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ABSTRACT

'Safety Crime' in Neoliberal Post-communist Society: The collapse of the Maxima supermarket in Riga, Latvia*

The causes of disaster, both immediate and underlying, that resulted in 54 fatalities in Riga in November 2013 are analyzed in this paper. The collapse of the Maxima supermarket is seen as a safety failure resulting from longer-term deregulation in Latvia encouraged by external advisors such as the World Bank and the EU, and the specific crisis-induced drive to minimize regulation by local political actors, especially in the aftermath of ongoing austerity. The paper raises the issue of what is a 'safety crime' in the context of post-communist Baltic states, and asks whether the notion of 'corporate killing' or corporate manslaughter is applicable to the circumstances of the disaster. The paper suggests the need to establish accountability for social harms caused by the unfettered pursuit of private profit over public safety.

Keywords: Maxima supermarket collapse, Latvia, Baltic states, Riga, austerity, post-communism, neoliberalism, deregulation, austerity, 'safety crime', corporate killing

JEL Classification: K320, J28, P390, P160

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Introduction

This is an account of a disaster, the collapse of the *Maxima* supermarket in Riga in late autumn of 2013 that took lives of 54 people and injured dozens of others. This catastrophic event is, sadly, one that is very ‘Baltic’ in nature, although perhaps not uniquely so. The now half-remembered *Rana Plaza* collapse some six months before in the Spring of 2013, evokes uncomfortable comparisons between the Baltic states and the garment sweatshops of Bangladesh that must surely strain credulity to breaking point, or perhaps not (Campbell 2013, Stillman 2013). In both horrific episodes the social costs of the unfettered pursuit of profitability over human wellbeing are encapsulated. What occurred in Bangladesh and in Riga, and in several other barely noticed calamities of a similar nature, illustrate that safety and private profit are locked in an irreconcilable and an unequal contest. The latter trumps the former with monotonous and depressing regularity, disaster upon disaster. The Riga tragedy is perhaps best summed up in the disconcerting homology of *Maxima*, the company that operated the doomed supermarket and ‘*maximization*’ (in this instance, of monetary gain to the disregard of all other considerations). It is argued here that this tragic occurrence and its circumstances graphically reveal a ‘safety crime’ of significant proportions (Tombs and Whyte 2007).

The notion of ‘safety crime’ involving culpability for death and injury has been largely anathema in the context of the new market economies such as the Baltic states and in most post-communist societies of Eastern Europe. Here the selective criminalization of health and safety violations has meant the non-attribution of criminal liability for gross managerial failure to protect employees and the general public. Serious safety failures have been routinely “conventionalized” merely as administrative violations, often not even regarded as ‘real’ crime. Only rarely has the full force of the criminal law been applied in order to ensure corporate accountability for social harms caused. It constitutes a ‘safety crime’ in as much as

the outcome was arguably foreseeable, and the incident itself was ‘preventable and avoidable’ for the reasons detailed below.

The seminal work of W. G. Carson, the British criminologist is relevant here. Like the benign gaze which the criminal justice system bestowed on early nineteenth-century factory owners of the industrial revolution with respect to injury and death to their employees, the new entrepreneurs of the East have “successfully retained a right, if not to totally uncontrolled violation in this respect, at least to substantial immunity from the penal and other adverse implications of their criminal conduct” (Carson 1979: 38). The same might also be said for many Third World countries today. Nor is this comparison as incongruous as might appear at first sight. The notion of criminalizing entrepreneurs has been almost incomprehensible in a context where market-building business activity is equated with the public good. Notions of corporate criminal accountability have been absent in the practice of regulatory authorities where violations of safety standards have been increasingly “institutionally tolerated” in the rush for profitability and market competitiveness. As this account of the *Maxima* disaster will illustrate, the state authorities as well as the business class have acted as champions of neoliberal deregulation providing the impetus and encouragement for such permissive legal environments. Although this single event exemplifies the key contradictions of neoliberal austerity in one compounded episode of unremitting awfulness, that event itself had been over two decades in the making.

First, the horrific circumstances of the *Maxima* supermarket collapse are documented. Following this, the corporate culture which typified the economic conglomerate of the *Maxima* group is explored in order to understand the nature and culture of the company which determined its inadequate response to the disaster. In turn, the response of the

authorities to the multiple fatalities ensuing is reviewed, although at this time the full technical and legal outcomes remain uncertain. Next, the background of regulatory erosion in neoliberal post-communism is detailed in a uniquely detailed manner showing the longer-term complicity of government in the process of ‘regulatory capture’ which allowed business interests to subvert socially protective regulation. The crisis and austerity are seen as having provided the pretext for further accelerating the drive to deregulation and the dismantling of regulatory agencies of control which directly contributed to the final tragic outcome.

The *Maxima* episode reveals criminogenic characteristics a new capitalism that developed in the Baltic region following the collapse of the Soviet Union. As such the dislocation of Latvia, Lithuania and Estonia from the mainstream of European standards remains. Indeed, the European Commission in its drive to further reduce regulation upon business, especially in the aftermath of the crisis, may itself provide new pretexts for the anti-regulatory preferences of powerful neoliberal domestic business interests. As the *Maxima* episode suggests, there are immense material costs and human consequences to be borne by society at large for these policy choices. The socialization of risk and of harm appears to be the necessary counterpart of the maintenance of unrestrained private profit. The corporate violence that typified the formation of the new market economies in post-socialist Eastern Europe has left a disturbing legacy of absent accountability. This leads to the conclusion that unless there is a sea-change in regulatory perspectives and practices, *Maxima* Riga might not be the last such episode of large-scale preventable and avoidable deaths caused by reckless and wilful corporate misconduct.

The disaster

On November 21, 2013, five hundred square meters of the concrete roof of the *Maxima* supermarket in Zolitūde, a suburb of Riga, collapsed. It resulted in fifty-four persons instantaneously losing their lives. Besides those customers and staff who perished in what was the largest loss of life in a single incident since Latvia's independence, were three first-responder firefighters who rushed to the scene only to be crushed as a further section of the roof collapsed on top of them as they entered the building. Many more were injured. The immediate aftermath of this catastrophic event led to the resignation of the Latvian Prime Minister, Valdis Dombrovskis and to the fall of the government. Its longer term consequences spread throughout the Baltic states revealing corporate mismanagement and indifference, lack of accountability, as well as political corruption and state regulatory failure on a large scale. At the same time, the tragedy provoked popular outrage only partially defused by the cynical manipulation of ethnic divisions at what should have been a moment of national unity in shared sorrow. Yet, the tragedy also afforded the opportunity for a period of deep reflection as to what had been gained and what had been lost during twenty five years of Latvia's independence from the Soviet Union.

The *Maxima* supermarket chain, owned by a Lithuanian company, was one of a small number of such retail conglomerates spanning the three Baltic states that sprang up in the post-independence period. These supermarkets had come to exemplify the reality of an end to the scarcity culture of the Soviet era. These stores also had a powerful symbolic resonance as an exemplar of limitless access to goods (if one had money) offered by the new capitalism. *Maxima's* ubiquitous red and blue neon signature logo graced over four hundred and fifty modern Western-style stores ranging from hypermarkets in major cities to smaller establishments ('community shops') in even the smallest towns and villages. Such supermarkets offered extended hours of shopping to the population (from 8am to 10pm

nearly every day of the year) while not incidentally, driving out the smaller competitor retail outlets that were unequal to the price and quality advantages offered by their larger chain-store rivals.

The *Maxima* store in Zolitūdē was in no way untypical. It was located on the western side of Riga in a district dominated by Soviet-style pre-fabricated high-rise apartment blocks, built in the early 1980s in a largely Russian-speaking neighborhood. The development of the new supermarket premises was completed in early November 2011 receiving a design award. The supermarket project was linked to the creation of a private housing complex in a linked redevelopment. As a company *Maxima* is characterized by aggressive entrepreneurialism and an expansionary investment strategy in Latvia and elsewhere in the Baltics states. While the block of apartments was still under construction, the adjacent Maxima store was already conducting a thriving business. Indeed, linking the two projects was the ongoing construction of a ‘green roof’ on the store roof, comprising a residents’ garden and children’s play area. Simultaneously, work was taking place in the basement of the building to construct a car park for future use by the new apartments block residents. Previously, due to problems in the basement area, loadbearing struts has been erected. Employees when they inquired as to why they had been removed were told that these were “no longer needed.” They had joked darkly among themselves that management were preparing a coffin for them.

The disaster occurred on a Thursday night when the store was packed with early-evening shoppers on their way home from work. It could not have happened at a more unfortunate time of the day. As in every disaster, there were immediate precursor warning signals and indicators that were either not understood or were simply ignored. In the case of *Maxima*, the alarm had sounded for at least twenty minutes before the final collapse of the roof and there had been public announcements to evacuate the building. Management and security staff believed that the alarm had been falsely triggered by welding construction work in the

basement. The store had previously been plagued by a number of ‘false alarms’ and, in the absence of visible evidence of a fire, the alarm was switched off by a technician who had been called out to inspect it, just as the roof collapsed. Whether or not the alarm and the subsequent roof collapse were related remained to be ascertained. What is clear is that check-out staff were instructed to remain at their posts, in line with a later-revealed company protocol which instructed that in the event of an emergency evacuation, the cash registers should first be emptied and that staff should safeguard merchandise from theft (Černiauskas 2013a). Cashiers therefore continued to scan and authorize customer purchases at the check-out counters and security guards were there to prevent any customers leaving the store with unpaid goods in their possession. ‘Normality’, albeit constrained, was the order of the day. Under the same roofing space as the *Maxima* store however were also a number of smaller independent shops, including a beauty parlor, a bank, a pet shop and a newsagent. By contrast staff and customers were evacuated from these when the alarm sounded. Customers at *Maxima* however were given to understand that no evacuation was needed and they were free to continue shopping.

At precisely 5.41pm a thunderous noise (survivors spoke of a noise like an explosion) accompanied by thick dust and falling concrete roof slabs rained down on those below. In that split second many lives were extinguished. It was followed by a momentary eerie dark silence. By malign chance the roof collapsed not on the less busy storage areas or the supermarket aisles, but on top of the check-out counters and the lengthy queues of shoppers waiting to pay. Former employees alleged that even under normal circumstances long queues would gather at checkout points, because the company attempted to save money on additional personnel and kept most checkout points closed. This night was anything but normal. For the bewildered survivors in other parts of the store, fortunate enough not to be waiting in the check-out lines, the emergency lights of the green ‘running man’ exit signs were all that

offered a way out. But they too were mostly useless as several exits were heavily blocked by stacked products (in one case sausages) creating even more panic. Amidst the pandemonium the salesgirls in the meat department were dutifully covering the products in protective plastic film wrapping. It was later claimed that even those who had worked in the store for years did not know where the emergency exits were located, and that employee engagement in safety procedures was limited to signing off as having read (but not necessarily understood) a few official documents (BNN 2013a).

Fleeing shoppers and staff who tried to leave by side-doors found these had automatically locked following loss of electrical power. Trapped and desperate survivors began breaking the store glass windows in order to climb out of the shattered building. How many escaped in this way and how many in total were in the store on that night is not known, but probably they numbered at least one hundred. A reasonable estimate is that one out of two in *Maxima* that night died. Many dazed and thankful escapees simply went home, with or without their groceries. Many returned later to stand in silent vigil behind police barriers as the rescue crews who had arrived within minutes conducted a frantic search under the grotesque pile of rubble mixed up with scattered supermarket packages. Little over an hour later, just after 7pm, a third section of the roof caved. Because of the dangers now posed by the unstable building only small groups of rescue personnel were allowed in at one time, and for periods of only half an hour at a time. In the silences between the rescue sorties, mobile phones could be heard ringing out from beneath the debris. Police used recordings from security cameras to create a map of the building with approximate last known locations of missing persons. Fears regarding the integrity of the remaining roof following a third collapse led to a temporary interruption of rescue attempts. After consulting building experts previously round-the-clock rescue efforts were restarted the next day, but no further victims were found and all further rescue attempts were abandoned.

Local residents came in their hundreds to lay flowers and light candles at the site of the disaster. The Latvian government declared three days of national mourning, as the population struggled to make sense of the awfulness of what had occurred over the previous few days. As so often in these events, shock and horror quickly turned to anger and to the search for culprits to blame. A welter of speculation as to the causes of the disaster quickly followed, including excess weight caused by rain-soaked soil and pebbles for the garden overloading the roof at critical weak points, faulty design of the structure leading to inadequate load-bearing, damage to the roof resulting from a previous fire, use of inferior construction materials, poor oversight of the construction and violations of building regulations. One common theme was the identification of a flagrant corporate wrong-doer, *Maxima*.

A very Baltic business

Maxima in the Baltics is what *Walmart* corporation is in the US, and *Tesco* in UK (Kuodys 2013). It is the largest retailer and the largest private employer in the region recently expanding into Bulgaria and Poland. The chain is owned by one of the largest private holding companies in Eastern Europe, *Vilniaus Prekyba* or VP (which stands for “Vilnius’ Retail” in Lithuanian). Its current owners are ten closely-related individuals--former medical students who started the company in 1992. In 2012 *Maxima* operated 457 shopping centers and employed 29,431 employees; 16,323 were employed in 225 stores in Lithuania. In Latvia *Maxima* operated 141 shopping centers and employed 7,565 employees. In Estonia the company operated 70 shopping centers, with 3,912 employees and was the largest single source of new jobs over a previous five year period in the region. VP sales revenue in 2012 was €2.38 billion (*Maxima Grupė* 2013). In addition to retail stores, VP also owned a chain of retail home improvement and appliance stores, *Ermitažas*, and retail drug stores, *Euro*

Apotheca. In 2012 the VP group had sales revenue of €2.793 billion, and profits of €82.8 million (*Vilniaus Prekyba* 2013). As a thriving conglomerate it was underpinned by significant economic and political clout derived from oligopolistic control of key sectors of the retail industry.

The enormous commercial success of the initial founders of *Maxima* was reflective not only of their keen business savvy and political connections, but also of their ruthless and bare-knuckle pursuit of commercial advantage that allowed the company to survive and thrive in conditions of lawlessness and the ‘wild capitalism’ of the 1990s. The corporate culture that emerged from a blood and clan-like solidarity (and secrecy) of this close-knit group, driven by an ethos of ‘survival of the fittest’, and an ‘either us or them’ mentality, shaped their response to the disaster. As with any competitive challenge or criticism, it was perceived as an attack demanding a forceful retort and where a weak flank had been exposed, then ‘denial’ was the first order of the day.

Maxima came out on top in the cut-throat business environment of the 1990s when at stake was not just a commercial success, but literally the physical survival of its founders. Nerijus Numavičius, now a billionaire and principal VP shareholder, when reflecting on these formative years of the company had stated that “[In the 1990s] there were many more of such [business] groups like ours. However, the other groups’ shareholders had fought each other bitterly, gunned down each other, went after and destroyed each other’s businesses, but we survived” (*Alfa.lt* 2009). Characteristically, VP owners with their families lived in a specially built, isolated and exclusive gated community in the suburbs of Vilnius. Equally characteristic was the ultimately frustrated project to build *Maxima*’s corporate headquarters, intended as the highest tower block in Vilnius, to be strategically located on a hilltop overlooking the entire city.

Maxima's response to collapse of its store in Riga was shaped by its history and its corporate culture. Both however proved to be fundamentally deficient when dealing with a calamity of the scale of the Riga disaster. Consider the response of *Maxima* Latvia's general manager Gintaras Jasinkas. When asked by the journalists at a press conference about taking responsibility for the disaster and resigning from his post following the example of prime minister Dombrovskis, Jasinkas responded, "It is those who are feeling guilty are the ones who are resigning, while we [the management of *Maxima* Latvia company] have nothing to be ashamed off" (*15min.lt* 2013). Similar sentiments were expressed by the Chair of the Board of the VP holding, Inga Biveinytė, in an interview to the Baltic News Service in which she robustly denied the blame for the tragedy, arguing "we did everything appropriately ...the roof collapsed not because of our failure to act." Asked why there was no evacuation of the main *Maxima* store when other smaller shops in the same premises hearing alarm instructions evacuated personnel and customers, she replied: "How can you say that there was no evacuation? [...] Why should there be one?" (Bogdanas 2013).

Waves of public anger following these interviews only increased when *Maxima*'s management failed to acknowledge that the building housing the collapsed store was in fact owned by Nerijus Numavičius, the principal shareholder of *Vilniaus prekyba*. Journalists had uncovered a complicated web of transactions that led from a Canadian-based developer *Homburg Zolitude* that originally had built the store, which then sold it on to a *Maxima* Latvia subsidiary *Tineo*. Ownership was then transferred to the *Maxima*-owned *Lincoln Land Erste*, and finally ended up with *Fumico Investment Limited*, a Cyprus-based company which it transpired was owned by none other than Numavičius (BNS 2013d). In other words, *Maxima* owned the building that it leased to itself (probably for tax purposes, with profits from its operation in Latvia repatriated to Cyprus). The fact that *Maxima* management was not forthright about its ownership of the collapsed building, had failed to admit any

responsibility but rather engaged in blame-shifting, while Numavičius himself had made no public statement or appearance before the media, far less visited “ground zero” in Riga, was seen as the epitome of corporate callousness.

Following this debacle, the Latvian PR company, P.R.A.E., which had worked with *Maxima* Latvia for eight years, suggested that the company take responsibility for safety failure, accept moral responsibility, and create a remediation plan which would satisfy society. This crisis strategy was vetoed by *Maxima* headquarters in Vilnius. In an open letter to *Maxima* management, P.R.A.E. publicly announced it was “deeply shocked by the latest actions of *Maxima*” and by statements from *Maxima* top management. It was therefore unable to continue working with a company whose management demonstrated “complete disregard towards [the] Latvian population” (P.R.A.E. 2013).

In order to contain the rapidly unfolding public relations disaster, VP corporate board dispatched to Riga Ignas Staškevičius, one of the founders and co-owners of *Maxima*. Staškevičius immediately fired Jasinskis and replaced the management of *Maxima* Latvia. In a speech on Latvian TV he publicly apologized to all victims of the tragedy and to the Latvian public for “inadequate measures taken to preclude horrendous collapse of the building” (BNS 2013a). Staškevičius then announced that *Maxima* would cover hospital expenses, as well as pay out 50,000 litas (about €14,500) in compensation to families of those who were killed, and 10,000 litas (about €2,900) to those who were injured. The company also committed itself to paying children of those who had perished a monthly stipend equal to average pay in Latvia (about 2,500 litas or €725) until children reached maturity (DELFI.lt 2013d). Staškevičius announced a campaign to rebrand the company’s image by withdrawing its corporate logo “We thought about everything.” In the aftermath of a tragedy this slogan had a profoundly discordant ring to it.

The botched way *Maxima* handled the aftermath proved to be deeply damaging in reputational terms. Yet, the retailer's corporate strategy and ruthlessness in pursuing profits that contributed to the tragedy, are hardly unique to the Lithuanian company. Many criticisms levelled against *Maxima*—exploitation of its labor force, disregard for safety and security of employees and customers, fierce resistance to unionization, 'squeezing dry' of its suppliers, 'killing' small stores and emptying downtowns in cities are also leveled against *Walmart* in US, *Tesco* in UK, *Carrefour* in France, *Edeka* in Germany, and tend to generate periodic calls of boycotts usually without much effect.

In the case of *Maxima* its sales did decline significantly following collapse of its store in Riga. By early December *Maxima* Latvia announced that its fourth quarter revenue would be lower by one fifth compared with the fourth quarter of 2012 (DELFI.lv 2013a). Yet despite a broad surge of anti-*Maxima* sentiment in the region, the public deeply suspicious and resentful of the retailer, continued to shop in its stores without much interruption. There was virtually no protest by consumers in Lithuania to the widely advertised *Maxima* kick-off sales event for the Christmas shopping season in its flagship stores that attracted thousands of shoppers at the same time as the first responders in Riga were frantically trying to save those in the collapsed store (Janonis 2013). Whether the company should have cancelled this festive bonanza event was a moot point which its management steadfastly rejected.

The *Maxima* tragedy brought to the forefront of public attention the full scope of the company employee disempowerment and demonstrated, in stark life and death terms, how lack of employee voice contributed to the manner in which employees were able (and unable) to respond to the emergency. For example, by neglecting employee reports of cracking ceilings and other signs of construction distress, and in general, by giving priority to saving cash and merchandise over safety of customers and employees *Maxima* had undermined its key resource for safety.

There were numerous complaints about abuse of the *Maxima* labor force before the collapse of the store. These included employment contracts with indeterminate periods of time, unclear remuneration rules, excessively long hours, low pay and harsh managerial discipline. This latter was exemplified in a policy of systematic penalties for alleged infractions of company procedures and rules. Some measure of collective employee disempowerment can be gauged from the fact that the most effective channel for redress against management was not the trade union which the company kept at arm's length but the State Labour Inspectorate, the state authority responsible for implementation of the Labour Code in Latvia. In 2012, the inspectorate received twice the number of complaints about *Maxima* as about its competitor supermarket chain *Rimi*, where a trade union collective agreement was in place. Penalties against *Maxima* in respect of employee complaints however were applied in only a few instances and were difficult for the inspectorate to verify. Working undercover for six weeks as a cashier at *Maxima*, a Latvian investigative journalist documented a catalogue of abuses in detail (Springe et al. 2013). Summing up her experience the journalist concluded: "In the month and a half I've grown to understand that a good employee at *Maxima* is the kind who remains silent about wrongs done to them. And there are a lot of such good employees here" (Vēbere 2013).

Maxima had become the object of attention and its oppressive labor regime was a convenient if appropriate target for the charge of corporate callousness, although conditions with a few exceptions were the same or even worse elsewhere (EuroFound 2012a; Vanags 2012; Williams 2009). In fact the lowest measures of employee satisfaction with working conditions in the whole European Union were to be found in Latvia (EuroFound 2010). But collapse brought into focus and publicized these humiliating and degrading conditions. This was perhaps summed up in the apocryphal rumor that *Maxima* check-out staff were obliged to wear (or were supplied with) 'pampers,' as permitted toilet breaks were so infrequent.

Following the disaster, Latvian television's documentary program, *De Facto*, revealed that *Maxima* employees had strictly time-limited toilet breaks for which permission from supervisors was needed but not always immediately granted if there was pressure of waiting customers. Unauthorized breaks were punished with a salary cut. Interviewed by Latvian TV *Maxima*'s Staškevičius did not deny that some of cashiers in *Maxima* stores might be wearing incontinence pants. Furthermore, he defended current policies by stating that “unless [the company] were to set and enforce very strict regulations [on breaks] cashiers would take endless bathroom breaks, cigarette breaks, or coffee breaks and cease to work conscientiously” (rus.DELFI.lv 2013a). Management pettiness was perhaps best revealed in policy towards Christmas presents for employees' children, the value of which was to be later subtracted from the employees' salaries (*Baltic Times* 2013a). Even mainstream Latvian news sites identified the company as “an absolute leader in regard to work rights violations and work safety” (BNN 2013b). In the words of one anonymous employee in another *Maxima* Latvia store, following the tragedy:

Absolutely nothing has changed. It is as though it happened somewhere far away. The day it happened my colleagues who came in for the second shift were talking amongst themselves – the roof of *Maxima* in Zolitūdē has caved in. No one talked about it the next day. The management had gathered everyone on one of the weekends, instructed us about evacuation plans, emergency exits, (and) told us that if anything happened, we should run out (BNN 2013b).

Perhaps the most insidious abuse was the disempowerment of its employees by fear. Even after the disaster, employees who had previously aired concerns remained afraid to openly identify themselves. Several claimed that it was common talk among their number that the *Maxima* building in Zolitūdē was riddled with safety deficiencies, concerns which had the

management listened to might have averted the outcome. With the finger of blame pointing firmly at management rather than employees, questions were now raised as to whether the *Maxima* tragedy could be regarded as a ‘safety crime’ to be subject to the criminal justice system, and equally why the existing framework of regulation was unable to prevent a catastrophic safety failure of this nature resulting in such massive social harm from occurring in the first place.

The response of the authorities

On the very next day following collapse of the supermarket, when the rescue operation was still ongoing, police opened a criminal investigation. In a press conference Toms Sadovskis, a spokesman for the Latvian police, announced that the police had begun interviewing those involved in the accident and that three lines of investigation, all involving possible violations of construction laws were being actively pursued: faulty design, errors during construction process and improper maintenance (*Baltic Times* 2013b). According to Sadovskis, the investigation would take several weeks to complete (Associated Press 2013). By the mid-December, the Minister of Internal Affairs, Rihards Kozlovskis, suggested that the investigation might be concluded in under a year, clearly implying that this would not be a speedy process (rus.DELFI.lv 2013e). By November 27 police had filed requests to conduct 58 technical investigations and collected 100 sacks of material evidence. In the following week police executed seven search warrants at the offices of all the main organizations involved in *Maxima* supermarket construction and management, and had interviewed 110 witnesses (Černiauskas 2013b, LETA 2013b).

Latvian police also announced that technical investigations were to be conducted by the faculty of Riga Technical University (RTU). However, a number of concerns were immediately raised about the lack of expertise and specialized equipment at RTU to conduct

such investigations to the necessary technical standards and suggestions were made to hire firms from abroad. The head of RTU Building Materials Laboratory, Dr. Aivars Šveics, acknowledged that his laboratory was not accredited internationally to carry out legally-binding technical investigations (*Latvijas avīze* 2013). Meanwhile massive lawsuits estimated to reach 1.45 billion euros in claims were being filed seeking compensation and damages in Latvia's courts – the first on November 28 for 100 million lats (145 million euros) (BNS 2013b). The various parties involved in building and managing the ill-fated shopping mall hurriedly hired their own experts to conduct building inspections. Thus, by the end of November, the builder of the ill-fated shopping center the Latvian company *RE&RE* had hired a British based company specializing in the necessary technical expertise *BRE Global* (BNS 2013c), while *Maxima*, in turn, had hired a German company (rus.DELFI.lv 2013b). Meanwhile, both *RE&RE* as well as the architects *Kubs* which designed the *Maxima* structure took steps in the week following the disaster to protect at least some part of their assets from possible future confiscation. In the case of *Kubs* this involved transfer to a company controlled by a relative. The said assets included four motor vehicles: a Porsche Cayenne, a BMW 735, a Land Rover Discovery and a Mercedes Benz C180 (BNN 2013c).

The prosecutors in Riga initiated criminal investigation under the clause of “violations of constructions regulations” of the Latvian criminal code punishable by up to 4 years of incarceration. The other alternatives for prosecuting were of negligence in construction leading to large-scale losses and involving human casualties, punishable by incarceration up to 5 years. Finally, if abuse of office and negligence were to be proved in court as leading to collapse of the supermarket, the criminal code foresaw incarceration up to a maximum of three years (DELFI.lt 2013c). Hence, one of the difficulties in prosecuting those responsible for the supermarket collapse was the underdeveloped legal basis within criminal and civic codes of the Latvian republic to deal with such cases. The lead prosecutor on the case, Arvis

Kalnins, publicly stated that the criminal case on the Zolitūdē supermarket tragedy in Riga should deal with violations of construction regulations, not murder, because “a murder is the result of premeditated actions to deprive someone of his or her life – and that is not something the construction [companies] or architects had in mind – to have a building they design and construct collapse to kill someone” (*Baltic Course* 2013a).

Absent therefore from the Latvian criminal code, as in most other post-communist countries, was any offence of ‘corporate killing.’ This offence is a statutory crime in other jurisdictions including the US, Canada, UK, Australia, Hong Kong and is currently under consideration in New Zealand (Lippel and Bittle 2013). A statutory criminal offence of corporate manslaughter is often introduced after multi-fatality disasters (Bittle and Lippel 2013). Such provision in criminal law is intended to deal with the difficult issue of establishing criminal intent in the context of large complex organizations such as commercial companies or public entities with diffused organizational and decision-making structures. The prosecution of such a crime may seek to establish the ‘controlling mind’ of the corporation which resulted in standards of safety that fell below what could reasonably be expected and amount to gross negligence and a breach of a duty of care. Such a test is usually more easily applied in smaller organizations where responsible management individuals can be identified. Corporate manslaughter law may on the other hand establish as a legal test the contributory acts and omissions of employees in various parts of the organization in aggregate, or as in US law, where an employee commits a criminal act to directly further the interests of the corporation. The crime of corporate killing (or manslaughter) thus may or may not entail individual liability of senior executives for custodial confinement. Also envisaged may be an array of penalties including imposition of significant fines as a proportion of profits, the possibility of future disbarment from public contracts, a period of corporate probation entailing ongoing

external supervision of company activities, or as a final option, the suspension or revocation of a license to operate or carry out business activities. The law in whatever form therefore addresses serious safety failure by senior management resulting in death or injury of which management should have been aware and which was foreseeable (Wells 2001).

The existence of such a law in Latvia would have allowed *prima facie* evidence of such a crime to be considered. Even though criminal proceedings were initiated the potential maximum penalty was in no way commensurate with the scale of social harm. For the public deeply traumatized by gruesome spectacle of a caved-in supermarket involving deaths of 54 innocent victims crushed under blocks of concrete, and 39 more injured, including 30 who were hospitalized, the maximum punishment up to 5 years of incarceration looked like a slap on the wrist. When the president of Latvia, Andris Berzins, called the incident in Riga “a mass murder of defenseless civilians,” it was a somewhat clumsy attempt, at least rhetorically, to redefine the *Maxima* calamity as a corporate manslaughter offence (Berzins 2013).

Nevertheless, however negligent and callous *Maxima* as a company seemed to be in responding to the disaster, the retailer was not the one that had actually designed and built the deeply structurally flawed mall. It may well prove that *Maxima* was not the only entity whose specific acts of omission and commission produced the outcome of disaster. Therefore about a week following the disaster, public attention began to gradually turn from its focus on the supermarket retailer to construction industry and, especially, to its poor (or lack of) governmental oversight (Ross 2013). The president who just few days before had been talking about “mass murder,” now began to argue that the tragedy had occurred as a result of “systemic failures” within the administrative and legal framework regulating construction

industry (DELFI.lv 2013b). In so doing, president Berzins was to open up a stream of revelations of inadequate and possibly corrupt political, administrative and financial regulation of the construction industry that were to point back to the heart of government. Such revelations were to leave the Latvian public aghast and prompt journalists on national television to charge “Those who are accusing *Maxima* [of committing a crime] should themselves be already handcuffed for it” (DELFI.lt 2013b). The issue of regulatory control and enforcement is examined further in the following section.

The liquidation of the regulator

Calamity brought to attention the very poor government regulatory oversight of the construction industry, of the kind “that allows the wrong bolts be used in securing steel beams, a basic error that appears to have been the cause of the collapse” (Ross 2013). This brought to public notice that in 2009 State Construction Inspection Office, the construction oversight board of Latvia, was abolished leading to a situation of regulatory vacuum where construction companies were essentially allowed to ‘self-regulate’, a somewhat problematical situation. The resignation of Dombrovskis was in part an admission of government failure of oversight. About a half of all state regulatory institutions had been similarly closed during the crisis. This process of institutional liquidation was part and parcel continued during the following period of austerity policies.

Then Minister of Finance, Ainars Repse, was allegedly a key architect of the proposal to dismantle construction oversight by the authorities. He had argued in 2009, at the very peak of economic downturn, that “By liquidating the State Construction Inspection Office, Latvia will be able to save 104,000 lats on employee salaries, transport and building maintenance and other expenses.” Repse also allegedly stated that the closure of the inspection agency

would not have “an impact on the business environment, administrative procedures and administrative duty of entrepreneurs, self-employed persons, farmers and other persons engaged in economic activities” (Documents of the Cabinet of Ministers, as cited in BNN 2013d). The then Minister of Economy, Artis Kampars, directly responsible for the construction inspectorate had thereafter dutifully abolished the agency as a part of the agreed government austerity program. The functions of the state inspectorate were transferred to the local municipalities. However, these bodies lacked in staff, competencies and resources for such regulatory supervision work. For example, Riga Construction Supervision Department was led by an officer who had a degree in geography (rus.DELFI.lv 2013g). Moreover as local bodies they were even more permeable to the kind of corrupting influences that typified much of Latvian public administration.

The result was an effective and immediate deregulation of the construction industry from this time onwards. It was little more than a formality therefore when the Riga municipality construction inspection office was, in its turn, shut down by the current mayor, Nil Ushakov, due to lack of funds. In 2010, Riga City Council had cut expenses of the department by 30 percent, salaries by 20 percent and all other expenses by 60 percent (BNN 2013e). The Deputy Manager of the department Andis Cinis, was reported on the Latvian TV *De Facto* documentary program as saying there was anyway only one person working in the department at the time it was finally closed, while after the closure, the functions of the department were never forwarded to any other official body. Vice-Mayor Andris Ameriks claimed that the budget of the municipal inspection department had to be cut due to the requirements of foreign lenders (BNN 2013e). Whatever the truth of this assertion, this was the crucial period during which oversight of the *Maxima* supermarket construction project which began in 2010, should have taken place. The non-appearance of mayor Ushakov for interview by *De Facto*, and the summary dismissal of six municipal employees in the

immediate aftermath of the *Maxima* collapse, seemed like an exercise in scape-goating. Under renewed pressure to resign, Ushakov announced defiantly that he was prepared to “stand by” his decision to remain in office (*Baltic Course* 2013b).

It being Latvia, it was almost inevitable that the backwash of the tragedy should also expose underlying currents of alleged nepotism, political preference, conspiracy and a regrettably predictable but rather nasty ethnic tinge. Mayor Ushakov’s refusal to resign following the example of the Prime Minister Dombrovskis, was a flashpoint for rival public demonstrations. Demands that Ushakov resign probably were more about advancing the agenda of the political opposition to the (ostensibly pro-Russian and anti-austerity) *Harmony Centre* party which controlled Riga city council. Adding to the highly charged nature of these events, the head of one construction company SUIŠ Rīga took it upon himself personally to organize a supportive demonstration of his Russian-speaking employees in favor of the mayor in front of the city hall (rus.DELFI.lv 2013g). It also suggested that there were conflicts of interest regarding the selective allocation of construction contracts that ran deep into the heart of Riga city council. Thereafter it was soon to be discovered that Juris Pūce, the State Secretary to Economy Ministry, might be also involved in a conflict of interests, as Pūce’s wife was receiving donations from construction companies for a charitable foundation she was running. As a result, Pūce was forced to resign (LETA 2013a). The construction industry appeared to have its tentacles around all levels of government.

Because of widespread suspicions about collusion between politicians, state bureaucrats and construction business, the Latvian *Saeima* (parliament) had created a public commission to oversee the process of investigating the causes of the *Maxima* disaster, the first of such public inquiry to be held in Latvia. The commission was to be headed by retired judge, Inara Šteinerte. However, immediately upon its creation, the Interior Minister Kozlovskis issued a

statement saying that the commission would not be allowed to access *Maxima* investigation materials because this could put an undue pressure on the investigating prosecutors (rus.DELFI.lv 2013f). Amidst administrative turf-wars over the oversight of the investigation, the broader public remained skeptical about its transparency and objectivity. Rumors about cover-up and manipulation intensified to such an extent that the Interior Minister was forced to publicly deny that the real number of victims in the disaster numbered in the hundreds (DELFI.lt 2013a). As conspiracy theories abounded, the news that the remaining parts of the supermarket was to be quickly leveled created more public suspicion over “the rush to demolish the structure, before an official investigation has had a chance to get in, and start to collect all important information” (*Baltic Times* 2013c). Within a fortnight of the commission being established, it collapsed in disarray even before it had begun its work. This left as its remaining member retired judge, Inara Šteinerte, as three other members departed in a rancorous dispute concerning how much members of the commission should be paid for participating in the duties attached to this body, and what monies should be allocated in order to secure its independence (*Baltic Times* 2013d). Among those resigning was Inese Voika, chair of the anti-corruption NGO, Transparency International Latvia or “Delna”, who immediately announced the formation of an Independent Zolitūdē Tragedy Commission. It did not speak well to the future possibility of the official commission addressing the sensitive and politically charged issues which surrounded the *Maxima* disaster. Now, for the first time, the ruling establishment in Latvia was having difficulty in confronting awkward truths about the consequences of its own behaviors.

Technical investigation and (speculation) about causes of the store collapse focused on two of its aspects: faulty design or neglect by the builders, or some combination of the two. *RE&RE*, the firm that constructed the building, had hired three Latvian architects to review the building design. Their conclusion was that the collapsed building was “designed with

insufficient load carrying capacity -- three times less than required” (AFP 2013). This was also the opinion of a chief construction engineer of the Finnish *Rak Tek Solutions*, Toomas Kaljas who estimated that more than half of structures used to construct the building performed no load-bearing function, and that “the real loading involved in [the] collapse exceeded safe allowable value almost ten times” (2013a,b). Riga Technology University experts also confirmed such findings, but focused more on roof truss connection screws that failed leading to roof collapse, i.e., either screws that were chosen were of lesser carrying capacity than needed, or their quality was inferior (rus.DELFI.lv 2013d). In any event, in the view of the experts, it was surprising that the building had stayed up for as long as it had, and that with the additional weight of even a snowfall, it could have collapsed at any time over the previous two years (BNN 2013a).

However, the technical analysis of construction failures in the collapsed roof was very quickly transcended by criticisms addressing more systemic causes in the organization of the construction industry itself. This was because the *Maxima* roof collapse incident was by no means a single occurrence. Previous incidents of roofs collapsing in major ongoing construction projects dated as far back as 2002 in Vilnius in Lithuania, concerning the refurbishment of the roof of an ice palace. More recently, the huge multistoried parking garage of the *Maxima* superstore in Kaunas began to sag leading to its closure and reinforcement (Povilaitis 2013). Neither are collapsing structures unique to the Baltic countries. In 2012, a five storey project in Bratislava, Slovakia, comprising a parking facility with a wellness center on top collapsed raising on-going wider concerns about building standards in Eastern Europe (CIJ Blog 2012, *Slovak Spectator* 2012).

In Latvia itself a number of similar accidents had occurred in the recent past: unable to hold uncleared snow, the roof of a hardware store *Depo* in Liepaja collapsed (LETA 2012); in October 2012 in Riga the roof of an unfinished shopping center *Alfa*, built by the same

RE&RE company as the ill-fated *Maxima* in Zolitūdē, caved in (LETA 2013b); A *Maxima* warehouse roof in Olaine township caved in, and a *Rimi* shopping center roof likewise while under construction in Ventspils (*Latvijas avīze* 2013). All these incidents in Latvia generated little publicity because nobody was killed or seriously injured. Following the collapse of the *Maxima* store in Zolitūdē, the Riga municipality examined 94 public structures in the city and found that 18 *Rimi* and 13 *Maxima* supermarkets had cracks of various size and configurations; as a result, one *Maxima* and one *Rimi* store were immediately closed (rus.DELFI.lv 2013c).

Such widespread construction of apparently structurally deficient buildings can be in part attributed to the competitive tendering bidding process prevalent in the industry that is based on imperatives of “fast and cheap,” in words of the president of the Lithuanian Builders Association Dalius Gedvilas (Lukaitytė-Vnarauskienė 2013). Because the lowest bidder tends to win contracts, it creates enormous pressures on all participants to lower the price in all ways possible including by minimizing expenditure on quality and safety control. Thus, the preference for utilizing “relatively inexpensive and often of dubious quality [construction] materials” that were allegedly used in the construction of the collapsed *Maxima* store in Riga (*Latvijas avīze* 2013). At the same time, because the scale of construction in Latvia is relatively small, it is price-prohibitive to run laboratories that check the quality of materials, as this form of inspection would add further to construction costs.

Austerity measures undertaken since onset of economic recession in 2009 not only had cut or eliminated state oversight and inspections, but had also led to a liberalizing of construction regulations. Among those senior political figures who had allegedly “actively lobbied” for such changes was none other than president Andris Berzins when he was the head of the *Saeima* National Economy Committee (BNN 2013e). Similarly, in Lithuania new technical regulations on construction that came into effect in October 2013 significantly weakened

safety and quality control. For example, permitted size of buildings that individuals now are allowed to build without certification or governmental technical oversight was increased significantly (from 9 to 18 meters in height and from 12 to 18 meters in distance between load-bearing columns); whereas previously the construction of buildings that were to be used by more than 100 persons was classified as requiring certification or technical oversight, in the new code this requirement was eliminated and so on (Lukaitytė-Vnarauskienė 2013).

In Latvia a new construction law was passed by *Saeima* on October 2013 and intended to come into effect in February 2014. The goals of the new Latvian law, according to the Latvian Association of Civil Engineers were very similar to those of the law in Lithuania, i.e., “to protect entities commissioning new construction projects and financial investments, as well as to remove bureaucratic obstacles to construction project development” (*Baltic Course* 2013c). In other words, the new Latvian construction law gives a priority and interprets ‘safety’ as primarily the safety of the investments, and not as physical safety of those building and using these structures. Such legal changes chimed exactly with the increasingly pervasive view that entrepreneurship was being “hindered” by requirements for safety and health protection. In a series of representative national surveys the Latvian social research company SKDS found that while over three-quarters of respondents identified taxation as the key obstacle to business, work protection and safety requirements were increasingly regarded as a ‘business hindrance’ (by 15 percent of respondents in 2005, 27 percent in 2007, 24 percent in 2009, but by 30 percent in 2011) (EuroFound 2012).

As a result of *Maxima* event, in both Baltic countries, construction laws came under severe criticism and scrutiny and are currently (at the time of writing in December 2013) being reviewed. What is clear that without significant changes to the regimes of oversight and revision of the whole legal and technical framework under which construction industry

operates, the safety and integrity of buildings in the region will remain compromised. In response to public pressure, on 5th December the *Saeima* approved re-establishment of the State Construction Supervision Bureau, thus reinstating, at least on paper, the state inspectorate that had been previously abolished (*Baltic Course* 2013d). This office will be formed by September 1, 2014 and will be under Ministry of Economy, charged with monitoring construction of public buildings. The office will be allowed to request any type of information from construction companies, conduct repeated examinations of the construction project or specific buildings and report finds to other authorities. Furthermore, it will have the authority to halt all construction work if inspections were to uncover violations. The office will also be able to prevent a newly constructed building from being commissioned until all uncovered flaws have been fixed. However, whether the new regulatory authority will successfully resist the pressures that led to the neutering and even ‘capture’ of the previous body remains to be seen. Past experience and continuing economic imperatives would suggest caution in this matter. In the absence of the results of the public inquiry, or inquiries as it would now appear, into the disaster, the final official determination of causes both immediate and underlying, must remain opaque. Nevertheless, much is already known that points to fundamental failures of oversight by government and of duty of care by commercial interests.

Conclusion: Criminalizing “premature and avoidable” deaths

For over a decade prior to the Zolitūdē tragedy the Latvia government had been concerned to ‘improve the climate for businesses’ and reduce the ‘burden’ of regulation. This deregulatory emphasis had taken the form of an intensive program of ‘reform’ of various Latvian agencies of regulatory oversight, spearheaded by a Government Action Plan to Reduce Administrative

Barriers, primarily intended to stimulate incoming foreign investment. Inspectorates in Latvia were explicitly admonished, for example, by external advisors from the World Bank to concentrate on achieving a shift in focus from “punishment” for violations to “compliance-based activities” aimed at “meaningful observance” of safety and other rules, while inspectors in turn were instructed to take on the role of “advisors” to business “clients” who should be “encouraged and helped to comply with requirements” (Coolidge et al. 2003: 11).

The corresponding de-emphasis on control and accountability amounted to government-sponsored process of ‘regulatory capture’, whereby the target industries of regulatory agencies were themselves able to set the agenda and parameters of regulatory enforcement. At both national and local level the various control bodies and inspectorates found themselves deprived by government of key underpinning material and political supports for their regulatory activities, with enhanced rights of employers to contest enforcement decisions by inspectorates in court (Woolfson 2006). This was the broader context in which the advent of the crisis in the late 2008 and the imposition for radical austerity measures across the board provided an excuse for further dismantling already-weakened state regulatory agencies, to the extent that over half were simply shut down in short order during the years of the crisis.

The post-communist EU member states of the Baltics, and doubtless elsewhere in the new Europe, therefore pose an ongoing dilemma of regulatory policy in the backwash of crisis and continuing austerity. The rule of law is weak and the criminal justice system operates at best in a selective manner and protective regulation is politically permeable. The legitimacy of the regulatory agencies has been and remains under continuous challenge. This amounts to, as the *Maxima* tragedy graphically illustrates, a context in which the effective regulation of private capital in the interests of public safety is being radically recalibrated downwards in

the interests of promoting economic recovery. In the face of such an overwhelming economic rationale, ‘safety crimes’ remain largely insulated from the purview of the criminal justice system.

The *Maxima* episode reveals the criminogenic characteristics of the ‘new’ capitalism in the sphere of public safety. This is the product of a raw capitalism that no voluntary codes of conduct can tame. It is not a pathological variant of some ‘normal’ ordered state. It *is* the normal face of a perfectly viable if socially costly economic system. This system is sustained ideologically on the basis of justifications of the imperatives of the market. Continuing ‘safety crime’ in the newer EU member states may consign these countries to providing a low-compliance high-hazard environment in the enlarged European Union, ultimately with a gravitational pull on existing standards of regulatory compliance throughout Europe. This leaves the regulation debate with an unresolved contradiction regarding public safety standards. The current renewed drive by the European Commission towards reducing regulation for business, especially in the aftermath of the crisis, is further justification for long-standing anti-regulatory preferences of neoliberal domestic elites. The results of this combined trajectory are that the significant material costs and human consequences of neglect and reckless disregard for public safety in favor of the pursuit of profit, are externalized onto the general populace.

Yet there is a deeper social and political determination that goes to the heart of post-communist society. Neoliberalism in the Baltic states has generated its matching corporate culture, mostly unrestrained by notions of accountability and social responsibility. But the problem is not just a matter of flawed corporate culture and cost-driven practices. The *Maxima* episode is the manifestation of a larger cultural deformation that neoliberal attitudes

have embedded in the wider social environment of the post-communist Baltic states. Its essence is the sustained *violence* that results from the free exercise of economic self-interest ‘without limit.’ Its manifestations are in the insidious daily attrition of solidarities and social cohesion created by the causal and total disregard for the welfare of others. This erosion of binding social norms in favor of rampant individualism is most vividly illustrated in the standardized rates of death from “external causes” that are by definition “premature and avoidable” (WHO 2012). These include transport and motor vehicle accidents, falls, suicides and homicides that in aggregate rates are double and triple those of their Scandinavian neighbors, and for specific indicators such as homicide, approximately five times greater in the three Baltic countries than say in Sweden. Austerity has intensified these indicators of alienation and social disrepair. After two and a half decades of ‘primitive accumulation’ the neoliberal Baltic states have generated social environments that are characterized by both mortal danger and anti-social behavior. This is equally so at a collective and at an individual level. Fifty-four lives “prematurely and avoidably” terminated in Riga on 21 November 2013 attest to this unpalatable fact.

This account began with the seemingly incongruous comparison of the disaster at *Rana Plaza* in Dhaka, Bangladesh and the tragic events in Riga. The loss of life at *Rana Plaza* which claimed over 1,100 victims makes the scale of the former event many times greater in magnitude. Yet closer examination of both incidents reveals striking similarities. In each case there was shoddy construction, the specific regulations covering building safety were flagrantly ignored and the wider regulatory framework regarding safety and public protection was largely subverted by powerful business interests. Moreover, in both instances, as further modifications to the building structure led to employee concerns regarding visible cracks and other early warnings of potential collapse to be dismissed by the management. Employees

were compelled to continue working under threat of financial penalty. As these two disaster events unfolded safety response systems proved to be woefully inadequate as employees found the means of escape blocked by locked doors. In both instances, the responsible owners either fled the scene, or attempted to evade any responsibility. Viewed in this way, the parallels are compelling with one notable difference, that the owner of the sweat-shop garment enterprise in Bangladesh currently languishes, for the moment, in custodial confinement. In nearly all other respects, *Maxima Riga* is Latvia's *Rana Plaza*.

For Bangladesh and for Latvia, and perhaps more widely in the globalized neoliberal world, the challenge remains as to whether these two traumatic events will be quickly forgotten disasters of yesterday, or will mark a turning point in establishing new corporate accountability for social harms caused by safety failures. If the latter, then at least a progressive impetus for comprehensive regulatory reconstruction could emerge that contests the drive of global capital towards deregulation. Essential to that reconstruction is that the legitimate voice of employees and the empowering of their representatives to raise issues of safety without fear of retribution is recognized and affirmed both in law and practice. Such effective *re*-regulation would go some way to protecting human well-being and public safety from the unequal burdening of risks attendant on the unfettered free market pursuit of profit, whether in Bangladesh or the Baltic states.

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