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# Immunity and Impunity: Corruption in the State-Pharma Nexus

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### Abstract

Critical criminology repeatedly has drawn attention to the state-corporate nexus as a site of corruption and other forms of criminality, a scenario exacerbated by the intensification of neoliberalism in areas such as health. The state-pharmaceutical relationship, which increasingly influences health policy, is no exception. That is especially so when pharmaceutical products such as vaccines, a burgeoning sector of the industry, are mandated in direct violation of the principle of informed consent. Such policies have provoked suspicion and dissent as critics question the integrity of the state-pharma alliance and its impact on vaccine safety. However, rather than encouraging open debate, draconian modes of governance have been implemented to repress and silence any form of criticism, thereby protecting the activities of the state and pharmaceutical industry from independent scrutiny. The article examines this relationship in the context of recent legislation in Australia to intensify its mandatory regime around vaccines. It argues that attempts to undermine freedom of speech, and to systematically excoriate those who criticise or dissent from mandatory vaccine programs, function as a corrupting process and, by extension, serve to provoke the notion that corruption does indeed exist within the state-pharma alliance.

### Keywords

State-corporate harm; mandated vaccines; informed consent; neoliberalism.

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## Introduction

... strong control over key processes combined with huge resources and big profits to be made make the pharmaceutical industry particularly vulnerable to corruption. (Transparency International 2016)

Influence is not that easy to measure. But one metric that can point toward relative influence is, simply, money. And in that context, pharmaceuticals have few peers. (Fields 2013: 559)

The article examines corruption within the state-corporate nexus as it relates to vaccines and the 'pharmaindustry'; that is, the networks of industry, medical and political actors involved in their research, manufacturing, regulation and dissemination. It argues that the structure and conduct of these alliances operate as mechanisms of control, stymieing open debate and independent inquiry around the safety and efficacy of vaccines. This is especially concerning given the mandated status of vaccines in countries such as Australia, and the violation of 'informed consent' by policies that require medical intervention. The article further contends that the neoliberal regime within which these alliances are nurtured facilitates draconian modes of governance through which criticism of mandated vaccination is repressed and silenced, thus protecting the activities of the state and pharmaceutical industry from independent scrutiny. Undermining freedom of speech, freedom of information and freedom of conscience not only becomes a *corrupting process* in itself, with these cherished societal values deemed increasingly redundant, but also infers the presence of *actual* corruption within these alliances through the lack of transparency and debate. The article does *not* focus on vaccine safety and efficacy *per se* but, rather, in acknowledging that state and corporate bodies are 'key and central agents of power in contemporary societies' (Whyte 2009: 3) seeks to interrogate the nature and impact of this relationship on this contentious area of public health.

## Corruption and the pharmaindustry

Broadly understood, corruption is a deviation from the norms of exchange involving the abuse of power for financial or non-financial gain (Bridenthal 2013; Gounev and Ruggiero 2012; Ledeneva 1998; Punch 2009; Wedel 2001, 2003). Transparency International (TI), one of the major watchdogs of corruption worldwide, defines it in general terms as 'abuse of entrusted power' specifically in relation to public, rather than private, office (Transparency International 2016). Others extend the definition to incorporate the private sector, including practices that are not necessarily illegal (Naylor 2004; Sutherland 1983). TI's cautious approach to corruption as a perception reflects the cultural, political and social ambiguity of the term, making a consensus around definition especially challenging. Holmes suggests that the morass of variables encompassing a definition of corruption 'should not blind us to the fact that some actions are seen as corrupt in most if not all societies' (Holmes 1993: 63). Nonetheless, the ideological context within which corruption occurs, and the extent to which it becomes instrumental in maintaining the status quo, plays a crucial role in how it is understood and responded to, making the distinction, for example, between political donations and bribery, normative rather than ontological.

The pharmaceutical industry (pharmaindustry) is no stranger to corruption. Bribery, compromised drug quality, conflict of interest, fraud and price-fixing constitute part of a litany of its illegal practices and unethical behaviour, making it, historically, one of the most frequent corporate violators of the law, alongside the oil and auto industries (Braithwaite 1984; Clinard and Yeager 1980; Dukes, Braithwaite and Moloney 2014). Recent scandals, in which pharmaceutical giants such as GlaxoSmithKline, Pfizer and Merck, have faced fines running into millions of US dollars for serious lawbreaking, are indicative of the level of harm their behaviour poses, and the pattern of recidivism that has branded the industry 'recalcitrant' and willing to

employ 'illegal inducements as a core business strategy for selling its prescription drugs' (Kelton 2013).

The ubiquity of criminal behaviour in the pharma industry was the subject of John Braithwaite's 1984 seminal text, *Corporate Crime in the Pharmaceutical Industry*, which uncovered a culture of bribery, conflict of interest and almost derisory ineffective punitive responses to crimes and harmful practices that cost—as they continue to do—the lives of thousands. Despite his optimistic conclusion that the pharma industry was at an ethical turning point, Braithwaite, with his co-authors, was forced to conclude in the 2014 publication *Pharmaceuticals, Corporate Crime and Public Health* that: 'Corporate crime within the pharmaceutical industry appears to be on the rise' (Dukes, Braithwaite and Moloney 2014: 281). Still hopeful of the possibility of encouraging a form of ethical capitalism, they propose a number of innovative regulatory strategies in the belief that corporations, given the right environment, will self-regulate or respond to bespoke applications of a regulatory carrot and stick. But, as Tombs and Whyte claim, and as evinced by the constant infractions of law by pharmaceutical companies, corporations are intrinsically criminal, pathological entities whose harmful behaviours are given impetus through 'the permission of governments, or even at the behest of governments' (Tombs and Whyte 2015: 18). The oxymoronic notion of 'ethical capitalism', as in 'corporate social responsibility', is a convenient, if unintended, distraction away from the cold reality that corporations cannot behave with integrity if they wish to survive in any form of capitalist society, duty bound as they are (and legally so under US law) to profit maximisation in the interests of shareholders rather than those of consumers, irrespective of whether their business is health or war.

### **From sinner to saint**

Tainted by a history of corrupt practices, the pharma industry, nonetheless, continues to wield influence and expand the reach of its commercial activities, buoyed by the increasing 'pharmamedicalisation'<sup>1</sup> of health delivery. A crucial aspect of this expansion is the industry's growing influence in public health, in particular, primary prevention: that is, the promotion of health and prevention of disease by reducing susceptibility to disease. One of the most common forms of primary prevention is vaccination. While vaccines have become a symbol of hope in the fight against disease, they have also sparked controversy, deeply dividing opinions as to their efficacy, safety and even necessity (SBS 2015).

Despite this history, attempts to question the integrity of the pharma industry in regard to vaccines, whether by the medical profession or the lay public, are consistently met with hostile responses. Framed within a simplistic and misleading dichotomy between the pro-vaccine lobby and so-called 'anti-vaxxers', thus leaving no room for more nuanced voices which support some vaccines but are concerned about issues such as over-vaccination (Hart 2017), or caution over the levels of toxicity in adjuvants,<sup>2</sup> any form of criticism is labelled as emotional, dangerous, hysterical and unscientific (Jaret 2016). Individuals voicing their concerns have found themselves vilified in the media, shunned by members of the public and excluded from areas of social life, including the workplace (Bertrand 2015). This stands in stark contrast to the concerns expressed over the safety issues of prescription drugs such as Vioxx and Paxil, which have led to investigations into and successful lawsuits against irregularities by the pharma industry (Goldacre 2012; Griffin and Miller 2011), and the ineffectiveness and overuse of many antidepressants (Gotsche 2013; Healy 2012).

No medical intervention is 100 per cent safe, vaccines included. In 1988 the US government set up the National Vaccine Injury Compensation Program (VICP), which has paid out approximately US\$3.6 billion to claimants since its inception and up until 2015 (Health Resources and Services Administration 2017). The UK's Vaccine Damage Payment Scheme, created in 1979, provides compensation to vaccine-harmed victims and their families, amounting to £3.5 million pounds between 1997 to 2005 (BBC 2005) (to date, Australia does not have a compensation scheme,

although discussions are underway regarding its eventual establishment). The very presence of such schemes confirms that vaccines carry risk, yet the rhetoric and actions of the pharmaceutical industry not only vilify those who point out the risks but, in some instances, respond punitively to those producing data or expressing opinions that challenge vaccine safety (Yerman 2011). One example is the removal of research papers, without any accompanying explanation, that produce negative data on vaccine safety from medical journals after review and publication (Grant 2016).

Any mandated public health policy must be open to constant scrutiny, independent scientific inquiry and open debate. Transparency is particularly crucial when policies involve the close collaboration between the state as regulator, and the industry being regulated, not least when the industry in question is tainted by a history of corrupt practices. However, as critical criminologists have shown, the state-corporate nexus is itself a site of constant harm production, not only where 'ruling elites label, reify, and punish as criminal those interactions that counter their interests' (Bridenthal 2013: 4) but, conversely, as a means to legitimise, through diverse means of obfuscation, harmful actions and dubious relationships that serve their mutual interests (Chambliss 1988; Green and Ward 2004; Kramer et al. 2002; Sutherland 1983). Buoyed by the favourable conditions of neoliberalism and the erosion of a clear-cut dichotomy between the public and private spheres, the state-pharma collaboration is thus able to operate with greater levels of immunity from accountability and impunity for its harmful activities. Thus the pharmaceutical industry, as a partner of the state, is more able to divest itself of its tainted past, and function as a putative champion of citizens rather than an exploiter.

### **The Australia connection**

In 2015 Australian states began their rollout of the federal government's 'No Jab, No Play' policy, a scheme to encourage the optimum take-up of childhood vaccines including the Measles, Mumps and Rubella (MMR) and Diphtheria, Tetanus and Pertussis (dTpa) vaccines. While a similar scheme, which withheld access to a number of government rebates and financial assistance schemes from parents and carers who refuse to vaccinate their children, had been in place since 1999, this latest policy removed exemptions on the grounds of conscientious objection, thus impacting on a larger cohort of dissenters. A similar change to vaccine policy was also occurring in the United States. Both countries have faced opposition to mandatory vaccines from parents, doctors and researchers, with one of the major objections being that such a policy violates human rights. They point to contraventions of international instruments such as Article 6 of the UNESCO *Universal Declaration on Bioethics and Human Rights* (UDBHR) (2005) which states, '[a]ny preventative, diagnostic and therapeutic medical intervention is only to be carried out with the prior, free and informed consent of the person concerned, based on adequate information'. Further, policies where children, as the majority demographic for vaccines, are denied access to education unless they have been immunised, violate Article 28 of the United Nations *Convention on the Rights of the Child* (CRC) (1989), which provides for access to education being available to all. Even those openly pro-vaccine are uncomfortable with the rights implications raised by mandatory medical intervention, and see it as a form of intimidation and discrimination (Gerber 2013; Leask 2015).

In a statement issued by Victoria Health and Human Services (Australia has ratified both the UDBHR and the CRC) the justification for mandated vaccination is based on a safety and security agenda: '[t]he rights in the [Victorian] charter may be subject to reasonable limitation. Reasonable limitation involves balancing the rights of the individual with the need for government to protect the broader public interest especially in relation to public safety, health and order' (State of Victoria, Health and Human Services 2016). Thus, the pharmaceutical industry, in similar vein to the arms industry, has now become a major provider for national security. And, in an equally similar vein, national security issues often trump human rights.

Further objections to vaccine mandates are based on safety. Citing cases of vaccine-damaged children and reports of adverse reactions to either the prepared virus and/or the adjuvants (used *inter alia* to enhance a particular immunity response), some opt to shoulder the risk of disease to their children rather than receive the vaccines (DeNoon 2011). In a study conducted in New South Wales by Catherine Helps, parents voiced concerns about vaccine safety, qualifying their anxieties as a lack of trust in the priorities of vaccine manufacturers: 'They're not sure that the motivation necessarily comes from the best intentions for their child. There is some concern about there being profit motive' (ABC News 2016). Many of these parents, like their US counterparts (Saad et al. 2009), come from higher income and tertiary level educational backgrounds. Their concerns about the integrity of the industry echo Transparency International's report of 'abundant examples globally that display how corruption in the pharmaceutical sector endangers positive health outcomes' (2016: 1) Further, when prestigious journals such as the *New Scientist* write that vaccines, having been 'the unprofitable runt of the pharmaceutical family', have now become the boom sector of an increasingly monopolistic industry 'unusually concentrated, with 80 per cent of vaccines supplied by just five big companies' (Mackenzie 2011), parents' claims that 'best intentions' might not be a main priority appear entirely rational and justified.

Other concerns around the state-pharma nexus centre on the issue of political donations from industry. Donations by pharmaceuticals in both Australia and the US have seen a steady increase over the past decade or so. According to Senator Lee Rhiannon from the Australian Greens political party, contributions in her country are rising annually (Ferguson and Johnston 2010). As an example, the Pharmacy Guild, a powerful lobby group for the Australia-wide pharmacists' network, increased its total donations to political parties across the board from AU\$153,245 in 2013-14 to AU\$177,971 the following tax year (Australian Electoral Commission n.d.). Australia also has one of the most lax regulatory systems in the world for scrutinising political donations (McGhee 2017), with a series of loopholes enabling activities such as splitting donations via the various branches of political parties at state and federal level, so that they come under the compulsory declaration threshold of AU\$13,000. This allows corporate contributions to remain hidden and, consequently, their influence on policy decisions more difficult to detect and measure. Lessig notes it is the impact of donations to political parties by large corporations, 'dependency corruption', that can have the most corrupting impact on public trust in institutions and organisations (Lessig 2012). The motivation for industry donations is rarely altruistic but, rather, seeks to influence political decision-making with the ultimate aim of strengthening the relevant market, irrespective of the nature of the marketable goods.

If the potentially contaminating influence of money in policy-making serves to provoke suspicion of the integrity of the state-pharma relationship, the 'revolving door' practice in which personnel cross over from government to industry and—though less often—vice versa (Jasso-Aguilar and Waitzkin 2011), will further exacerbate distrust. In their investigation into lobbying, Ferguson and Johnston provided a roll call of some of those involved in the merry-go-round of pharmaceuticals in Australia:

A former staffer with NSW senator Bill Heffernan, Nick Campbell, is executive director of corporate and governments affairs for Johnson & Johnson ... David Miles, a former advisor in John Howard's office, is the communications boss at Pfizer. Brendan Shaw, head of Medicines Australia, the peak group for drug manufacturer, previously worked with the then minister for small business and consumer affairs Craig Emerson. Then there is Catherine McGovern, a former staffer in SA Liberal senator Nick Minchin's office, who now works for GlaxoSmithKline ... (Ferguson and Johnston 2010: online)

This creates an environment ripe not only for conflict of interest, nepotism, turning a blind eye, and other practices associated with corruption, but is itself a corrupted relationship which strengthens the hand both of industry and the state to deter independent scrutiny of their



activities. This, in turn, threatens the integrity not only of politics but also, in the case of pharma, exacerbates suspicion in critical minds of the underlying motivation behind the rhetoric of health and healing.

The corrupt relationship between state and industry and its impact on vaccine safety constituted the focus of Judy Wilyman's PhD thesis at Wollongong University. It is not the content of what, by accepted academic standards, was a rigorously researched piece of scholarship that concerns us here but, rather, the unprecedented hostile response to her work from outside the academy, in what was clearly a deliberate campaign to discredit her findings.

### **Censorship by any other name**

Countering the popular notion that it constitutes a rolling back of the state, neoliberalism is seen as a reconstitution of state power (Harvey 2005) whose political role has not been diminished but, rather, redirected towards preserving and enhancing the mechanisms of the market. In other words, '[o]ne must govern for the market, rather than because of the market' (Foucault 2008: 121). Henry Giroux argues that neoliberalism has laid the foundations for a 'growing authoritarianism that encourages profit-hungry monopolies, *the ideology of faith-based certainty* and the *undermining of any vestige of critical education, dissent, and dialog* [emphasis added]' (2005: 151). Authoritarianism is the condition of absolute state power, with censorship as one of its most powerful tools. The draconian response to vaccine criticism or dissent in Australia, through a number of actions that repress free speech, is sliding into the realm of Giroux's dystopian fears, as Wilyman's experience shows.

Wilyman's thesis, entitled 'A critical analysis of the Australian government's rationale for its vaccination policy', became the target of an orchestrated character assassination amid calls for Wollongong University to retract her PhD. Her research comprised a social scientific study on the impact of various international partnerships on the mass vaccination policy adopted in Australia and how this might affect the safety, efficacy and necessity of certain vaccines. The thesis provides a detailed analysis of the relationships between various policy groups with industry, possible financial influences on decision-making, and non-disclosure by advisors of links with vaccine manufacturers that might skew their guidance and opinion. She further emphasised the lack of transparency in Australia's vaccine program, including the withholding of information about the price of vaccines funded by public money. On the granting of her thesis, the media, not known for their interest in PhD monographs, subjected her to hostile criticism through a number of the medical profession, paradoxically granting the oxygen of publicity to a study deemed by them to be scientifically unreliable. In *The Australian* newspaper, Dr John Cunningham, a surgeon rather than immunologist by specialisation but a spokesman for the pro-vaccine group Stop the Australian Vaccine Network (SAVN), launched a vituperative attack against Wilyman and her supervisor, describing the thesis as based on 'bizarre conspiracy theories to explain vaccination policy' while not providing any detailed evidence of what he considered 'grossly flawed' aspects of her thesis (Cunningham 2016). He went on to describe the university's defence of academic freedom as 'corporate narcissism'. (Wollongong University stood by Wilyman, asserting its adherence to protocol during the examination process, and refused to retract the award).

Meanwhile, Wilyman's primary supervisor, Professor Brian Martin, described by *The Australian* as someone 'with a long history of supporting controversial PhD candidates' (Louissikian 2016), was drawn into the controversy. The attack on Martin was ironic given that his specialist area of research is intellectual freedom, whistleblowing and the suppression of dissent. In a response to a particularly vindictive blog about his own academic credentials, he summed up the motivation behind the attacks as based on the assumption that any 'findings contrary to what they [the mainstream] believe is correct must be wrong or dangerous or both' (Martin 2017: 1). A proposed visit to Australia by another vaccine critic, US physician Dr Sherri Tenpenny, once again saw John Cunningham engaged in a personalised verbal assault, claiming that 'Sherri is one of the highest-

profile anti-vaccine liars in the USA, and we should be sending a strong message to these loons that in Australia we rely on facts, science, and rational and considered opinion by people with expertise' (Medew 2015), hardly a rational and considered opinion. Social media, one of the most virulent sources of personal attacks, has spawned a practice known as 'astroturfing', the creation of 'fake views' that are supposed to represent the opinions of the grassroots majority. It is a device, as Monbiot explains, used by the powerful 'to control and influence content in the interests of the state and corporations, attempts in which money talks' (Monbiot 2010). Astroturfing typically involves 'use of inflammatory language' such as 'crank', 'pseudo' and 'conspiracy' against those holding counterviews in which astroturfers claim to be debunking myths when what is being debunked is an exposed reality. Tactics involve personal attacks on the persons and organisations challenging mainstream narratives by focusing on those exposing wrongdoing rather than on the wrongdoing being exposed (Atkinson 2015). In a more recent development, verbal attacks are being replaced by substantive punitive measures against those doctors in Australia, concerned about contraindications in vaccines, who have supported parents' refusal to vaccinate. Now facing 'the toughest penalties possible' from the government, John Piesse, one of the doctors under investigation opines: '[t]here's no freedom of speech about vaccines. Anyone who takes a contrary view is attacked' (Percy and Norman 2017).

Self-censorship by a market-determined media has further embedded the dominant vaccine narrative as an unchallengeable reality to such an extent that censorship is able to subtly metamorphose into rationality. This has enabled experts themselves to undermine the scientific objectivity and integrity they claim as fundamental to their discipline by condemning balanced opinion and advocating the very 'ideology of faith-based certainty' against which Giroux warns. Consequently, the lead spokesperson for vaccine programs in the US, Dr Paul Offit, is able to comment on the media as being 'far more responsible about covering this [vaccine] story. If you look at the way it was covered fifteen years ago, it was always this *false mantra of balance* [emphasis added], which is to tell two sides of the story when only one side is supported by the science' (Beyerstein 2015), without provoking accusations that his position implicitly supports authoritarian-style reporting.

Thus, censorship is transformed into artificial consent, through the construction of a social norm that does not yet exist, invisibly inculcated into social consciousness as if it were a consensus. Critical voices are reduced to irrational ravings (a tactic successfully used to discredit dissent in the Soviet Union), labelled dangerous 'conspiracy theorists', thereby eradicating any notion that the state and pharma may indeed conspire to cover up harmful acts. Yet, as Jane and Fleming argue, where asymmetric power structures exist, the 'hermeneutics of suspicion' which underpinned many of the theories posited by Marx, Nietzsche and Freud, recognised that 'the lust for power and wealth lurk behind the ostensible social manifestations of beneficence and that powerful people will conspire with each other to serve these jealous gods' (Jane and Fleming 2014: 58). The ability to criticise the status quo, to scrutinise the structures of power without fear of redress, and articulate a scepticism towards their intentions, is a fundamental principle of liberal democracies, an expression of those principles that respect informed consent as a human right. So too is access to objective data upon which genuinely *informed* consent rests, a feature of free society. However, here also the state-corporate collaboration in neoliberal health delivery imprints its ideological slant on so-called scientifically informed facts.

### **How informed is informed consent?**

A number of leading voices within the medical profession have spoken of their disquiet around the activities of, and relationships that make up, the pharma industry and taint the content of medical research. Marcia Angell former editor-in-chief of the *New England Journal of Medicine* (2005), Richard Horton, editor-in-chief of *The Lancet* (2004), David Healy, a practising psychiatrist and author of *Pharmageddon* (2012) and one of the most popular writers on the subject of pharmaceuticals and the medical profession, Ben Goldacre (*Bad Pharma* 2012),

constitute a growing number of well-placed insiders prepared to speak out against the abuses in their profession. Peter Gotzsche, co-founder of the Nordic branch of Cochrane, an independent, non-governmental organisation for the systematic review of clinical research, has been especially active in the public excoriation of his profession and its industry partners as the latter increasingly influences the role of knowledge production:

When robust research has shown that a product is dangerous, [and] numerous substandard studies are produced saying the opposite ... This doubt industry is very effective at distracting people into ignoring the harms ... the industry buy time while people continue to die. This is corruption. (Gotsche 2013: 1-2)

Industry funding of medical research has been steadily increasing in most Western democracies (Ehrhardt et al. 2015), driven by the neoliberal model of outsourcing from the public to the private domain. The increasing influence wielded by private funders has resulted in the manipulation of clinical trial data; the employment of ghost writers for medical journals operating under the putative authorship of an influential clinician with only tenuous links to the actual research undertaken; payments to 'key opinion' speakers; individuals with prestige and clout in medicine to give lectures on new 'medical discoveries'; and so on. This is particularly evident in the dissemination of data.

In the fast-moving and competitive world of medical publishing, journals rely on advertising revenue to survive and thus must avoid biting the hand that feeds. Editorial boards are frequently staffed by individuals who have formed ties with industry either through business-sponsored grants received for past research or from former consultancies. In 2010, a rigorous study on the impact of industry funding of medical journals found that clinical trials conducted by industry were more likely to be published as having positive results than those conducted independently. A 2003 survey of clinical trial results published in a leading medical journal showed that, on publication, in the two-thirds to three-quarters of those which are industry-funded, 'the conclusions in negative trials are often presented in such a way that they appear to be more positive than they actually are' (Lundh et al. 2013: 3). So swayed is the medical publishing world by its ties to industry that Richard Horton, editor-in-chief of *The Lancet*, has declared '[j]ournals have devolved into information laundering operations for the pharmaceutical industry' (cited in Smith 2005: 0364).

Similarly, quality control from independent regulators in the interest of public safety has been compromised by the state-pharma relationship. As Healy points out, controls over the quality and safety of pharmaceutical products are largely conducted in-house, where 'often the only studies are those of the drug companies themselves, and these studies, as one might expect, all seem to point to the benefits of an ongoing use of the very chemicals that may in fact be causing the problem' (Healy 2012: 119). Yet, where the state could act to remedy bias, it takes a passive stance. Griffin and Miller identified 'regulation deficiency' as a crucial factor in allowing the manufacturer, Purdue Pharma, to mislead and defraud clinicians through an aggressive advertising campaign for a drug. Regulation deficiency 'occurs when the government fails to protect individuals from societal harm despite good intentions' (Griffin and Miller 2011: 223). This presupposes that good intentions underpin advisory boards as a matter of course. But the reduction of regulatory oversight of corporations has also extended to the reduction of regulatory oversight over the regulation bodies themselves. *The British Medical Journal* recently revealed that the Centers for Disease Control and Prevention (CDC), the US's 'independent' health advisory board, has been in receipt of regular donations, approved by Congress, from corporations including Merck Sanofi-Aventis and Abbott Laboratories. CDC has consequently been making 'controversial recommendations for screening tests and drugs', while 'currently overseeing several equally controversial studies. Some of these are associated with "conditional" industry funding' (Lenzer 2015: 1-2).



Conflict of interest is thus built into the very mechanism set up to oversee quality and safety, leaving the exposure of ineffective and harmful products increasingly in the hands of the lay population. However, the current hegemonic status of science has legitimised its authority to dismiss out-of-hand critiques that do not conform with its designated parameters of scientific thinking, an epistemology which, as discussed above, is itself vulnerable to expedient subjectivity. In contrast, voices outside the compliant scientific community are denied the power to challenge the origins and flaws of medical knowledge insofar as their external location, which should legitimise their independence as a scrutinising body, is deemed to lack authority because of its externality. In other words, only by being on the inside, which is systemically tied to the interests of the state-pharma nexus, can one claim a legitimate voice which, by definition, must be devoid of criticism of the status quo. Hence, we see the emergence of a state-corporate science shaped by and responsive to a neoliberal ideology, sustained by the absence of transparency and critique while demanding loyalty and compliance from the masses.

### **Biopower as corruption**

Mandatory vaccines epitomise what Foucault termed biopolitics; that is, the exertion of 'power over life' through technologies of control over somatic citizenries (2007). As Emily Martin claims: '[a]ccepting vaccinations means accepting the state's power to impose a particular view about the body and its immune system—the view developed by medical science' (Martin 1994: 194). Therefore, to negatively critique or dissent from some, or all, of vaccination policy is to reject not only medical orthodoxy but also the power of the state. Exercising the right to informed consent by refusing to either vaccinate or be vaccinated—or, in the case of children, to refuse on their behalf—is to incur punitive action by the state for defiance of its will. Medicine that is pharmaceuticalised preventative health is thus politicised.

The Nuremberg Code of 1947 establishes informed consent as an international norm for conducting experiments on humans. Subsequent international instruments extended the right to have control over one's body in regards to medical intervention. During the Nuremberg trial, which gave birth to the eponymous code, Telford Taylor, the principal prosecutor, commented: '[i]n the tyranny that was Nazi Germany, no-one could give such consent to medical agents of the State: everyone lived in fear and acted under duress' (Taylor 1946). In other words, these were not medical crimes conducted by rogue physicians but, rather, state violations of an individual's will through coercion and fear. The relevance of Taylor's comment clearly extends beyond the totalitarian state. Pressure to impose a citizen-wide policy that violates its own principles raises questions concerning the viability of rights, the notion of informed consent and the ideological basis upon which the willingness to undermine these principles occurs. This is evident in the current climate in Australia in which doctors supporting the right of their patients to refuse vaccines are subject to investigation; dissenters are excluded from areas of social life, vilified as pariahs; and vaccine critics from abroad are refused entry into Australian jurisdiction (as occurred with Tenpenny) or threatened with a refusal to issue future visas as in the case of Polly Tommey, producer of the highly controversial film *Vaxxed: From Cover Up to Catastrophe* (Cunningham 2017).

That the hardline approach to vaccine compliance has emerged from an environment driven by state-corporate collaboration, which is riddled with conflicts of interest and underscored by a lack of transparency and open debate, suggests worrying levels of compromise and collusion between the state and pharma. There are few, if any, situations in which the state has been able to exert such expansive control over the bodies of its population or where an industry has its product mandated for such a wide range of consumers. For these reasons, the erosion of mechanisms employed to check concentrations of power—such as a freedom of speech, freedom of information and freedom of conscience—becomes a corrupting process, irrespective of whether what is being concealed is actually corrupt. It confirms what many have asserted; that, in the current climate of neoliberal governance, the state is programmed to protect profits rather

than people and, in doing so, is potentially subjecting its citizens to widespread harms. Public health is no exception.

## Conclusion

If state power is about controlling populations, and corporate power about profit maximisation, the vaccine industry feeds both. As such, more than any other area of public health, it demands a respect for human rights, for independent scientific inquiry, and the presence of an effective form of surveillance to ensure that abuses of power are minimised and harms avoided. Indeed, the very premise upon which claims for vaccines is made—that is, their contribution to the betterment of humankind—assumes the presence of these conditions of rights and respect rather than repression and disdain. The editor of *The Lancet*, Richard Horton, states the obvious, that '[i]t would seem within the spirit of scientific inquiry to pose questions that challenge received orthodoxies' (2015). On this supposition, Edward Jenner, the father of vaccines, was able to pursue what was then regarded as unorthodox, controversial and dangerous thinking. He was afforded the freedom to debate with his peers, to present his findings, to develop his ideas, however contentious they might have been. Whether Jenner's science was right or wrong is not the issue here. Rather, the fact that he could and did pursue what he genuinely believed would make a contribution to modern medicine is a testament to the spirit of free inquiry that drives scientific advancement. So too, the ability to choose how and when medical intervention can be applied to an individual's body, without fear of demonisation, is a testament to the spirit of freedom of choice and conscience. When science serves state power, and the state serves the corporate world, each becomes corrupt and corrupting, and society moves one step closer to a repetition of medicine's darkest time.

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<sup>1</sup> By 'pharmamedicalisation', I am referring to the increasing conceptualisation and administration of health as relying on drug-based responses. 'Medicalisation' is a term used to describe the societal trend for constructing circumstances and conditions as medical problems. 'Pharma' emphasises the increasing employment of medication to offer a cure for the growing list of illnesses.

<sup>2</sup> Adjuvants are added to vaccines to augment the immune response to the antigens by stimulating higher levels of antibody resistance. The most common type of adjuvants are aluminium salts and emulsions (oil in water, or vice versa). Preservatives, around which there has been the most controversy, include thimerosal (though no longer used in many vaccines for young children because of safety concerns), formaldehyde and human serum albumin.

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