comprising black and white still images of ‘CM Punk’ receiving stitches “[f]ollowing a brutal confrontation with his SummerSlam opponent Brock Lesner” (WWE, n.d.b). Also Babcock (2012) describes his selection of “15 of the worse injuries to happen in the ring”. These include a broken leg, broken nose, dislocated limbs, tendons and ligaments, back injuries, temporary and permanent paralysis and serious undetected concussion. Babcock (2012) boasts that “[s]o many injuries have happened I am sure I will be able to do multiple slides based on this concept”.

### **A Recent History of Professional Wrestling: 1982 - 2017**

For decades, the wrestlers spoke in their own language to keep the secret of their sport alive ... Today, the secret is out of the bag (Cohen 2016b).

[...] wrestlers went from fighting men in tights to bona fide televised personalities. Kids began eating Hulk Hogan vitamins” (Lagorio, 2005, p. 1).

Since the 1980s the professional wrestling industry and the relationship between the owners of this industry and its workers have changed beyond recognition. Professional wrestling in the US became a highly competitive and “multiple-million dollar worldwide phenomenon” (Kreti, 1998, p. 1) and it continues to go commercially from strength to strength (Aycock, 2017). The WWE is the biggest wrestling corporation in the world and to date it faces little, if any, real competition. The WWE describes itself as a “recognized leader in global entertainment” who is “committed to family friendly entertainment” reaching more than “650 million homes worldwide” (WWE n.d.c).

The growth of this corporation dates back to 1982 when the former WWF changed hands as Vince McMahon Jr. purchased the business from his father Vince McMahon Sr. This exchange resulted in the dramatic transformation of

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2  
3 the business, now known as WWE. In a display of monopolizing zeal Vince  
4 McMahon Jr. ensured that territorial boundaries were broken and, via live and  
5 televised performances the business was vastly expanded. Spurred by  
6 deregulation Vince McMahon would go on to “smash his adversaries” and he  
7 would either co-opt “or ruthlessly destroy his competitors” (O’Sullivan, 2015).  
8 By 1985 the marketisation and commodification of the business had begun  
9 and in 1989 the industry was deregulated in some states.  
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16 By pushing through deregulation “the WWF wriggled out of paying taxes on  
17 their TV broadcasts and sloughed off any oversight by the state athletic  
18 commissions”; wrestlers, promoters, and referees would no longer be licensed  
19 by some states (O’Sullivan, 2015). This meant that there was no requirement  
20 for wrestlers to have a physical examination before an event: for O’Sullivan  
21 (2015) this was “a fateful dereliction in a business rife with injury”. Various  
22 databases exist that contain statistics on professional wrestler deaths. Their  
23 format and who is included and excluded, and justifications for this (if  
24 provided) differ. However, a fleeting glance at these flags up one glaring  
25 statistical consistency - the increase in premature deaths of professional  
26 wrestlers from 1982 onwards. Thus whilst this business has always been a  
27 potentially harmful one, its harmful nature does appear to increase post the  
28 late 1980s (see for example Fandom, n.d.; Cohen, 2017; Edwards 2017;  
29 Wrestling Book, 2017 and WrestlerDeaths, 2017a; 2017b). Cohen (2016a)  
30 summaries this position and the lack of response to it - “[u]nfortunately, the  
31 least way that wrestlers seem to be dying is due to old age. .... Yet because it  
32 is wrestlers, no one cares”.  
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45 O’Sullivan (2015) discusses the “explosion” of professional wrestling in the  
46 eighties and how this explosion “heralded an astonishing new level and  
47 cultural relevancy and profitability” but that “[t]hose profits came at the direct  
48 expense of the wrestlers”. Various commentators, former professional  
49 wrestlers and even a Republican Senate candidate have suggested that the  
50 WWE and Vince and Linda McMahon in particular, are responsible for the  
51 premature death of their workers. For example, O’Sullivan (2015, p. 82)  
52 spares no punches when he states:  
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[...] Vince McMahon does take risks – usually with other people's lives, from lowly forgotten jobbers like Charles Austen and Darren Drozdov, both of whom were paralyzed wrestling in WWF matches, to bona fide stars like Owen Hart, who died after falling 78 feet out of a stunt harness and into one of Vince's rings.

Yet according to the then WWE senior vice president and spokesman Robert Zimmerman "since the formation of the company in 1982, five wrestlers have passed away whilst under contract" (Vigdor, 2012)<sup>4</sup>. He contends that, "[a]ccording to coroner reports, one individual died by accident, one by suicide and three by heart disease" (WWE, 2012a). Some elaboration is required: the 'accident' refers to the death of Owen Hart aged 34, who while working for the WWF fell over 70 feet in a failed stunt and died of internal bleeding from a ruptured aorta and broken neck. The suicide is that of Chris Benoit (mentioned above) - an autopsy revealed that Benoit's brain was so badly damaged that it resembled the brain of an 85-year-old Alzheimer's patient. While the WWE have noted that five wrestlers have 'passed away' whilst under contract, they (and the WWF) assume no responsibility for this. In a news documentary Vince McMahon comments "[i]f you can't cut it, get out. What's wrong with that - we are no different than any other business ... I would accept no responsibility for their untimely deaths, none whatsoever" (MrAdrenaline1982, 2011).

Whilst these deaths may be thought shocking and tragic, the harms discussed here are that of professional wrestlers who predominantly had either no affiliation to the WWE at their time of death (Cohen, 2017) or they were performing in another wrestling company after their contract with the WWE had ended. But as Cohen (2014) comments "[v]ery few of the deaths on the list could be blamed 100% on the wrestling business and very few have a 0% to blame". This is difficult to demonstrate. Yet, many of the deceased

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<sup>4</sup> The suggestion of five wrestlers dying whilst contracted is a mistake. The correct number is four: Owen Hart, 'accident'; Brian Pullman and Eddie Guerrero, heart disease; Chris Benoit, suicide. The mistake is considered to be British Bulldog as he had a heart attack very soon after his contract was terminated by the WWE (Corteen, 2017).

professional wrestlers worked for WWF or the WWE or that was the last company that they worked for (Cohen, 2017). Also, some of the harms continue to be committed by the WWE e.g. risky and harmful work demands and conditions, the misclassification of professional wrestlers' worker status and an unprecedented number of work-related injuries. Dennis (2016) comments:

WWE is in crisis mode and the injuries are piling up to the point where something has to be done. ... WWE need to figure out how to keep their stars healthier to curb this epidemic ... there has to be something the company can do.

These work-related harms have to be examined in relation to the corporation and the ordinariness of corporate activity.

### **The Ordinary Everyday Practices of Corporations**

At the most basic and manifest level, states appear complicit in corporate crime and harm production ... (Tombs, 2016, p. 225).

The late 1970s and 1980s witnessed the birth of the neo-liberal economic politics and policies associated with the US presidency of Ronald Reagan (1981-89) and the UK premiership of Margaret Thatcher (1979-90). This encouraged and nurtured 'free markets' and state deregulation. For Bhatia (2017), Thatcher and Reagan "created a perfect environment for corporations to grow and flourish. This also resulted in a dramatic growth in *corporate criminality*, causing deaths, fatal injuries and varying degrees of harm" (p. 40, original emphasis). The political economy of neo-liberalism, state work, and governments, encourage and facilitate corporations to: maximise profits and accumulate wealth through surplus value; maximise the output of their workers; re-regulate their activities through less or different state intervention (Tombs and Whyte, 2015); avoid or limit taxation; and act as an environment of immunity and impunity calculated to decriminalise their criminal actions. The corporations' unfettered harmful and criminal actions are facilitated by states through the law and the freedoms produced and sustained by states (Tombs and Whyte, 2015). In contemporary capitalism "the corporate form

and the state are inextricably linked to the extent that ... each is a condition of existence of the other” (Tombs, 2016, p. 225). The corporation and the state “stand in a symbiotic relationship” – “the power of the corporation rests upon the power of states, and vice versa” (Tombs and Whyte, 2015, p.159). The profit-driven corporation “kills, maims and steals from people as a matter of course” (Tombs and Whyte, 2015, p. 159). This is the everyday ordinariness of corporate activity. The professional wrestling industry does what corporations do – they pursue profit, and in so doing they put the economic health and well-being of their shareholders before, and above, the physical and mental health and well-being of their workers.

In order to increase the spectacle and ultimately the ticket sales and profits, professional wrestlers are routinely expected to engage in extraordinary, risky and harmful performances. But professional wrestlers seemingly ‘voluntary’ engagement in occupational edgework has to be understood in relation not only to professional wrestlers own career ambitions, but also to the demands of the business and fans, job insecurity, and their lack of employment rights (Corteen and Corteen, 2012; Corteen, 2016). Professional wrestlers can be both theatrically and materially destroyed; if they want to be a superstar and retain their celebrity status then they have to live up to that title. The promise of exciting entertainment comprises seeing professional wrestlers going to the edge (and therefore of seeing risky and harmful performances). This can be evidenced in the titles of weekly events, for example: “Elimination Chamber”; ‘Extreme Rules’; ‘Over the Limit’ ‘No Way Out’; ‘Pay Back’; ‘Hell in a Cell’; ‘Survivor Series’; ‘Smackdown’ and ‘Raw’. Cohen (2017) states “the effort wrestlers put into preparing for them [their matches] takes a huge toll on their bodies”. Wrestlers “are on the road over 300 days a year and, unlike other athletes, they do not have an offseason” (Ibid). They are also subject to “constant travel from one event to another; living in (non-glamorous) hotels and being away from their home for extended periods of time; and working in pain when injured” (Corteen, 2016, p. 172). Also “accidents do happen and injuries occur” however “if wrestlers take time off, their wallets suffer significantly” (Cohen, 2017). The latter is due to their independent contractor status and their lack of a union, along with rights and protections (discussed



below). The relentless work schedules and having to work when in pain for financial reasons gave rise to harmful occupational cultures, especially from the 1980s onwards:

The deadly slope that many wrestlers have found themselves facing. They become addicted to painkillers. The medicine keeps them too lethargic to wrestle, so they take drugs to get high. This deadly mixture leads to illegal drug dependency that many wrestlers have to cope with even after they retire (Cohen 2017).

There is also the pressure of having “the larger-than-life size needed to be successful in the business” (Cohen, 2017). This means putting on excess weight in the form of “an enormous amount of muscle or a tremendous amount of fat” and “taking some kind of supplements to get their physiques” (Ibid). Supplements in the form of steroid use and abuse and the extra weight “particularly from fat – makes the heart work harder than it must” (Ibid). The cumulative effect can be seen in the “very high rate of premature mortality from cardiovascular disease, cancer and substance abuse” (Herman *et al.*, 2014, p. 6).

Historically, “no professional wrestler has ever been considered an employee of a promotion, but an independent contractor” (Sonneveld, 2012). This lack of worker status may account for wrestlers going from promotion to promotion to try and make a living, but it does not explain why the stars/divas of WWE (or the WWF) have done so. The official WWE website states that “WWE performers are independent contractors ... [they] are personally responsible for acquiring their own health insurance, life insurance and financial planning” (WWE, n.d.a). Therefore, “wrestlers must file state income tax returns in each state that they wrestle – an onerous task – as well as pay a punishing self-employment tax” (O’Sullivan, 2015, p. 83). Although the status of professional wrestlers is that of self-employed independent contractors, the reality is that their employment conditions “far more resemble that of an iron clad employee agreements” (Wrestling Scribe, 2012). For example wrestlers are required to secure the promoters permission to undertake any other work. If a professional wrestler leaves or is dismissed by the WWE they cannot work for 90 days due to a no-compete clause that is built into their contract.



Schiavone (2007) demonstrates that professional wrestlers are misclassified as independent contractors and this impacts on the hardships they experience. Furthermore, Cowley (2014) has established as a *matter of law*, that wrestlers must be legally classified as employees. He lists the range of laws that wrestlers are deprived of protection from due to their worker misclassification. He asserts:

The range of protections and benefits afforded by these laws are countless, and include employer contributions to employees' family health insurance plans, Social Security and Medicare contributions, unemployment insurance, workers compensation benefits, protection from discrimination and protection from wages below the statutory minimum (Ibid, p. 143).

The independent contractor status together with a contract known in the business as a 'death clause' also enables the WWE to avoid paying compensation for any work-related harm caused whilst inside or outside the ring. Clause 9.12 (c) of the 'death clause' prevents the promoter from being sued or being held liable if a professional wrestler is fatally or seriously injured as a result of the "negligence of the PROMOTER, other wrestlers or otherwise" (cited in Sonneveld, 2012). Another protection afforded to the WWE by the 'death clause', is if wrestlers are injured in the ring and they are unable to perform for six to eight consecutive weeks the WWE can terminate their contract. Finally, their misclassification prevents professional wrestlers from collectivising and unionising, hence they have no employee rights or protections (Cowley, 2014). Resistance within the industry and attempts to unionise have proved futile and some cases have backfired (Sonneveld, 2012).

For O'Sullivan (2015) "[t]he story of professional wrestling is the story of American Capitalism" in that behind the mask of glamour there is an exploitative cost (p. 87). This cost has to be examined in the context of ordinary everyday practices of corporations *and* in relation to state-corporate crime. Corporations are empowered within states (Tombs and Whyte, 2015) and, as evidenced below, states allow and facilitate serial, recidivist, harmful

actions and wrongdoing on the part of corporations and they decriminalise and fail to punish such acts.

### **In Plain Sight – Examining Professional Wrestlers Work-Related Harms as State and State-Facilitated Corporate Crime**

[...] no work to date has focused on the state or state-corporate crime as it relates to the sport industry (Finley, 2013, p. 229).

The inequities of the wrestling industry ... have been carefully massaged with all the skill the modern corporation can bring to bear upon a knot in the muscles (O'Sullivan, 2015, p. 81).

This penultimate section will explain state-corporate crime, discuss the academic study of sport and crime, and then finally analyse the harms of the professional wrestling industry as state and state-facilitated corporate crime.

State-corporate crime occurs due to action or commission or inaction or omission by the state or state agencies that results in some harm to individuals, groups and/or property, and it serves the interests of the state and/or the elite groups who are in a interdependent relationship with the state. A state crime may comprise "an action that violates a state's law or international law" (Finley, 2013, p. 230) - for example, violation of health and safety laws. Or it may involve "inaction in cases where states have a duty to act" (Ibid), such as "the failure to act against preventable harm" (White cited in Finley, Ibid).

Interest in the relationship between sport and crime is relatively recent within criminology and victimology. This is surprising on two levels: one, "[s]port is a human activity; therefore, in common with all other human activities, deviance, crime or harm will be associated with it" (Groombridge, 2016, p. 222); two, sport is steeped in and encourages, injuries and sports-related violence - organised and spontaneous, including: abuse within sport; the commission of player and fan violence; organisational neglect; work place victimisation, and

employee exploitation (Young, 2012). Sport-related violence can entail the violation of human rights, human justices and civil liberties. Thus, when it comes to sport “the positive attributes are often compromised by a darker downside” (Young, 2012, p. xi). Criminological research on sport has predominantly focused on crimes committed by athletes or fans (Finley, 2013). Finley’s (2013) article on state and state-corporate crime in relation to sport mega-events was an exception.

The harms and crimes within the professional wrestling industry can be examined as state crime due to state inaction regarding the harmful health and safety activities of the WWE (and the WWF). It can also be examined as state-facilitated corporate crime as it has enabled such activities. Prior to the late 1980s, professional wrestling was regulated in all states in the same manner that boxing was. However, a result of Linda McMahon’s<sup>5</sup> campaign, the state actively removed WWE sports entertainment from the athletic state commissions and from the protections it afforded in over half the states in the US (McAuliff, 2012). Many sports/professional wrestling commentators, professional wrestlers and their families contend that the removal of professional wrestling from the surveillance and regulation of government officials enabled a ‘culture of abuse’ to flourish (Ibid). It is contended that the regulatory commission would not permit the occupational culture of abuse that continues to develop within the industry - an industry that since the 1980s has seen a rise in premature deaths, risky, harmful performances and subsequent injuries and addictions that result in professional wrestlers being shadows of their former selves. A comparison between regulated American sports and professional wrestling illustrates that professional wrestlers have a higher chance of dying prematurely (Rhodes, 2015). A glance at statistics that document professional wrestler deaths by year shows a significant increase in deaths each year once regulation had stopped. Wilson and Johnson (2003), writing about WWF, state “pro wrestling’s cruelest con” is “*wrestler mistreatment*” and that this is “an institutionalized abuse of labor unsurpassed

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<sup>5</sup> One of the first appointments Donald Trump made when he became President of the US was to make Linda McMahon the Head of Small Business Administration.

by any other entertainment industry” (p. 436, original emphasis). The decoupling of this industry from the surveillance and protection of government officials, by the state, may enable the institutionalised abuse of wrestler mistreatment to go unchecked.

Physical, psychological and emotional work-related harms are compounded by financial exploitation. Wilson and Johnson (2003) assert:

McMahon’s enormous profits were (and are) literally unheard of in either the sports or entertainment industries and while Wall Street may have applauded McMahon’s *cost controls*, wrestlers were stunned when they learned how little of the WWF’s financial pie was allocated to wrestler compensation (p. 434-5, original emphasis).

Therefore, while “a few stars make big money”, by comparison to other sports professions wrestlers are poorly paid (p. 434). In the period 1997 to 1998 the WWF’s annual profit margin was 167%. In the same period pro baseball, basketball and football paid their workers between 50% and 60% of their gross income; the WWF paid its workers approximately 13% (Ibid). Professional wrestlers’ independent contractor status prevents them from fighting for pay that is equitable with those in a similar occupation. The imbalance of power between professional wrestlers and the controllers of the corporate enterprise is exacerbated by the state’s failure to address the misclassification of professional wrestlers as independent contractors. The imbalance of power not only places the destiny of professional wrestlers in the hands of the corporate entity, it causes “wrestlers to fight amongst themselves for the promoter’s favourable decision” to push them forward (Wilson and Johnson, 2003 p. 436). The imbalance in power, facilitated by their misclassification, which the state has failed to address can be evidenced in professional wrestlers’ contracts. When formal contracts did eventually appear, they were clearly and blatantly “introduced to protect promoters, not wrestlers”; they are “written by promoters and their lawyers, and they are one-sided” (Wilson and Johnson, 2003, p. 437). The contract takes away any control professional wrestlers have over the level of their matches, whom they get in the ring with and match outcomes. This is because wrestlers are

contracted to “perform *any and all* scripts devised by the promotion” (Wilson and Johnson, 2003, p. 437, original emphasis). As previously noted, the contract together with the exculpatory ‘Death Clause’ absolves the corporation of any responsibility (monetary or otherwise) for work-related injuries, including death, as a result of negligence on the part of the company, while placing responsibility on the individual wrestler. The legality of such a one-sided contract is dubious and as “several lawyers have noted, wrestler contracts reflect the promoter’s superior power to dictate the contract’s terms and conditions” (Wilson and Johnson, 2003, p. 438). The ‘notice’ period of usually 90 days that professional wrestlers have to give to the promoter “gives the promoter three months *to bury him* on TV – to destroy the market value” (Ibid). Schiavone (2007, p. 494) contends “[t]he way the WWE exploits its workers and arguably ‘forces’ them to jeopardise their health demonstrates what happens when companies dominate over worker”. This has wider social implications as he predicts that, with the decline of unionism in the US, there is a high likelihood that this is the destiny for many other workers.

As the professional wrestling industry has grown and changed, its treatment of its wrestlers has moved further away from an employer-independent contract relationship. In order to make a distinction between employees and independent contractor status, courts in the US have applied what is known as the ‘right of control’ test. The Internal Revenue Service (IRS) devised and disseminated this ‘20-factor test’. Cowley (2014) clearly demonstrates how 16 out of 20 of the IRS Factors indicate that wrestlers are employees and *not* independent contractors (see Cowley 2014 for more detail). Cowley (2014) and Bentley (2015) argue that if this misclassification was challenged in court, the law would be on the wrestlers’ side and they would be reclassified as employees. Such a reclassification would enable wrestlers to “unionize, bargain collectively, and eventually receive the benefits and protections to which all employees are entitled” (Cowley, 2014, p. 171).

The most well-known legal challenge to the classification of professional wrestlers as independent contractors was undertaken in 2008. However, the suit failed, not on the basis that the classification was correct, but on the

grounds that the suit was not filed in time (Bentley, 2015). It is very unlikely that wrestlers who leave the business will reignite this challenge as it is costly and time-consuming and wrestlers working within the business know too well that any attempt to unionise will not be favourably met by the industry (Schiavone, 2007; Bentley, 2015).

The misclassification of professional wrestlers benefits the corporate enterprise but it is at the detriment of not only workers but also society. The WWE are not the only corporation to misclassify its workers and thus engage in tax fraud and wage theft which has a zemiological impact. Cumulatively the misclassification of workers and the subsequent loss of Social Security, Medicare, unemployment contributions, and income tax collection, deprives the federal governments and states of revenue worth billions of dollars. This causes social harm as it impacts negatively on the provision of much needed services.

In the US the classification of workers as independent contractors is growing and worker misclassification is a “minor, but salient issue on the nation’s political and regulatory agenda” (Cohen and Eimicke, 2013 p. 4). Cohen and Eimicke (2013) identify three problems with misclassification. One, “it can result in a distorted market” as is it gives businesses who misclassify an economic competitive advantage as they have “artificially low costs ... because they do not pay the true costs of their workers” (Cohen and Eimicke, 2013, p. 20). Businesses who *do* properly classify their workers and pay contributions can be undercut. Such employers may even have to pay higher costs than they should in their subsidisation of employers who misclassify. Two, when injured at work and in need of medical care, the treatment of misclassified workers moves the costs onto the general public as healthcare cost and insurance premiums increase for everyone (Ibid). Three, misclassification can deprive federal government and states of their due and necessary revenue. Cohen and Eimicke (2013) explain:

This revenue shortfall has broad social costs as less funding is available for necessary programs including funds for school districts, law



enforcement, hospitals – typical services paid for by state, county and municipal government (p. 21).

Finally the WWE commits harms in plain sight. But it is not the only wrestling promotion, as there exist other high-profile independent promotions and less visible local indie promotions within and beyond the US. The extent to which, if at all, that these workers experience mirror that of the professional wrestlers and sports entertainers discussed here needs exploring.

## Conclusion

[...] the overwhelming majority of deaths caused by work occur in the context of corporations or profit-making business activities of some type (Tombs and Whyte, 2015, p. 47).

With reference to the US and Canada Snider (2000) argues “the brand of state regulation known as corporate crime has basically disappeared” (p. 169). She comments that this has been accomplished since the advent of Reaganism and Thatcherism and that “virtually every acquisitive, profit-generating act of the corporate section” has been legitimated (Ibid). With regard to occupational health and safety, Snider (2000) observes there is “less state regulation, fewer and weaker laws, less state sponsored censure” (p. 176). This is the context in which the often harmful (and criminal) business of professional wrestling since the 1980s can be examined. There has been a rise in the harms experienced by professional wrestlers (and their families) since the late 1980s and since changes in regulation and changes in the industry. Thus it is right to examine this situation in the context of deregulation. However, professional wrestling is still regulated in just under half the states of the US and these are not free from the harmful effects of this business. In states in which there is ‘regulation’, actual regulation is minimal and “regulation is primarily an exercise in tax collection” (Wilson and Johnson, 2003, p. 489). Thus further research is required: for example, where there is regulation, what form does it take and how effective is it? The professional wrestling industry has also changed dramatically. However, it comprises far more than sports entertainment. It entails activities that are not typically considered criminal but perhaps they ought to be. It entails: incommensurate



financial rewards for professional wrestlers' work toll; dangerous working expectations; misclassification of worker status and work-related harms. Professional wrestlers do not enter the ring with the intention of getting injured – however the physical nature of their work means that this is virtually inevitable. However, what are not inevitable, and what exacerbates the risk, dangers and harms of athletic maneuvers and stunts, are the demands of the industry to go to the edge – to heighten the spectacle, sell tickets, and secure celebrity status and employment. Professional wrestlers experience an array of work-related harms and they do so at an unprecedented rate. Therefore not only is further research required regarding the issue of regulation, but the demands and culture of this industry which may differentiate it from similar professional sports need to be explored and addressed. The individualisation of, and devolving of responsibility to, professional wrestlers regarding premature deaths, shattered bodies and injuries, obscures the nature of this industry, the role of the corporation and the state and their actions and inactions that may enable and exacerbate this situation. This includes the areas of regulation and worker misclassification. Worker misclassification by the corporation, and the failure of the state to act with regard to this potentially unlawful state of affairs, keeps professional wrestlers in a position of powerlessness in which they have virtually no bargaining powers as workers. In order to prevent or reduce the unprecedented premature deaths of professional wrestlers and the other work-related harms experienced in this industry the manner in which the industry is regulated and the misclassification of worker status has to change.

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