Corporate Manslaughter:
A Cultural and Legal Form*

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In the past twenty-five years, responses to a number of disasters in the United Kingdom bear witness to significant changes in social and legal perceptions of corporate harm and of corporate responsibility for mass death. Business corporations are increasingly expected to provide compensation for injuries that in earlier times would have been attributed to individual fault or to fate.¹ This itself is possibly part of a move toward greater legalization, in the sense both of litigiousness and of regulation, resulting from a decline in confidence in business, government, and other institutions.² There seems to be less blind faith in the ability or willingness of corporate organizations to take safety

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Incidents of deaths caused by corporate negligence are more likely to be translated into calls for manslaughter prosecutions. The prosecution of P&O European Ferries, following the Herald of Free Enterprise disaster in 1987, was only the third corporate manslaughter case in English legal history. The first conviction occurred in December 1994, when a jury found OLL, Ltd., a company running outdoor pursuits courses, guilty of the manslaughter of four schoolchildren whose canoes capsized on an expedition in the English Channel for which the participants were ill equipped and the leaders poorly qualified.

The argument that there has been a cultural shift toward blaming corporations, that we are witnessing an increased tendency toward blaming collective institutions for the misfortunes that befall us, has been eloquently made by social anthropologist Mary Douglas. Speculation about contemporary sources of strain has led to a range of suggested explanations for this shift: this is an age of moral relativism; it is an age of impotence in which fewer people can derive meaningful satisfaction from the act of producing something needed by the rest of the community; and it is an age of sensory overload, leading to "a flattening of affect, a sheer anesthetization of the moral and cognitive senses, as if one were suffering from a kind of psychological concussion." These all

5 The earlier cases were R. v. Cory Bros., [1927] 1 K.B. 810 (Glamorgan Assizes) (holding that Criminal Justice Act, 1925, § 33 (Eng. & Wales), was wholly procedural, permitting criminal indictments against corporate bodies but conferring no new substantive rights, and finding no authority under Offences against the Person Act, 1861, § 31 (Eng. & Wales), to prosecute a corporation for a felony involving personal violence, namely, manslaughter); R. v. Northern Strip Mining Constr. Co., The Times (London), Feb. 2, 4, 5, 1965 (Glamorgan Assizes) (Eng.) (the company was acquitted on the facts; no issue was raised as to the validity of the indictment).
7 Douglas, supra note 3, at 15.
8 Kai Erikson, In the Wake of the Flood 204 (1979).