

2005 Policy document



Industrial Manslaughter

Some Australian jurisdictions allow criminal sanctions against employers whose negligence contributes to the death of a worker. The Australian Lawyers Alliance supports strong industrial manslaughter provisions and rigorous pursuit of prosecutions by state and federal authorities.

Statutory workers' compensation schemes help to protect workers and their families from the medical costs and lost income caused by serious workplace injury or death.

Common law damages, where available, give the worker or their family some compensation to recognise their intangible pain, trauma and loss of enjoyment of life. Common law damages also act as an economic disincentive: a rational employer or company will choose to implement safe systems of work rather than risk court-awarded damages payouts where it is cheaper to do so.

However, in some circumstances companies choose to continue to produce dangerous goods, or maintain dangerous workplace practices, because the profit involved is so great that it is worth the risk of continuing poor practice. Ford's approach to the explosive fuel tank in its Pinto hatch, and James Hardie's continued production of asbestos products are clear examples of this kind of rational, yet psychopathic, corporate behaviour.

Industrial manslaughter laws create criminal sanctions, including jail terms, for employers. In the case of corporations, those sanctions should include jail terms for senior executives who knew, or ought to have known, about the safety issue involved. By reinforcing the individual responsibility and accountability of senior managers, industrial manslaughter laws supplement common law with a powerful deterrent. The question of whether or not to stop a dangerous practice ceases to be a financial choice about the corporate bottom line and becomes instead a personal question for managers: do you want to go to jail for this?

Manslaughter and murder laws are used chiefly to punish violent acts perpetrated in moments of extreme personal stress; perhaps under the influence of drugs or in response to violent provocation. Taking life is seldom justified. It is most understandable when it occurs as part of a complex human story.

But when a company decides to continue production of deadly asbestos, or exposes workers to the dangers of a threshing machine without safety guards – and all in pursuit of greater profit – then the act is doubly culpable. What possible justification can there be for allowing corporate law to protect people from their cold, financially driven decisions to kill or maim?