

In the late 1990s, high crime moved to the boardrooms when companies were virtually looted by CEOs and “creative accounting,” but the prosecution was drawn out so that even the most notorious of the thieves, Kenneth Ley, was not indicted until five years after his peculations had become known.

At least some believed that George W. Bush had committed a war crime when he ordered a preemptive strike on Iraq.

The net effect of these cases looked to some observers like differential treatment according to the social class and political connections of the offenders. In the almost thirty years since Watergate, scandals in Washington have become so common that the line between legality and illegality, propriety and impropriety has been obliterated. Many people, upon hearing news of what in former times might have produced outrage, simply shrug their shoulders as if to say, “What do you expect?”

It was Karl Marx who sensitized the world to the intimate connection between economic power and political and legal power. He concluded that once it was discovered who controlled property and the means of production, the controllers of political and legal order could readily be found as well. New means of production, later termed the Industrial Revolution, obliterated craft methods, and moved populations from farm to factory. If to many contemporaries Marxism is a series of general slogans, the readers of *Das Capital* will find a detailed investigation into the day-to-day workings of the British factory system and its impact on workforces. Hours and wages were Marx’s principal focus, but he also documented the impact of overworking and of poor working environments on the health of workers. In fact, he might have been among the first to introduce the idea of occupational diseases. Workers were being asked to contribute their lungs and part of their life expectancies to their employers.

A 1981 Supreme Court case on “brown lung,” a disease caused by the inhalation of dust in cotton mills, suggests the contemporary relevance of Marx’s finding that manufacturing processes can destroy workforces.

## 5.1 Das Capital, “The Working Day” Karl Marx

THE POTTERIES OF STAFFORDSHIRE have, during the last 22 years, been the subject of three parliamentary inquiries. The result is embodied in Mr. Scriven’s report of 1841 to the Children’s Employment Commissioners, in the report of Dr. Greenhow of 1860, published by order of the medical officer of the Privy Council . . . ; lastly, in the report of Mr. Longe of 1862 . . . For

my purpose it is enough to take from the reports of 1860 and 1863 some depositions of the exploited children themselves. From the children we may form an opinion as to the adults, especially the girls and women, and that in a branch of industry by the side of which cotton spinning appears an agreeable and healthful occupation.

William Wood, 9 years old, was 7 years and 10 months when he began to work. He "ran moulds" (carried ready-moulded articles into the drying room, afterwards bringing back the empty mould) from the beginning. He came to work every day in the week at 6 A.M., and left off about 9 P.M. "I work till 9 o'clock at night six days in the week. I have done so seven or eight weeks." Fifteen hours of labor for a child 7 years old! J. Murray, 12 years of age, says: "I turn jigger, and run moulds. I come at 6. Sometimes I come at 4. I worked all night last night, till 6 o'clock this morning. I have not been in bed since the night before last. There were eight or nine other boys working last night. All but one have come this morning. I get 3 shillings and sixpence. I do not get any more for working at night. I worked two nights last week." Fernyhough, a boy of ten: "I have not always an hour (for dinner). I have only half an hour sometimes; on Thursday, Friday, and Saturday."

Dr. Greenhow states that the average duration of life in the pottery districts of Stoke-on-Trent and Wolstanton is extraordinarily short. Although in the district of Stoke, only 36.6%, and in Wolstanton only 30.4%, of the adult male population above 20 are employed in the potteries, among the men of that age in the first district more than half, in the second, nearly two-fifths of the deaths are the result of pulmonary diseases among the potters. . . .

From the report of the Commissioners in 1863, the following: Dr. J. T. Arledge, senior physician of the North Staffordshire Infirmary, says: "The potters as a class, both men and women, represent a degenerated population, both physically and morally. They are, as a rule, stunted in growth, ill-shaped, and frequently ill-formed in the chest; they become prematurely old, and are certainly short-lived; they are phlegmatic and bloodless, and exhibit their debility of constitution by obstinate attacks of dyspepsia, and disorders of the liver and kidneys, and by rheumatism. But of all diseases they are especially prone to chest disease, to pneumonia, phthisis, bronchitis, and asthma. One form would appear peculiar to them, and is known as potter's asthma, or potter's consumption. Scrofula attacking the glands, or bones, or other parts of the body, is a disease of two-thirds or more of the potters. . . . That the 'degenerescence' of the population of this district is not even greater than it is, is due to the constant recruiting from the adjacent country, and intermarriages with more healthy races."

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From *Das Capital*, Vol. 1, "The Working Day," Karl Marx, 1967, 244, 245, International Publishers. Reprinted with permission.

Footnotes have been omitted.—ED.

## 5.2 American Textile Mfrs. Inst. v. Donovan 452 U.S. 490 (1981)

JUSTICE BRENNAN . . .

CONGRESS ENACTED THE OCCUPATIONAL Safety and Health Act of 1970 (Act) "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions. . . ." The Act authorizes the Secretary of Labor to establish, after notice and opportunity to com-

ment, mandatory nationwide standards governing health and safety in the workplace. . . . In 1978, the Secretary, acting through the Occupational Safety and Health Administration (OSHA), promulgated a standard limiting occupational exposure to cotton dust, an airborne particle byproduct of the preparation and manufacture of cotton products, exposure to which induces a "constellation of respiratory effects" known as "byssinosis." . . .

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Some footnotes have been omitted; others have been renumbered.—ED.