

Two Faces of Deviance

**Crimes of the
Powerless and
the Powerful**

**edited by
Paul R. Wilson
and
John Braithwaite**



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INSTITUTIONAL VIOLENCE

It is beyond question that the ruling class break laws protecting property more frequently than do the working class. Some of the evidence for that conclusion has been reviewed in the introduction to this book. A more contentious question is the class distribution of crimes against the person. On the face of it, there would seem to be little doubt that powerless people engage in more violent crime than do the powerful. Analyses of official crime statistics show that working class people and blacks commit offences like homicide, assault, and rape at rates which are sometimes five to ten times as high as the rates among middle class people and whites.¹ And not all of these differences can be written off as reflections of class and racial bias in the criminal justice system, particularly with offences of high reportability such as homicide.

Working class people do commit criminal homicide more frequently than powerful people. But this does not mean that the working class, through illegal acts, kill more people than the ruling class. In fact, the reverse is true. A good starting point for an understanding of the class basis of violence is the distinction, made by Carmichael and Hamilton, between *individual* racism and *institutional* racism. "When white terrorists bomb a black church and kill five black children, that is an act of individual racism, widely deplored by most segments of the society. But when in the same city—Birmingham, Alabama—

five hundred black babies die each year because of lack of proper food, shelter and medical facilities, . . . that is a function of institutional racism".²

The victims of institutionally induced malnutrition die just as surely as the victims of the individually thrown bomb. Carmichael and Hamilton's example of institutional racism is not an example of institutional crime because probably no law breaking is involved in the death by malnutrition.³ Nevertheless, we can use their conceptualization as a model as we argue in this chapter that the structure of social relations in a capitalist society operates to separate the ruling class murderer from contact with the murder. The hands of most members of the ruling class are spotlessly clean because capitalism requires of recruits to the ruling class that they be Pontius Pilates—no more, but certainly no less. There is no need for them to be malicious, evil men. The law in a capitalist state is effused with the ideology of individualism: if there is a murder, then the law must locate an individual hand which is stained with blood. This individualistic law is incompetent to deal with the show of spotless hands presented by the ruling class.

The ideology of individualism seeks to locate blame individually, even for injuries to persons that are the outcome of institutional arrangements which put profit before public safety. If a person is electrocuted by a defective power tool, he is at fault for failing to ground it. This when the technical director of the Consumer's Union in the United States has said, "We warn a man not to use a drill while standing in a puddle, although conceivably we could design one he could use safely while sitting in a bathtub."⁴ A child in a flowing nightdress backs into an electric heater and is engulfed in flames. We are likely to blame the mother for failing to watch the child and failing to instruct her adequately in the dangers which heaters pose. We are often less likely to blame the manufacturer for producing a needlessly flammable product, and even less likely to blame capitalism for putting the manufacturer in a situation where, in order to be competitive and maximize profit, he must cut corners on safety. With institutional violence, it is not capitalism which is seen to be at fault, nor is it the members of the ruling class who act on behalf of capitalism, it is the victims. For individual acts of working class violence, in contrast, we do not

*Our thanks to Mike Emmison of the Department of Anthropology and Sociology at the University of Queensland for his criticisms of an earlier draft of this chapter.

blame the victim. The victim is rarely blamed for aggravating the murderer; the mugger is not excused because his victim was foolish in walking down a dark alley. An exception to this is rape. Victims are at fault for their rape because of another central theme in the dominant ideology—sexism. The exception only serves to confirm the rule that the attribution of blame is a matter of the politics of domination rather than a matter of an objective legal assessment of fault.

SOME AUSTRALIAN EXAMPLES OF INSTITUTIONAL VIOLENCE

American and British researchers have frequently exposed the extent to which workers have been the victims of institutional violence in a way that Australian criminologists have been unable to do and unwilling to attempt. As one example, one hundred thousand men have died in coal mines this century in the United States.⁵ Swartz has argued that many of these lives could have been saved if mine safety laws were not so flagrantly violated.⁶ He points out that, in more than half the coal mines in Kentucky, the concentration of coal dust was found to exceed the legal limit, in some cases by a factor of ten. Comparable Australian data is lacking, though there have been occasional exposés of wide-spread mine safety violations following disasters in which large numbers of miners have been killed.

The mining and manufacture of asbestos has been shown in the United States to be a far greater problem than coal mining. Exposure to asbestos dust causes the serious lung disease asbestosis, and also greatly increases fatality rates from lung cancer and mesophelioma. People who smoke cigarettes and are asbestos miners suffer a rate of lung cancer many times higher than among those who only smoke. According to the World Health Organization, in the United States alone, among asbestos workers and former asbestos workers alive today some two hundred thousand will die from lung cancer and fifty thousand from mesophelioma as a result of occupational exposure to asbestos.⁷ To suppress these chilling facts the asbestos industry established what one commentator has called a Medical-Industrial-Complex. Doctors have been hired by the asbestos industry to contradict and denigrate evidence being put out by

independent medical researchers that asbestos was harmful to health. These industry doctors, allied with key health officials in state and federal governments in the United States, conspired to prevent implementation of whatever laws existed to clean up work places where asbestos was being used.⁸

The Australian Broadcasting Commission public affairs programme, "Broadband" has done some brilliant exposé criminology on the flaunting of safety regulations in the Australian asbestos industry. Asbestos mines at Wittenoon in Western Australia, the Woods Reef mine in New South Wales, and a third mine near Grafton in New South Wales were all shown to violate Australian safety standards for asbestos dust concentrations in working environments. In the case of the latter, dust concentrations were shown to exceed the safety standard by a factor of thirty. The reasons for such violations quite simply boil down to a matter of money.

"Broadband" Interviewer: Do you think that the safety of the workers on the site has to be balanced against the financial viability of the project?

Manager of Woods Reef Mine: Not to any greater degree than any other industry. If you watch somebody building a high-rise building in Sydney there are practices followed that are not 100% in compliance with safety standards. But the building probably wouldn't be built if there was strict compliance. Similarly here there are times when we have to run and we'd like perhaps dust levels to be lower, but it's a straight choice; either you keep financially viable or you close down the operation.⁹

There can be little doubt that the violations of safety standards are intentional and calculated. The mine near Grafton employs mainly Aborigines. One of these Aborigines told Matt Peacock of "Broadband",

Only just before I finished up there, there was someone coming up there, I don't know who they was, this Woods Reef mob. The manager said to me, he said, "Put this on"—a little thing to suck dust away from the jack-hammer. Well that's the only time you use it. You use it for about four hours if they're there for four hours. If they're there for 20 minutes you use it for 20 minutes. As soon as they go out of the cut that thing comes off and you don't use it again till the next mob come.¹⁰

Up until 1976 this mine had been owned by the highly profitable James Hardie Company. James Hardie are the largest manufacturers of asbestos products in Australia. A large proportion of James Hardie's factory workers are migrants who have no understanding of the dangers of asbestos, and to whom it would often be difficult to communicate such dangers. James Hardie has recently spent many millions of dollars in relocating some of its asbestos operations in Indonesia—a country not noted for the stringency with which it enforces safety regulations to protect workers. As one of the workers from the mine near Grafton summed up, "To my way of thinking they're just exploiting the Aborigines, us people. They're taking advantage of our ignorance. That's what it looks like to me."¹¹ We leave it to the reader to judge whether migrants, people from the third world, and Aborigines are, after all, expendable.

The extent of the injury to persons as a result of industrial accidents in this country is staggering. In Queensland alone during the 1974-75 financial year (most recent figures available) there were 59,031 recorded injuries to workers as a result of industrial accidents, including 720 cases of permanent disability. The average number of working days lost as a result of these injuries was 17 in the case of males and 19.3 in the case of female workers. In addition there were during the year 1,202 successful compensation claims by workers for diseases which were attributed to the work environment. The average number of days lost from these occupational diseases was 25.2 in the case of males and 19.5 in the case of females. For forty Queensland workers the occupational disease resulted in death during that year, and for many others serious disabilities such as deafness would afflict them for the rest of their lives. Over half a million Australians suffer from some degree of occupational deafness.¹² Table 1 lists the 59,031 industrial accidents (excluding occupational disease) by the agency related to the accident and the type of accident.

The naming of occurrences listed in table 1 as industrial accidents is an interesting instance of the application of the ideology of individualism. Presumably, the state interpreted such occurrences as accidents because

a. No one wanted them to happen;

Table 1. Industrial accidents recorded in Queensland, 1974-75, by agency related to the accident and type of accident

	Agency Related to the Accident											
	Metal and Wood-working Machines	Other Machines	Lifting Equipment	Installed Equipment	Hand Tools Means of Transport Movable Equipment	Materials, Substances, Radiation Environment	Indoor Environment	Outdoor and Underground Environment	Objects ¹	Other Agencies	Total	
1. Crates, logs, protruding stakes, etc.	3,117	2,621	969	632	13,475	4,993	2,421	5,043	4,088	18,054	3,618	59,031

1. Crates, logs, protruding stakes, etc.

Falls of Persons	Type of Accident								Total
	Struck by Falling Objects	Stepping on, Striking, or Struck by Objects	Caught in, or Between Objects	Over-exertion or Strenuous Movement	Extreme Temperatures	Electric Current	Harmful Substances or Radiation	Other Types	
8,502	4,491	20,080	4,582	17,073	1,824	65	1,149	1,265	59,031

Source: Australian Bureau of Statistics, Queensland Office, *Industrial Accident Statistics, Queensland, 1974-75*, Reference No. 62-301, Brisbane, 1977. Tables 7-10.

- b. It is usually impossible to locate blame for the occurrence in any one individual.

Many things happen without anyone wanting them to happen. No one wants unemployment. Yet unemployment is not an accident. It is the predictable result of a particular mode of economic organization. Even at a strictly volitional level of analysis, an arsonist who lights a fire in which people are killed did not want those people to die, but do we regard their death as an accident?

And who is to blame for industrial accidents? This is the whole problematic of individual versus institutional violence. Privately, people whose job it is to inspect machinery on behalf of state government departments of labour, will tell you that for a great many of the recorded industrial injuries and diseases, flagrant violations of industrial safety regulations by employers are involved. But prosecutions are rare because the state prefers to interpret such occurrences as accidents rather than as law violations. In Queensland in 1975-76 there were only seventy-six prosecutions under machinery inspection acts.¹³

While there is no systematic evidence available, there are grounds for suspicion that Australia adopts a more laissez-faire approach to institutional violence than comparable countries. Pengilly has made one comparison where he showed that while there were 2,623 prosecutions for misleading advertising in Great Britain, there were only nine prosecutions in New South Wales over the same period.¹⁴ Carson has undertaken a most systematic study of factory legislation in Britain.¹⁵ Over a four-and-a-half-year period, two hundred randomly selected firms in England had a total of 3,800 offences recorded against them. The vast majority of these offences involved failure to meet mandatory requirements for the physical safety of workers, including 1,451 offences of lack of secure and properly adjusted fencing at dangerous machinery, and 460 offences of inadequate precautions against fire and explosion. Certainly, the great majority of these offences were dealt with by warning notices and instructions to upgrade safety standards rather than by prosecution. Nevertheless, a reading of Carson's article certainly creates the impression of a greater willingness to act on the violation of industrial safety regulations than is evident in Australia.

Apart from workers, the major victims of institutional violence are consumers. Australia has had no Ralph Naders to systematically demonstrate the victimization of consumers by unsafe products. From time to time, *Choice* magazine has unearthed some of the hidden violence done to consumers as a result of the flagrant violation of safety regulations by Australian manufacturers. In 1976, *Choice* uncovered the hazards of electric blankets which posed a considerable fire risk by failing to meet safety requirements.¹⁶ In New South Wales alone there were 123 electric blanket failures which resulted in scorching, charring or fire over a two-year period. In addition to the fire hazard, ten of the twenty-one blankets tested by *Choice* failed to meet Australian standards on current leakage tests. A blanket which fails current leakage tests could give an electric shock if the blanket were damp.

In the same year *Choice* irreverently admonished the unhealthy "great Australian gravy pie".¹⁷ The previous year, 1975, had seen *Choice* slam the sausage. After testing fourteen brands of sausage, they were forced to conclude that "very few, if any, of our sausages conform to legal requirements and that the Australian sausage today can be a far cry from what is intended by the National Health and Medical Research Council standard".¹⁸ The manufacture of substandard sausages and meat pies might sound like a trivial matter. It would seem to provide a stark contrast to an assault, for example, in which an innocent citizen is dealt a blow requiring several stitches. Yet some of us, if forced to choose between getting a few stitches in our head and spending a few agonising days in bed with food poisoning might just opt for the former. Though the assault is more visible and frightening, the consequence of contaminated food might be commensurate in suffering. Even the effects of the more trivial forms of institutional violence make the hegemonic emphasis upon individual acts of violence seem misplaced. Clearly, if we move from unhealthy meat pies to unsafe motor cars, the argument becomes rather more compelling.

There is a sense in which *Choice*, by slamming the sausage, is engaged in a kind of consumerist masturbation. Consumer associations tend to locate blame in the product, as if it is the meat pie itself which is somehow to blame for its unhealthy state. Alternatively, the fault lies with shoddy workmanship. In "the

good old days" pride was taken in producing a wholesome meat pie. Consumer associations need to transcend their watchdog role and consummate their analysis by showing how market forces in particular industries create systematic pressures towards the violation of health and safety regulations. Some might carry this analysis further and argue that consumer groups are a safety valve for capitalism. They check capitalism's more visible abuses; help perpetuate the myth of consumer sovereignty; and deflect criticism away from the need for major structural change. Such a conclusion is overstated because consumer organizations often do attack the profit motive and they regularly uncover cracks in the capitalist system which would never have been discovered by the armchair Marxists who sit back and castigate them.

Nevertheless, *Choice* has done an outstanding job in demonstrating the extent of the suffering caused in this country by the manufacture of unsafe products. There have been several exposés on the flammability of children's clothing. *Choice* have found that twenty children and adults die each year in New South Wales alone because their clothes catch alight.¹⁹ There is little reason to believe that this would be an exaggerated figure because Magnuson and Carper have reported that in the United States each year 150,000 people "suffer excruciating pain and often lifelong scars from fires, resulting from a match or a lighted cigarette dropped on flammable clothing or upholstery".²⁰

If one were to isolate the two areas of institutional violence which cause the greatest injury to persons one would have to nominate the sale of unsafe automobiles and the promotion of cigarettes. Since another chapter in this book is devoted to crime in the automotive industry, we will concentrate here on the tobacco industry. Each year tens of thousands of Australians die who would still be alive were it not for their smoking of high tar content cigarettes. Health education campaigns have made Australians acutely conscious of the dangers of the tar and nicotine in cigarettes. Have you ever wondered then, why some Australian cigarette manufacturer has not exploited this consciousness by advertising the low tar and nicotine content in their cigarette? Surely a manufacturer could grab a large slice of the market by arguing that their cigarette, with the lowest tar content available, was the safest.

Magnuson and Carper have shown how in the United States

attempts to advertise the low tar content of safer cigarettes such as Marvels and Cascades was foiled by the other tobacco companies.²¹ We do not know how this was done. We do know that at least one major national news magazine in the United States rejected a bold and truthful advertisement which drew attention to the significance of the reduced tar content of Marvels and Cascades. We will never know the kinds of pressures that led to this decision; whether they were legal or whether they involved a violation of some restrictive trade practice legislation. Illegality can be suspected, but never proved. As with all of the really big crimes, there is little possibility of the facts leaking out because the stakes are too large. What was unusual about Watergate was not the crime, but the fact that it was discovered.

Certainly we know that untold damage to the health of Australians is a consequence of the fact that no manufacturer has promoted a low health risk cigarette in this country. One of the authors has been told by a senior executive of the company which produces the lowest tar content cigarette on the Australian market at the time of writing (Ransoms) that they "don't like to push the health angle". Even though the Victorian Anti-Cancer Council has said that "if you must smoke, smoke Ransoms", the executive thought it would be "unwise" to use this fact in advertising. Even though such a promotion would reap a fortune for the manufacturer concerned, it would do inestimable damage to all of his competitors; and in the case of Ransoms, it would harm other high tar content brands sold by the same company.

The giant cigarette companies do not want to become engaged in a competition to make their cigarettes less hazardous by reducing tar and nicotine, although they could do it readily. They know that they command the market primarily because they continue, despite all health risks, deliberately to manufacture cigarettes relatively high in tar-nicotine. The very loyalty of their users depends to a great extent on the tar-nicotine strength of the cigarette. For the higher the tar content the greater the "flavor" (although artificial flavourings also help produce a satisfactory flavour); and the greater the amount of nicotine, the greater the "kick", and, in those cases where the smoker's habit approaches true addiction, the greater the satisfaction of his

nicotine dependency. Thus, to disclose the actual tar content and risk a competitive race toward safer cigarettes is not to the advantage of the major cigarette companies. Lowering tar-nicotine would lessen their grip on their carefully cultivated users. Furthermore, manufacturers fear that letting tar-nicotine disclosures creep into advertising could serve as constant reminders of the basic harm of cigarettes.²²

The rhetoric of free enterprise tells us that competition ultimately benefits the consumer. The reality is that the only kind of competition which is allowed is that which benefits those with entrenched power and capital. Ideally firms are supposed to compete with each other to see who can provide the safest product for the consumer. In reality, they either collusively or tacitly act to quash safety improvements which increase costs or reduce sales.

In a capitalist society, advertising is one of the most important vehicles for institutional violence. How much damage to Australian kidneys has been the result of the extensive advertising of minor analgesics: Fraudulent drug claims and deceptive advertising have been characteristics of the Australian pharmaceutical industry. The biggest companies have actively discouraged medical research progress in directions that might diminish their already excessive profits. They have released inadequately tested drugs with dangerous side effects without adequately warning of hazards. The source of all of this is again the drive for profit. Recognizing this, the Pharmacy Guild of Australia has argued for the sale of minor analgesics such as Bex and Vincent's to be taken out of the hands of profit oriented businesses and put into the hands of "professionally responsible" pharmacists. There is, in fact, evidence to show that pharmacists who are professionally oriented are far less likely to engage in illegal and irresponsible behaviour than pharmacists who are business oriented. Quinney has found in an American study that seventy-five per cent of those pharmacists whom he classified as business oriented had violated prescription laws, while none of the pharmacists whom he classified as professionally oriented had done so.²³ The problem is, however, that most Australian pharmacists seem to have adopted the exploitative, profit-dominated orientation of business, and not the community service ideals of the profession. When *Choice* magazine had a

panel call upon ninety-seven pharmacists to request a dozen large packs of minor analgesics at one time, only three pharmacists refused to supply such a huge quantity; most asked no questions, and many offered a bulk discount. "Next time you want a dozen ask for a discount for a bulk purchase", one panel member was told.²⁴

To move even further away from meat pies, if violations of international law such as torture of prisoners of war, illegal acts of aggression, and genocide are counted as crimes, then the extent of crimes against the person by powerful people increases in magnitude to the point where other crimes pale into insignificance. Since the order-giver rather than the order-taker is generally culpable under international law, most violations are classifiable as white collar crimes.²⁵ With genocide we have seen a million Armenians slaughtered by a deliberate policy of the Turkish government for almost five years; a similar number of Biafrans slaughtered in Nigeria; and even a greater number of Jews slaughtered in Europe. Lest we think that Anglo-Saxon stock has not been involved in such slaughter, we should look through history, from the slaughter of 27,000 people by Richard the Lion Heart at Accra, to the killing of 150,000 Vietnamese civilians in recent times. Ask the next Tasmanian Aborigine you see what he thinks of the proposition that Australians have not been involved in genocide.

Even excluding violations of international law from the analysis, enough evidence has been considered here to render laughable any contention that more people die and are injured from illegal acts committed by working class people compared with illegal acts committed by powerful people. Gilbert Geis, after referring to findings such as those of Ralph Nader on the building of potentially lethal cars, and electrocution deaths caused by the failure to enforce legal safety requirements on electrical equipment, concludes that "support clearly seems to exist for the view that acts reasonably defined as white-collar crime result in more deaths and physical injuries than acts which have been traditionally defined as murder and manslaughter. Or more euphonically, it seems evident that 'crime in the suites' is more dangerous than 'crime in the streets'."²⁶

THE CREATION OF INTERPERSONAL VIOLENCE

Many readers will be uneasy about the argument presented up to this point because of the feeling that there is a qualitative difference between the car manufacturer who kills people by cutting corners on safety regulations and the murderer who directly carves a person with a knife. Of course there is a difference. It is this difference which gets to the nub of what we are trying to show—that the social relations of a capitalist society all too often serve to separate the murderer from the murder; that there is no unity among criminal behaviour, the intent of the criminal, and the consequence of the crime. It is the ideology of individualism which distracts attention from any crime where there is not an individual who personally and intentionally commits the crime. We focus on the evil of the doer rather than on the evil of the system which makes the doing inevitable and necessary.

We have quite openly conceded that while more people are killed and injured as a consequence of ruling class law-breaking, it is working class people who engage in direct acts of person-to-person violence at a higher rate. But let us now enquire into some of the reasons for this higher rate of interpersonal violence among the working class.

David Gordon has provocatively argued that it is not that the police and the public show greater concern about the working class crime because greater interpersonal violence is involved; but rather that working class crime involves greater interpersonal violence because the police show greater concern about it.²⁷ Crimes which are typically working class are severely prosecuted, and the police are prepared to use force to effect arrests. For these types of crime, the criminal is at risk, so Gordon argues that he must rely on the threat or the commission of violence to protect himself. If prosecutions were equally severe for white collar criminals, and if police were prepared to engage in shoot-outs with white collar criminals, then these types of criminals would be prepared to use the threat of harm to those who would betray them. Working class crime is more violent, therefore, partly because of the selective attention paid to working class crimes. Gordon supports this argument by pointing out that working class offences which *are* largely ignored by the police

in the United States (such as ghetto numbers rackets) rarely involve violence.

In part, then, the greater interpersonal violence evident among working class criminals may be created by a ruling class ideology which conceives of the working class as more violent. Contrawise, one of the main reasons that relatively little violence is associated with female crime might be that the police do not deal severely with female crime in a way that incorporates the expectation of violence. Here the ruling class ideology which assures the nonviolence of female crime is that which conceives of women as passive, nonaggressive, and physically weak. Clearly, such a theory only tells part of the story. Indisputably there are many other reasons for the lesser violence of women and the greater violence of working class people in interpersonal behaviour. Many of these have to do with exploitation as well, but we must limit our concern here to how ruling ideology about violence generates violence.

Gordon's argument can be used to develop an understanding of why Australian Aborigines, who were traditionally far less violent than Anglo-Saxons, seem to engage in more violent crime than white Australians. Historically, Aboriginal deviance (from white society's rules) has been responded to severely and violently because Aborigines were regarded as less than human, and Aborigines foolishly acted to defend themselves. Their generalized aggressive demeanor has its historical origins in a defensive reaction, not an attacking one.

In an earlier chapter it was shown how much of the relatively harmless activity of bodgies in the 1950s was reinterpreted as violence, and how that reinterpretation became a self-fulfilling prophecy. If we are confronted by someone on the street who wears a leather jacket, or who is an Aborigine, we have a higher expectation of violence than if confronted by a well-dressed white. For those of us who are inclined to respond violently to perceived threats of violence, the expectation becomes a self-fulfilling prophecy.

On 22 October 1977 anti-uranium street marches had been organized in all of the eastern states of Australia. In Queensland, the premier, Mr. Bjelke-Petersen, refused to issue a permit for the street march claiming as his reason the belief that the protesters were inclined to violence. Even though a permit had

not been issued, three thousand people marched, there was a great deal of violence between protesters and police, and four hundred people were arrested. In both Sydney and Melbourne, ten thousand to twenty thousand people marched and there was no violence, no arrests. Through this instance where the ruling class acted differently in different parts of the country we can see clearly how interpersonal violence is created by the ruling class. Sydney and Melbourne acted as a naturalistic control group which enabled us to unmask quite dramatically how a ruling class expectation of violence becomes a self-fulfilling prophecy. When the dominant ideology conceives of certain classes of people as violent, violence is often created in the image of that conception.

One of the most popular cartoon themes in the late 1960s was the long-haired hippie demonstrator cracking a policeman on the head with a sign which read *Peace*. This incongruity should not be interpreted as evidence of the hypocrisy of the hippie (as the cartoonist would have it) but as illustrating the irony of intrinsically nonviolent groups, such as hippies and Aborigines, being impelled because of an ideology which expects violence of them, into situations where violence is precipitated.

LEGITIMATE INTERPERSONAL VIOLENCE

The New South Wales Royal Commission into prisons has revealed that unprovoked bashings of prisoners by prison officers are not uncommon occurrences. Many such criminal assaults occur in Australian prisons every day, yet none of them will be taken to court. Although these are formally illegal acts of violence, the violence is sociologically legitimate. It is seen as the justifiable use of force by the authorities to keep recalcitrant violent offenders in line.

A policeman who bashes an Aborigine does not commit an act of violence; he uses justifiable force to effect an arrest. It is the Aborigine who is violent by resisting arrest. *Violence* is one of the most indexical expressions in the English language. The intrinsic violence of the policeman who assaults a demonstrator, or the army captain who orders the mass shooting of

civilians becomes transmogrified into enforcement of law and order, or halting the spread of communism.

Wilson and Braithwaite, in a study of 222 Brisbane school children conducted for the Poverty Commission, found that among them these children had been caned by a principal, deputy principal, or senior mistress on 259 occasions.²⁸ This form of violence is quite legal. The same 222 children, however, had been caned on an aggregate of 158 occasions by ordinary teachers. These latter canings were quite illegal, since the Queensland Education Act expressly restricts the right to cane to principals, or deputy principals who are authorized by the principals to do so. Again this is an instance of interpersonal violence which is formally illegal but sociologically legitimate (in Queensland, if not in other states). The teachers, after all, are only enforcing "respect for authority" and maintaining "order in the classroom".

But if classroom canings are not violent in their interpretation, they are certainly violent in their effects. Teachers are intended to be role models to impressionable youngsters; so teachers who cane are violent role models. In his study of caning in New Zealand, Mercurio elicited quite frightening remarks from students such as "You really respect a teacher who canes."²⁹ This kind of identification with violence is hardly surprising when the violent teacher is in harmony with dominant macho themes in the culture.

It is not only teachers who show children, by example, that violence is a common and acceptable way of solving our problems. Batman and other imported television heroes teach exactly the same message. There are also significant senses in which our indigenous culture heroes—Ned Kelly, Ron Barassi or Arty Beetson, Lionel Rose, Bob Menzies—communicate the efficacy of violence. In highly disparate ways all of them succeeded in part through the use of violence: Kelly by using the gun, Barassi and Beetson by using the boot, Rose by clubbing other black men, Menzies by sending soldiers to kill communists. With the exception of Ned Kelly these men used legitimate violence to achieve their ends.

In 1973 the Brisbane *Telegraph* ran a front page banner "Courts Urged to Slam the Bashers". Most Brisbane readers could see no irony whatsoever in this because there existed in

their consciousness such a clear distinction between the legitimate use of force by the authorities and the illegitimate violence of those who defy authority. It is perhaps only deviants who can fully see the irony of courts slamming bashers, who can perceive the arbitrariness of the distinction between legitimate and illegitimate violence. When the dominant ideology tells us implicitly, through the example of authority figures like school principals and culture heroes like Ron Barassi, that violence is an acceptable way of solving problems, then violent criminals might be people who take that ideology too literally. The violent working class criminal may be a person who has failed to accept the arbitrary and hypocritical distinction between legitimate (essentially ruling class) and illegitimate (essentially working class) violence. In similar fashion, the rapist may be one who has failed to draw the line between the legitimate and illegitimate sexual exploitation of women; the working class thief may be one who has refused to learn that it is legitimate for businessmen to rob consumers, but illegitimate for consumers to rob businessmen.

CONCLUSION

This chapter has sought to show that violence (both legal and illegal) is not a form of behaviour which is more common among the working class than among the ruling class. The source of violence in Australian society is mystified as originating from working class males. This mystification permits ruling class violence to continue largely unnoticed. Yet the pervasiveness of ruling class violence acts as an insidious double standard which breeds violence among the cynical and the alienated.

The question of whether the working class or the ruling class are responsible for greater criminal violence is not straightforward because the allocation of responsibility is problematic. Take the following common scenario. A working class person sells an unsafe car to a used car dealer. The dealer has an arrangement with a mechanic who, in return for certain favours, will go easy on a roadworthiness certificate. The salesman tells the purchaser of the car that it is in tip-top mechanical condition. Believing this, the new owner does not have the vehicle checked

by a mechanic and is killed driving an unsafe car. Who is responsible for his death? The former owner? The dealer? The mechanic? The salesman? The victim?

Which individual was most responsible, and whether he was working class or middle class, is really a trivial question. All would disavow responsibility because each is a disjointed element of a whole that no one fully admits. The significant issue is how a set of institutional arrangements articulated about the icon of profit (at any cost) is responsible for the death. This set of institutional arrangements is based on a segmentation of responsibility. The only responsibility of the salesman is to sell cars. He cannot be blamed if the cars which are passed on to him to sell are unsafe, and if the consumer fails to defend his own interests by checking the safety of his purchase. Should we take him to court, he will claim (perhaps correctly, perhaps falsely) that no one told him the car was unsafe; and the law of bourgeois individualism will find him innocent. With the segmentation of responsibility, no individual can be successfully called to account. The only overriding responsibility lies with the "invisible hand" of the market. It is the invisible hand which ensures that everyone gets a fair deal, and it cannot be taken to court.

What we need to do, then, is to change this set of institutional arrangements—to return responsibility to people. To do this effectively we need a notion of group responsibility as well as a notion of individual responsibility, and there must be a dialectical interplay between the two. In concrete terms, the people who work for a particular used car firm need to be made both collectively and individually responsible for what happens in their workplace. That means at least a degree of industrial democracy. If the used car salesman has participated in the framing of policy on the purchase and safety testing of the cars he sells, he, as a part of that decision making unit can be held responsible if he sells an unsafe car. Decision making units are accountable in a way that invisible hands are not.

In short, we have suggested two fundamental sources of institutional violence. The first is the profit emphasis under a capitalist mode of production. Contrary to the theory of liberalism, a practical consequence of businessmen rationally seeking their self-interest is that a lot of workers and consumers are needlessly killed and injured. The second fundamental source

of institutional violence is the segmentation of responsibility inherent in more hierarchically organized, as opposed to more democratically organized, decision processes. A classic case is the war crime where the private says he was acting on orders from his sergeant, the sergeant says he was under instructions from his company commander, ad infinitum. The hierarchical segmentation of responsibility is just as much a problem in bureaucratic socialist societies as in capitalist societies. In both capitalist and Soviet block societies, the problem of the segmentation of responsibility is exacerbated by futile attempts to solve *institutional* crime through the traditional law which seeks to find a culpable *individual*. We have a legal system which is incapable of dealing with institutional violence because it is limited to holding individuals responsible for individual crime; and, to a much lesser extent, to holding collectivities (mainly companies) responsible for collective crime. What we need is a legal system which places more emphasis on the latter, but which in addition, holds individuals responsible for collective crime, and collectivities responsible for individual crime. We need a legal order based less on neatly defined categories of guilt, and more on the dialectics of group and individual responsibility.

NOTES

1. J.B. Braithwaite, "Inequality, Crime and Public Policy", Ph.D. dissertation, University of Queensland, 1976, chapter 2. Forthcoming as a book with Routledge and Kegan Paul.
2. S. Carmichael and C.V. Hamilton, *Black Power* (New York: Random House, 1967), p. 4.
3. The contention that the law *should* be involved in preventing such social injustice is not a matter which we have space to consider here.
4. Quoted in W.G. Magnuson and J. Carper, *The Dark Side of the Marketplace* (Englewood Cliffs, N.J.: Prentice-Hall, 1968), p. 126.
5. S.L. Hills, *Crime, Power and Morality: The Criminal Law Process in the United States* (Scranton: Chandler Publishing Company, 1971), p. 169.
6. J. Swartz, "Silent Killers at Work", *Crime and Social Justice* 3 (1975): 15-20.
7. "Broadband", 20 July 1977.
8. Ibid.
9. Ibid.
10. "Broadband", 29 September 1977.
11. Ibid.
12. Ibid.
13. Report of the Chief Safety Engineer and Chief Inspector of Machinery, Construction Work, and Weights and Measures (Brisbane: Queensland Government Printer, 1977), table 8.

14. W. Pengilly, "Look Out: Here Comes the Trade Practices Act", *Financial Review*, 18 September 1974.
15. W.G. Carson, "White-Collar Crime and the Enforcement of Factory Legislation", *British Journal of Criminology* 10 (1970): 383-98.
16. *Choice* (May 1976): 140.
17. *Choice* (July 1976).
18. *Choice* (June 1975): 202.
19. *Choice* (May 1967): 100-110.
20. Magnuson and Carper, *Dark Side of the Marketplace*, p. 125.
21. Ibid., pp. 194-96.
22. Ibid., pp. 195-96.
23. E.R. Quinney, "Occupational Structure and Criminal Behaviour: Prescription Violation by Retail Pharmacists", *Social Problems* 11 (1963): 179-85.
24. *Choice* (February 1976).
25. See C.G. Fenwick, *International Law*, 4th ed. (New York: Appleton-Century-Crofts, 1965).
26. G. Geis, "Victimization Patterns in White-Collar Crime", in *Victimology: A New Focus*, ed. I. Drapkin and E. Viano, vol. 5 (Lexington, Mass.: Lexington Books, 1973), p. 95.
27. D.M. Gordon, "Capitalism, Class and Crime in America", *Crime and Delinquency* 19 (1973): 163-86.
28. P.R. Wilson, J.B. Briathwaite, A. Guthrie, and G. Smith, "Truancy: Report to the Poverty Commission", mimeographed (1975). See also P.R. Wilson and J.B. Braithwaite, "Truancy, Delinquency, and the School", in *Delinquency in Australia*, ed. P.R. Wilson (St. Lucia: University of Queensland Press, 1977).
29. J.A. Mercurio, "Caning: Education Ritual", *Australian and New Zealand Journal of Sociology* 10 (1974): 49-53.