

In compliance with the  
Canadian Privacy Legislation  
some supporting forms  
may have been removed from  
this dissertation.

While these forms may be included  
in the document page count,  
their removal does not represent  
any loss of content from the dissertation.



**TRUTH, POWER AND NEWSMAKING:**  
**THE PUBLIC INQUIRY AND THE WESTRAY DISASTER**

By

Melissa B. McClung

Submitted in partial fulfillment of the requirements  
For the degree of Master of Arts  
In Criminology

At

Saint Mary's University  
Halifax, Nova Scotia

May 27<sup>th</sup>, 2003

© Copyright by Melissa B. McClung, May 27<sup>th</sup>, 2003



National Library  
of Canada

Bibliothèque nationale  
du Canada

Acquisitions and  
Bibliographic Services

Acquisitions et  
services bibliographiques

395 Wellington Street  
Ottawa ON K1A 0N4  
Canada

395, rue Wellington  
Ottawa ON K1A 0N4  
Canada

*Your file* *Votre référence*  
*ISBN: 0-612-86572-X*  
*Our file* *Notre référence*  
*ISBN: 0-612-86572-X*

The author has granted a non-exclusive licence allowing the National Library of Canada to reproduce, loan, distribute or sell copies of this thesis in microform, paper or electronic formats.

L'auteur a accordé une licence non exclusive permettant à la Bibliothèque nationale du Canada de reproduire, prêter, distribuer ou vendre des copies de cette thèse sous la forme de microfiche/film, de reproduction sur papier ou sur format électronique.

The author retains ownership of the copyright in this thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without the author's permission.

L'auteur conserve la propriété du droit d'auteur qui protège cette thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

**Canada**

SAINT MARY'S UNIVERSITY

Date: Sept. 18/2003

**AUTHOR: Melissa B. McClung**

**TITLE: Power, Truth and News-making:  
The Public Inquiry and the Westray Disaster**

**CONVOCATION: Fall**

**YEAR: 2003**

Permission is hereby granted to Saint Mary's University to circulate and to have copied for non-commercial purposes, at their discretion, the above title upon the request of individuals or institutions.

THE AUTHOR RESERVES OTHER PUBLICATION RIGHTS, AND NEITHER THE THESIS NOR EXTENSIVE EXTRACTS FROM IT MAY BE PRINTED OR OTHERWISE REPRODUCED WITHOUT THE AUTHOR'S WRITTEN PERMISSION.

THE AUTHOR ATTESTS THAT PERMISSION HAS BEEN OBTAINED FOR THE USE OF ANY COPYRIGHTED MATERIAL APPEARING IN THIS THESIS (OTHER THAN BRIEF EXCERPTS REQUIRING ONLY PROPER ACKNOWLEDGEMENTS IN SCHOLARLY WRITING), AND THAT ALL SUCH USE IS CLEARLY ACKNOWLEDGED.

# TRUTH, POWER AND NEWSMAKING: THE PUBLIC INQUIRY AND THE WESTRAY DISASTER

Melissa B. McClung, June 2003

**Abstract:** This thesis studies how the press constituted the Westray public inquiry as a discursive formation that defined what could and could not be said about Westray and its aftermath. I critically examine news narratives from the *Chronicle Herald* between December, 1995 to June, 1998 within a theoretical discussion of Michel Foucault's (1980; 1991; 1995) concept of the "politics of truth" and Stanley Cohen's notion of "the culture of denial" and "vocabularies of denial".

I argue that the press coverage of the public inquiry consisted of a number of distinct narratives that operated both *intradiscursively* and *interdiscursively* with news themes from previous reporting to form a distinct "regime of truth" about Westray. In the news coverage of the inquiry the politics of truth governing "the limits and forms of the sayable" were expanded which allowed previously subjugated accounts to be validated and valorized as truths. Narratives of legal accountability and defense were intersected with a vocabulary of moral opprobrium which included a minor but compelling law and order discourse and a discourse of socio-legal reform and prevention.

The "plasticity of law" allowed a multiplicity of new and conflicting accounts to be heard which, in turn, led the press to produce a more complex, conflictual and multifaceted "regime of truth" about Westray. This contrasts with the more uniform, congruent human interest and tragedy news themes that preceded it. But this also enabled corporate and state officials and politicians to play legalistic "games of truth" with the inquiry and the press. Through processes of registration and reinterpretation, claims and counter-claims, they deployed strategies of denial that diffused harm, evaded accountability and displaced blame onto subordinates and victims. But these accounts were posited on a shifting terrain of power/knowledge relations and rhetorics of denial were not posited without answer.

## TABLE OF CONTENTS

	<u>Page</u>
LIST OF TABLES.....	i
INTRODUCTION.....	1
Introduction.....	1
Research Problem and Questions.....	3
Chapter Outline.....	6
POWER, TRUTH AND NEWSMAKING.....	8
Introduction.....	8
Power/Knowledge And the News-making Process...11	
News Reporting, the “Politics of Truth”, and the Social Construction Of Corporate Crime.....15	
“Vocabularies of Denial”, Subjugated Accounts and the Disavowal of a ‘Crime’ News Discourse....24	
Conclusion.....	29
THE JUDICIAL AFTERMATH OF THE WESTRAY MINE EXPLOSION.....	31
Introduction.....	31
The Regulatory Regime And Non-Compliance.....	32
The Police Investigation and the Problem of Prosecution.....	34
The Criminal Trial and Its’ Aftermath.....	36
The Public Inquiry.....	39
The Westray Families and the Experience of Injustice.....	43
METHODOLOGICAL ISSUES.....	47
Introduction.....	47
Discourse, Content Analysis and the Study of News..	47
The News Source and Sampling Strategy.....	52
Coding the Data.....	56
Content Categories and Thematic Analysis.....	59
THE PRESS, THE PUBLIC INQUIRY AND THE SOCIAL CONSTRUCTION OF WESTRAY’S TRUTH.....	64
Introduction.....	64
Newsworthiness of the Westray Public Inquiry.....	65
News Narratives and A Vocabulary Of Corporate Deviance?.....	66
Sources, Claimsmaking and the Production Of News.....	80

ACKNOWLEDGING, ACCOUNTING AND UNDERSTANDING 'NEWS TRUTH' .....	89
Introduction.....	89
Newsworthiness, Truth-telling And the Exercise of Power.....	89
Newsworthiness, The Absence Of Human Interest Narratives and the Predominance of Legal Narratives.....	97
The Disavowal of Deviance.....	101
Experts, Interdiscursivity and News Truth.....	111
News Sources, The "Hierarchy of Credability" and The "Vocabulary of Denial".....	115
The Press, Truth and Corporate Crime: A Conclusion.....	122
APPENDICES.....	131
BIBLIOGRAPHY.....	139

## ACKNOWLEDGEMENTS

The author recognizes the following people for their contribution in the completion of this Masters thesis:

To Dad, Martha, Gram, Grandpa, Auntie Mimi, Lindsay, Krista and Tessa for providing me with love and support always.

To Dr. McMullan and Dr. Perrier for their continual patience, dedication, guidance, and encouragement which made this project possible.

*.1.*  
*Introduction*

*Introduction*

At 5:20 a.m. on May 9, 1992, an explosion ripped through an underground mine in Plymouth, Pictou County, Nova Scotia claiming the lives of twenty-six miners, eleven of whom remain buried underground to this day. According to the *Report of the Westray Mine Public Inquiry* (Richard, 1997), sparks caused by the cutting head of a continuous miner machine ignited methane gas. This, in turn, developed into a large rolling flame which traveled the mine's tunnels, consuming all the oxygen and leaving deadly carbon monoxide in its path. The methane fire intensified into a methane explosion. The shock wave from the explosion then caused dust particles to become airborne and this created a full-blown coal-dust explosion underground.

The explosion was so strong that it blew the top off the mine entrance, more than a mile above the blast center. In the nearby villages, houses shook and windows broke. Residents were awakened from their beds and within minutes phones began to ring and people were put on alert to cope with what one woman described as "this incredible

thud...a noise that filled the atmosphere...Oh, my God! The vastness of this.” (cited in Richards, 1999, p. 144).

Of the twenty-six lives claimed, some died from immense heat of the fire, others died from methane poisoning, but most were crushed by the force of the explosion (McCormick, 1999). For all, death was almost certainly instantaneous. Pictures from the mine site show a scene similar to that of a war zone. Steel roof supports were shattered. Steel doors were blown apart. Equipment lay burned and twisted into piles on the ground. The mine walls were split and cracked wide open in places. The mine floor was littered with tons of fallen debris and brick. The air was toxic; draegermen and later police investigators had to use special breathing equipment to search for survivors and evidence. When the bodies were brought to the surface they were badly burned. Clothing was literally scorched off their skin. Some bodies had turned bright red, the result of carbon monoxide poisoning. All were marked by signs of intense heat. Hair was singed and hands were closed into tight fists (McMullan, 2001).

In the early hours after the explosion, numerous groups positioned themselves to prepare for and understand the disaster. The families of the trapped miners gathered to provide support and await information. The media, local and international, converged on Plymouth to report the story. Curragh Resources, the owners of the Westray mine, took control of the site, managed the incident, and produced and dispersed information that became news. Draegermen, miners trained in rescue operations, arrived on the scene and went into action. They spent the next week picking their way through the debris, looking for survivors (Comish, 1993). On day two, they discovered eleven bodies. On day five, they retrieved four more. But on May 14, Curragh Resources announced that there were

no survivors and that the search underground was too dangerous to pursue any further. When the family members demanded a plan for retrieving the remaining eleven bodies a Curragh Resources executive responded: "We're here to make money not spend money, and if you want to get your bodies back, go see your politicians" (Dodd, 1999, p. 232). In the end, the provincial and federal governments sided with Curragh Resources, not the family members, and permitted them to flood the demolished mine workings. The remaining bodies would have to remain unclaimed, an unpopular decision to communicate to mining communities committed to recovering their dead for proper burial (Dodd, 1999).

### *Research Problem and Questions*

Research on the Westray explosion has been extensive and varied. Studies have emerged from a number of disciplines including criminology, sociology, psychology, legal policy, management administration, public relations, media studies, and engineering. Research in the area of criminology, sociology, and law, in particular, have developed critical analyses of: (a) how the political economy of corporate crime undercut workers health and safety legislation (Glasbeek & Tucker, 1999; Tucker, 1995); (b) how the legal responses to the Westray explosion allowed corporate officials and politicians involved with the project to evade responsibility for the explosion and legal sanction (Jobb, 1999, 1994); (c) how the bereaved family members' demands for accountability were ignored by corporate officials and the local state (Dodd, 1999); (d) how the role of bureaucracy perpetuated a corporate culture in which miners and corporate officials saw noncompliance with safety rules as a normal part of their business agenda (Wilde, 1999;

Hynes & Prasad, 1999); and (e) how media institutions represented the explosion to local, national and international audiences (McCormick, 1999; McCormick, 1995; McMullan, 2001; McMullan & Hinze, 1999; Goff, 2001; Richards, 1999).

My thesis adds to this last research agenda, and studies how the news operates as an institutional site for the production of truth. The news, it must be remembered, is the primary vehicle by which the public gains information about crime and social justice (Barak, 1994; Evans et al. 1994; Chermak, 1994). But the media does not present an objective picture of the relationship between crime, criminal justice, offenders, and victims. Like law and the state, it is situated within a field of power/knowledge relations that govern what sorts of “facts” are represented as knowledge for public consumption. Newsmaking, then, is a selective, hermeneutic process, whereby journalists register, filter, order and represent certain events as news (Surrette, 1998; Chermak, 1994; Ericson et al., 1991, 1989; Gamson et al., 1992; Herman & Chompsky, 1989).

News coverage of corporate crime, in particular, tends to be homogeneous and uncritical of systems of power and authority, and lacking in investigative rigor. Journalists are often reluctant to frame corporate and state wrongdoings within a language of criminality, immorality and violence. Instead, these acts are typically decontextualized and depoliticized. The human interest story, which typifies much news coverage of corporate harm, ignores the connections between state and corporate officials, their collective organizational goals and agendas, and their negligent and reckless business decisions that may flow from these structural relationships. In sum, corporate crimes are often framed as “accidents, “unforeseen incidents”, and “unexpected

tragedies” (McCormick, 1995; McMullan, 2001; McMullan & Hinze, 1999; Cavender & Mulcahy, 1998; Lofquist, 1997).

Studies of the Westray disaster also have examined how the explosion and especially the *immediate* aftermath (1992-1995) were constituted in the news (McMullan, 2001; McMullan & Hinze, 1999; Richards, 1999; Goff, 2001; McCormick, 1995). Each study was centrally concerned with examining whether or not the media constituted the Westray explosion as a case of corporate crime, and how the various legal, political, and economic institutions and their agents framed the media discourse on the explosion. That is, they examined how journalists constructed what McMullan & Hinze (1999) term “a representational reality” of the explosion and its’ aftermath.

This thesis examines how the news media worked to construct a “regime of truth” about Westray through its coverage of the public inquiry from 1995 to 1998. Specifically, it explores how the inquiry operated discursively as a news event. How was press coverage shaped by rules of formation and ways of speaking that demarcated what could be articulated, how and by whom; rules that determined which themes could be written and by whom? What thematic rules dictated the content and registration of truth in the press coverage? How were the “truth genres” of the Westray story constituted, circulated, displaced and disqualified as news? How did power/knowledge relations operate between news organizations and news sources to have certain knowledge claims validated in the news? Did journalists report a subversive narrative, or did they continue to write hegemonic texts as evinced in the earlier research? By comparing and contrasting the content, tone and form of news reporting on the public inquiry with news that was produced in the immediate aftermath of the explosion do we need to reconsider

the representational reality of Westray? (McMullan, 2001; McMullan & Hinze, 1999; Goff, 2001; Richards, 1999; McCormick, 1995).

Ultimately this thesis contributes to the literature on the media and corporate crime and on the sociology of disasters. It offers a Foucauldian analysis of power, press reporting and corporate crime, and extends the analysis of media coverage of the Westray explosion from 1992 to 1998. It adds to the debates about Westray and corporate crime and the media and it illuminates how state investigations and responses (the regulatory review, criminal justice process and the provincial public inquiry) are reported, contested and registered as news.

### *Chapter Outline*

My thesis is organized as follows. The next chapter examines the relationship between power, knowledge, truth and newsmaking, and demonstrates how this leads to a framework for analysis. I show how: (a) Foucault's (1995; 1990; 1980;) concepts of power/knowledge, regimes of truth and discourse; (b) Arendt's (1971;1970) ideas on lying, truth, and the banality of evil; (c) Cohen's (2001; 1996; 1993) typology of "cultures of denial", and state and corporate power; and (d) Becker's (1963) ideas about "hierarchies of credibility" interact and inform each other to provide an analytical grid for analyzing news production. Chapter 3 provides a juridical context for the press coverage of the public inquiry. I outline the regulatory and criminal justice investigations that preceded the Westray public inquiry, and the civil compensation process that followed in the wake of Justice Richard's findings and recommendations. Chapter 4 explicates my research methods. I justify my choice of news sources; explain my procedures for

sampling; and describe how I deployed content and discourse analysis to study news texts on the Westray inquiry. Chapter 5 presents my findings on content and discourse of news coverage of the public inquiry. Finally, chapter 6 interprets my results in light of my theoretical framework, and compares them with the findings of previous studies on the media and corporate crime and the media and the Westray explosion. I conclude by suggesting that the news production process in this latter time period was more dynamic, fluid, paradoxical and contested than earlier hegemonic accounts argue.

## .2.

*Power, Truth and News-making**Introduction*

This chapter explains the news-making process and the press' construction of corporate crime in the context of a theoretical discussion of: (a) Foucault's (1995; 1991; 1980; 1977) concepts of power/knowledge, discourse and the "politics of truth"; (b) Arendt's (1971;1970) ideas about the politics of truth-telling; and (c) Cohen's (2002; 1996; 1994) analysis of how the powerful deploy a "vocabulary of denial" that excuses, justifies or neutralizes immoral conduct. I argue that the truth of corporate crime is not absolute and objective as news producers claim. Rather, it is constituted within a field of power/knowledge relations that determine what can and cannot be said about 'crime' and 'criminality' in news discourse, whose truth claims are deemed valid or invalid, and which version of veracity gets operationalized as truth in the news. Through the acquisition, registration and dissemination of knowledge, news producers and their sources negotiate the moral meaning of events and issues. The "regime of truth" that is then posited in the news represents a fragmented, partial, and oftentimes distorted version

of reality that is informed by a multiplicity of power alignments at a given point in time. Importantly, the production of “news truth” is a dynamic process that involves struggles over access to the news medium, disputes over the credibility and veracity of accounts and information, and so it is frequently contested and reconstituted and in the process certain accounts are discounted or disqualified.

Over the past twenty years criminologists have developed an extensive literature on the media and crime (Herman & Chompsky, 1988, Chermak, 1994; Barak, 1994; Barlow, Barlow & Chrircos, 1995; Gamson, Croteau, Hoynes, Sasson, 1992). These studies underscore the fact that the news media do not report an objective image of crime; they present a partial, distorted image of the crime problem (Barak, 1994; Chermak, 1994). Newsmakers distort the reality of crime in a variety of ways. First, the extent of crime is vastly over-represented in the news when compared to victim reports (Barlow et al., 1995; Chermack, 1994; Barak, 1994; Ericson, Baranek & Chan, 1991; 1989). Second, minorities are over-represented as offenders in the news coverage (Maguire & Sandage, 1999; Lofquist, 1997). Third, news reporters emphasize socially favored crime victims such as white middle-class men, and children, and under-report the victimization of racial minorities, the poor, women and other marginalized groups (Scraton et al. 1999; Herman & Chompsky, 1989; Swigert & Farrell, 1980). Fourth, news reporters focus disproportionately on sensational, conventional crimes of violence and under-represent crimes of the powerful (Goff, 2001; Cavender & Mulcahy, 1998; Lofquist, 1997; McMullan, 2001; Wright, Cullen & Blankenship, 1995; Lynch, Nalla & Miller, 1989; Swigert & Farrell, 1980; Molotch & Lester, 1975).

Recent research, however, suggests that the latter trend is changing. The public is becoming more critical and knowledgeable about corporate deviance (Swigert and Farrell, 1980; Cavender & Mulcahy, 1998; Goff, 2001; and Evans et al., 1994). Indeed, the Westray mine explosion has generated an extensive literature. Journalists have written about the legal management of the Westray case (Jobb, 1999; 1994); miner's have offered autobiographical narratives of their lives underground (Comish, 1993; Comish & Comish, 1998; Dodd, 1999; O'Neill & Schwartz, 1999); government tribunals have provided reviews and recommendations (Beveridge & Duncan, 2000; Nova Scotia Labor Standards Tribunal, 1998; Westray Response Committee, 1997; Canada Supreme Court, 1994; Nova Scotia Supreme Court Appeal Division, 1993; Halifax Department of Labor, 1992; Ottawa: Liberal Party of Canada, 1992); and the media have written Westray stories for over a decade (McMullan, 2003, McMullan, 2001; McMullan & Hinze, 1999; Goff, 2001; Richards, 1999; McCormick, 1995). In regard to the latter, however, media accounts have generally been shaped by both internal organizational demands, and external market forces and political realities. As McMullan (2001) states, "news-as-fact is highly selective, often interpretive and profoundly invented" (p. 132). Reporters are often constrained by internal editorial policies, information screening and controls, pre-selected narrative "frames", set deadlines, print space limitations and story location restrictions, and the demands of external interest groups, the control of knowledge by the state, and the power to censure (McMullan, 2001; Gamson et al., 1992; Cavender & Mulcahy, 1998). Truth, it seems, is intimately bound up with and informed by power/knowledge relations that are not exclusive of each other. This raises the question of how to conceptualize a framework for analyzing news production.

### *Power, Knowledge and the News-making Process*

Foucault's (1995; 1991; 1980; 1977) work offers a useful starting point because he recognizes that "it is not possible for power to be exercised without knowledge, it is impossible for knowledge not to engender power" (Foucault, 1977, p. 51). Indeed, power/knowledge relations are embedded in everyday experiences and, therefore, specific discourses that delineate specific rationalities and constitute subjects that are, in effect, social productions. The newsmaking process is a case in point. "Factual" information is *transformed* into news as it is perceived, filtered, interpreted and reconstituted for public consumption. Of course, the truth of news involves negotiation and contestation. But state sources and corporate officials are in a strong position to manage the labels of "deviant" and "criminal" by applying them to some acts and not to others. They encourage news producers in constructing and ordering the truth so that their version becomes dominant while others are subjugated or silenced. Corporations and governments invest in the "symbolic politics of news and advertising because sophistication in defending bad news and trafficking in good news is seen as an essential part of achieving capital gains" (Ericson et al., 1991, p. 14). The press and official sources, then, negotiate particular versions of truth that are newsworthy and that tend to reinforce, legitimize and reproduce corporate and state power. Indeed, the power exercised by news producers both "prevents, excludes and eliminates" certain forms of knowledge and truth, and produces positive effects (Foucault, 1995, 1980; Becker, 1967, 1963).

Following Foucault (1995; 1991; 1977), the authority of the press is not narrowly institutional, reducible to organizational structure. Like the state, the press is a "meta-

power” underpinned and sustained by micro-power networks that permeate the “capillaries of power” (Foucault, 1977, p. 42). Moreover, social definitions of normality and abnormality, morality and immorality are the result of complex webs of “social alignments” involving media organizations, state agencies, corporations, and their agents who are situated within specific power/knowledge configurations (Rouse, 1994). The heterogeneity of alignments that exercise power also include instruments of power: civil proceedings, public courts, criminal investigations, special state tribunals, coroner’s inquests, judicial reviews, public inquiries and truth commissions all claim, in theory at least, to offer mechanisms, rules and procedures by which “truth” can be aggregated, evaluated, confirmed and denied. These agencies seek to illicit truth in people’s stories, but the narratives produced are usually restricted to formal recollections and then further refined by adversarial adjudication processes to narrower and narrower memories. These institutions are just as capable of discrediting crime victims, as they are of reconciling harms and conflicts and restoring social justice. Scraton et al. (1999; 1995), in their studies of the aftermath of the Hillsborough soccer stadium disaster in which ninety-six people died, remind us that the registration and reconstitution of truth often operated to protect the powerful while simultaneously denying justice to victims. By registering the statements of the powerful, and neutralizing and invalidating the statements of victims the news produced a specific version of veracity. Facts were rearranged, suppressed and ignored. The power of the state operates best when it penetrates all realms of social life including health, sex, crime, economy and education. The professional discourses that speak authoritatively about these social issues provide the press with information that is credible and newsworthy, and it is then disseminated to the public as “truth”. It is these

micro-power networks and the discourses they produce that enable “views from above” to be strategically united and rationalized, while “views from below” are disputed and disqualified (Foucault, 1991; 1990).

Becker (1967; 1963) underscores the point that criminality is a product of labeling individuals or groups such that they come to be thought of as “outsiders” or social outcasts. Indeed, some even internalize the label and experience the world as outsiders. For him, deviance occurs when those who have the power to define acts as criminal/immoral succeed in having these behaviors regulated and punished. But labeling and moral regulation also depend on who commits the act and who is victimized. Social rules governing conduct tend to be applied more to certain social groups than others. In Becker’s (1968; 1963) words:

“Crimes committed by corporations are almost always prosecuted as civil cases, but the same crime committed by an individual is ordinarily treated as a criminal offense” (p. 13).

So ‘crime’ does not have an intrinsic quality that differentiates it from non-criminal behavior and ‘criminals’ are not inherently deviant. Instead, these concepts are produced through definitional processes which classify certain acts as ‘immoral’ or ‘deviant’ and then apply these definitions unequally to certain categories of people.

The ability to make and apply rules to others represents power differentials. Social groups who have the power to define criminality are what Becker (1963) terms “moral entrepreneurs”. They mobilize support for specific rules, criminalize certain behaviors, and construct new groups of outsiders. Moral entrepreneurs rely on professionals such as lawyers, police, psychiatrists and criminologists to assist them in legislating and enforcing their preferred rules. So dominant social groups do not have

absolute power over definitions of criminality, but they certainly lobby for social definitions of situations that maximize their interests, protect their credibility, and reproduce their power. These definitions, of course, are often transformed by others in the definitional process, thus changing originally intended moral meanings.

Criminal definitions, in particular, are informed by what (Becker 1967; 1963) calls “hierarchies of credibility”. Definitions of crime and immorality that carry the weight of professional opinion and judgement stand highest in the hierarchy of credibility, and credibility is bolstered by groups such as the media, who publicize and validate the claims of the powerful in the news. The relationship between criminality and the power to define is explicit in the newsmaking process. Journalists rely heavily on official sources such as police, government agencies, judges and lawyers, and other experts for information about crime. By virtue of their professional status these sources are deemed highly credible, and their judgements and opinions are held in high esteem and evaluated accordingly. Other claimsmakers such as crime victims and human rights groups are considered less credible, and so their definitions of crime and immorality are often ignored and subverted if they challenge dominant viewpoints. Truth about crime and criminality is often manufactured by the powerful who use official discourses to mobilize their claims, and induce effects of power through moral regulation and punishment (Cohen, 2001).

The relationship that corporate and state power maintains with the news media is indispensable because it enables them to reframe their immoral acts into less pejorative frames of reference. They exercise certain mechanisms that enable them to avoid blame, shift responsibility, condemn others, and sanitize the moral meanings attached to their

acts (Cohen, 2001; 1996; 1993; McMullan, 2001; McMullan & Hinze, 1999; McCormick, 1999, Scraton, 1999; Morash & Hale, 1987). These mechanisms may seem innocuous, but they operate to decontextualize and depoliticize wrongdoing, and enable corporate and state officials to avoid accountability, punishment and social censure. Revealing these mechanisms then, gives us insight into the interworkings of power/knowledge relations and truth regimes and their possible discursive consequences.

*News Reporting, The Politics of Truth,  
And The Social Construction of Corporate Crime*

Criminologists have been involved in a longstanding debate over the issue of whether the media reflect or create public perceptions about crime and justice (Cavender & Mulcahy, 1998; McMullan & Hinze, 1999; McCormick, 1995; Wright et al., 1995; Evans et al., 1993; Gamson et al., 1992). McMullan and Hinze (1999) and McCormick (1995), for example, suggest that during the initial media coverage of the Westray mine explosion news reporters were ideological actors because they reflected and articulated “not only generalized economic and political relations, but also the ‘structure of feeling’ or the general mood or predisposition of society” at that particular point in time (McMullan, 1999, p. 184). They emphasized a dialectical relationship between news texts and readers through which rhetorical strategies promoted certain responses over others. Through this process the life-world of the audience was demarcated and projected as social reality (McMullan & Hinze, 1999). According to Gamson et al. (1992), however, the media

also represents a site of struggle and conflict where powerful interest groups compete and defend what ideally would be taken-for-granted. In their view there is:

“plenty of room for challengers such as social movements to offer competing constructions of reality and to find support for them from readers whose daily lives may lead them to construct meaning in ways that go beyond media imagery” (p. 373).

Gamson et al. (1992) do not reject the hegemony model of culture and the media completely; but they see dominant ideological formations and discourses embedded in shifting terrains of consensus, conflict and compromise. Following Foucault (1995; 1988; 1978) and Gamson et al. (1992), I see power as investing bodies and minds, and as operating through disciplining techniques and discourses. So power is not underpinned by a monolithic, unidimensional ideology that is forced on the public from above. There are two distinct but interrelated realms of media discourse. The first consists of social constructions that appear to be transparent, apolitical descriptions of reality even though they are not. An instance of this is when journalists conflate democracy with capitalism (Gamson et al., 1992). The second realm is contested and involves struggles over meaning. State and corporate power compete with subordinate interests to have their preferred meanings operationalized in media discourse. But readers need not accept them. Subordinate interest groups can resist preferred meanings and can challenge and undermine them. So the dynamic nature of the contested and uncontested realms of media discourse means that news discourse about corporate crime is changeable, interpretable, and negotiable.

News discourse, like other forms of discourse, can be examined according to specific characteristics and criteria that enable it to operate independently as a distinctive

regime. It is marked by specific rules of formation which define its “objects, operations, concepts, and theoretical options, and the limits and forms of the “sayable” at particular points in time (Foucault, 1991). News discourse is further defined by the “criteria of transformation” which delimits the set of conditions that allow a discourse’s objects, operations, concepts, and theoretical options to be formed, and the “criteria of correlation” which sets the relations that define and situate a discourse amongst other discourses and within the non-discursive context in which it operates (Foucault, 1991).

News discourse has at its’ core a specific “regime of truth” – a discursive practice of immense intensity, credibility, diffusion, consumption and contestation – that operates according to an internal rationality (Foucault, 1980). As Foucault (1991) puts it, “practices don’t exist without a certain regime of rationality” (p. 126). Regimes of truth, moreover, can be dominant or subordinated depending on relations of power and authority. When sustained over time, a regime of truth eventually inscribes social practices, beliefs and mores that support and promote it. It includes codes of procedural specifications that govern “doing things” (how people are examined, classified and trained), and discourse verifications that provide reasons, principles and justifications for ways of doing things (Foucault, 1991). In Foucault’s (1991) words:

“We are dealing with sets of calculated, reasoned prescriptions in terms of which institutions are meant to be reorganized, spaces arranged, behaviors regulated . . . [these programs] crystallize into institutions, they inform individual behavior, they act as grids for the perception and evaluation of things” (p. 81).

The press is deeply enmeshed in the production of official discourses which, in turn, are connected to a society’s general “politics of truth”. Studies of the news coverage of the initial aftermath and criminal justice investigation into the Westray

explosion emphasize the congruence between the news and corporate and state ideologies (McMullan & Hinze, 1999; Jobb, 1999; Goff, 2001; McCormick, 1995). In McCormick's (1995) view, "pack journalism" constituted a uniform convergent coverage that remained consistent over time. Corporate and state officials accessed the news medium, and news reporters and editors assisted them in deploying different discursive strategies that protected their reputations. In McMullan & Hinze's (1999) words:

". . . press coverage of the Westray event, while investigative and insightful in places, nevertheless, was very similar in content, tone and form to that often articulated by corporations about their own misconduct and violence" (p. 184).

Goff (2001) holds that the press disavowed a discourse of criminal culpability even though a police investigation into the disaster uncovered abundant evidence of recklessness wrongdoing. The press was strikingly reactive in their reporting of the criminal justice process: "they refused to call the explosion a 'homicide' and rarely if ever followed up on this issue with any investigative reports" (Goff, 2001, p. 210).

Richards (1999) on the other hand, argues that Curragh Resources failed to speak and arrange the truth in their favor. Their "damage control" strategy was a failure. They were too controlling of the media, and their insensitivity toward the families of the bereaved created a public relations debacle that invited reporters to construct their own version of events. They alienated two of their key publics, tarnished their corporate image and contributed to their own bankruptcy.

Throughout the first three years of news coverage reporters articulated a benign, and morally neutral language that described the event as "an accident", "a tragedy", or an "individual failure" (McMullan & Hinze, 1999; Goff, 2001; McCormick, 1995). With few exceptions (Jobb, 1999; 1995) journalists were uncritical of the political connections

that brought the mine into operation; Curragh Resource's poor safety record in other parts of Canada; and the numerous hazard warnings about mining the Foord seam. The politics of truth-telling and newsmaking worked to disavow a law and order narrative about corporate wrongdoing by individualizing politics and criminal culpability (McMullan & Hinze, 1999; Cavender & Mulcahy, 1998; Lynch et al., 1989; Lofquist, 1997). For example, McCormick (1995), McMullan (2001) and McMullan & Hinze (1999) argued that the explosion and the legal aftermath were framed in ways that denied the systemic nature of the event and the interconnections between politicians, corporate officials, and regulatory personnel. Journalists constructed "regimes of truth" about Westray that saw it as spontaneous and beyond human control. When evidence of wrongdoing was aggregated and confirmed at the criminal trial, it was middle-level bureaucrats who were named, blamed and shamed in news reports. Underlying systems of authority and ideologies that led to negligent and reckless conduct by mine inspectors, politicians and Curragh Resources executives were denied or displaced in the reporting.

Similarly, Scraton (1999), and Scraton, Jemphery & Coleman (1995) argued that the press' discussion of the Hillsborough soccer stadium disaster where ninety-six lives were lost decontextualized and depoliticized the event by failing to constitute it as the culmination of negligent decisions made by police officials who failed to regulate and monitor spectator overcrowding at the soccer match. Instead, the press reflected and reinforced official discourses that reconfigured and registered the truth of the disaster as the result of soccer hooliganism caused by fans consuming alcohol before the match. Blame and responsibility was displaced onto victims and the bereaved families. Ultimately, this framing of the event operated to protect police interests and accounts of

the event, and denied justice to the victims and their families by concealing facts and information about the disaster, and by rendering them silent.

These findings are congruent with Lynch et al. (1989) who compared Indian and American news coverage of the Bhopal disaster that claimed the lives of 2, 500 and maimed 50, 000 people. They found that there were cultural differences in the news coverage. But United States news sources constructed the event as an “industrial accident”; identified Union Carbide as the primary victim; and discussed human loss in terms of the benefits of technological advancement over the value of human lives (Lynch et al., 1989). The enormous harm and loss of life caused by the disaster was decontextualized and depoliticized. By framing the disaster in terms of economic loss instead of human loss and suffering, the press “excluded” a discourse of corporate homicide in the Third World.

Cavender & Mulcahy (1998) analyzed three U.S. national newspapers’ coverage of GM’s marketing of an unsafe pickup truck, and NBC *Dateline*’s unethical expose of GM’s marketing strategy. They discovered that the news coverage did fit four elements of a typical crime news frame: attribution of blame; individualization of responsibility; maintenance of moral boundaries; and resolution (Cavender & Mulachy, 1998). But the corporate sources actively managed and protected their reputations by offering simple explanations and resolutions for complex organizational and structural problems. The news coverage certainly highlighted the GM civil verdict and penalties, and the resignation of NBC executives, but it conveyed the underlying hegemonic message that the production and communication systems were working and not at fault. The press’ intense coverage of the resolutions to the cases dramatized them by “individualizing”

blame, responsibility and punishment. This ensured that underlying systems of power and authority were not critically questioned. As Cavender and Mulcahy (1998) put it:

“Our analysis demonstrates, however, that the crime news frame, with its echo of crime fiction, may increase the newsworthiness of corporate wrongdoing; yet that frame also may limit the salience of corporate deviance and the ability of the media to control it” (p. 715).

Wright et al. (1995) examined newspaper coverage of the fire-related deaths of twenty-five workers at the Imperial Food Products processing plant in Hamlet, North Carolina. In contrast to other findings, the news coverage did not define the fire as “an industrial accident”, or relate it to worker negligence. Initially, the event was framed as a breakdown in government safety regulation. But news reports did not define the deaths as homicides, or hold that the corporation or individual executives might be criminally culpable. The negligent actions were ignored, and blame and responsibility were individualized. It was not until the government announced manslaughter indictments against several corporate officials that the criminality of the violence was reported in the news.

Molotch and Lester (1975) studied how official and non-official sources competed to have their version of the truth about the Santa Barbara oil spill constituted as a news event. They argued that federal executives and corporations have routine access to the “event-creating process”: “their greater newsworthiness, their place in the ‘hierarchy of credibility’ (Becker, 1967)” is embedded in the organization of news and of news agencies (p. 305). The powerful, they argued, lobbied the national press and encouraged them to frame the oil spill as a sudden and spontaneous accident, without blameworthy subjects and beyond the realm of the social. Through the process of news

acquisition, registration and dissemination, the accounts of local protest groups and community members were subverted and silenced. In their view, news producers assume that “some groups are objectively more newsworthy than others”, and this enables them to filter accounts and information in ways that reproduce dominant relations of power and authority (Molotch & Lester, 1975, p. 305).

Together these studies suggest that media coverage of corporate crime is convergent; lacks critical investigative zeal; follows the path of official discourse; and is generally supportive of hegemonic understandings of ‘crime’. The truth about corporate crime as it is presented in the news, is not outside power or lacking in it. While the media are often presented and viewed as independent and determined in the pursuit of a “story” regardless of vested interest, newsmaking is also guided by internal power mechanisms: editorial politics, story screening, the rhythms of the newsroom, the subculture of journalism and cognitive conceptions for constituting “audience interest, are all designed to keep reporters and their texts within established ideological limits. As Evans and Lundman (1983) put it, “newspapers protect corporate reputations by failing to provide frequent, prominent and criminally oriented coverage of common corporate crimes” (p. 539). When white collar crime is reported as news it tends to be concentrated in up-market newspapers and restricted to specialist financial pages, sections or newspapers and is framed in ways that demarcate it from “real” crime (Tombs and Whyte, 2001; Barak, 1994; Bohm, 1994). Contrarily, for human rights atrocities to become news, victims have to convince news providers that their social suffering is unique and that strong denials from official sources are false. “Hierarchies of credibility” determine whether corporate sources, government spokespeople, expert witnesses,

lawyers, victims or bereaved family members are heard, silenced or acknowledged. As Cohen (2001) observes: "A neat matrix predicts that items more likely to be selected [as news] will concern Western . . . interests; deal with negative matters (violence, crises and disasters); consist of dramatic, sensational events rather than historical, unfolding problems. But . . . no matrix can accommodate the sheer mass of events, political contingency and the vagaries of fashion" (p. 121).

There is also growing evidence, however, that journalists frame news about corporate crime differently over time. This is especially true when the public expresses intolerance toward corporate crime by initiating a vocabulary of deviance and personal harm, and when they attribute nonrepentance to offenders (Swigert & Farrell, 1980). This means that at its core, media discourse may indeed reflect Gamson's et al. (1992) assertion that it is a site of negotiated meaning; and it is fluid and dynamic. But while news may be a competitive arena of conflicting perspectives, it is one which is structurally and culturally loaded. For all the tensions, negotiations and flexibility which occur in the production process, the news media are as much an agency of social control as the law enforcement departments, courts, tribunals and public inquiries whose activities are reported on. The press reproduces order in the process of representing it, and at bottom, the underlying structure of communicative relationships is about power, "that deep sense of priority and legitimacy which is assigned both authority and responsibility to certain public sources of news and interpretation" (Williams, 1989, p. 117).

*Vocabularies of Denial, Subjugated Accounts  
and the Disavowal of a 'Crime' News Discourse*

Unlike conventional crimes, crimes of the powerful are rarely formulated within a 'crime' news discourse (McMullan, 2000; McMullan & Hinze, 1999; Lynch, Nalla & Miller, 1989; Cavender & Mulcahy, 1998; Wright, Cullen & Blankenship, 1995).

Street crimes are personalized and individualized more easily than corporate crimes; relationships between offenders and victims are more visible and compressed in time; and events are usually resolved swiftly and succinctly. With corporate crimes, harm and blame are diffuse and systemic; relationships between offenders and victims are complex, indirect and slow to develop; and events are seldom resolved clearly, succinctly and with a sense of moral justice (Cavender & Mulcahy, 1998). Because corporate crimes are not easily organized and explained within the parameters of the crime news frame, they are open to multiple interpretations. Because newsmaking is an open-ended, dynamic process, corporate and state officials have the opportunity to sanitize the moral meaning, diffuse harm, and deflect blame and responsibility onto others and this is perhaps most clearly demonstrated in their communications with the press and the news narratives produced.

Arendt's (1972; 1971) and Cohen's (2001; 1996; 1994; 1993) ideas about the politics of truth-telling and "vocabularies of denial" are useful for understanding how the truth of corporate crimes and other atrocities are manipulated, degraded and reconfigured by the powerful. Arendt (1971) distinguishes between two forms of truth: (a) rational truth posits the procedures by which truth must be known, the forms it must take, and the

methods which prove a claims' validity or falsity; and (b) factual truth which is inherently political and experiential, and based on events that are observed, recorded, and remembered. Ironically it is factual truth that is most easily manipulated. According to her (1971):

“Factual truth . . . is always in danger of being maneuvered out of the world not only for a time but, potentially, forever. Facts and events are infinitely more fragile things than axioms, discoveries, theories . . . produced by the human mind; they occur in the field of the ever-changing affairs of men, in whose flux there is nothing more permanent than the admittedly relative permanence of the human mind's structure. Once they are lost, no rational effort will ever bring them back” (p. 231).

The difference between rational and factual truth is best exemplified from the point of view of their falsification: the opposite of a rationally true statement is either error or ignorance, or opinion and illusion, while the opposite of a factually true statement is the plain lie (Arendt, 1971). Lying or “literal denial” amounts to corporate and government rearrangements of damaging information into less harmful narratives, blatant attacks on the reliability and credibility of critical story-telling and the trivializations of moral accounts “from below” (Cohen, 2001, p. 105). It is the most straightforward reaction, but it is also the least effective strategy for avoiding blame and censure. Not surprisingly, efforts at literal denial are often challenged and when facts are undeniable or irrefutable they must be strategically minimized through more complex forms of denial. Foucault (1977; 1991; 1995), Arendt (1971; 1972) and Cohen (2001) hold that powerful interest groups do not have absolute control over truth. But as Arendt (1972) says, strategies of denial are particularly insidious because the truths that are most likely to be manipulated are facts that are generally known but exempted from public discourses. Arendt (1972; 1971) and Cohen (2001; 1996; 1994; 1993) identify two other forms of reaction that are

part and parcel of the culture of official denial: “interpretative denial” – “what is happening is really something else”; and “implicatory denial” – “what is happening is justified”. Interpretive denial is the standard alternative to literal denial. “Admit the raw facts but deny the interpretive framework placed on the events” (Cohen, 2001, p. 105). Interpretive denial attempts to cognitively redefine events and reallocate them to a different, less detracting order. This is a more complex form of denial and entails claims, and counter-claims not because all actions are interpreted, but “because the dominant language of interpretation is legal” (Cohen, 2001, p. 106). Because law is a “plastic medium of discourse”, state and corporate interests frame and reframe, name and rename events through “games of truth” that apply euphemistic labels to harmful and deadly acts or that use the law to cloud the facts with rhetorical devices and technical niceties. Interpretive denial creates “an opaque moat between rhetoric and reality” (Cohen, 2001, p. 108). Implicatory denial reinterprets wrongdoing and justifies it in a language of righteousness, (‘justice had to be swift’); necessity (‘we had to do it’); self-defense (‘they deserved it’); context (‘you can’t see the whole picture’); and favorable comparison (‘look what they did’). While these three forms of denial are often retrospective inventions approximating justifications or excuses, Cohen recognizes one other form of denial. “Passive denial”, he says, pays no attention to the situation at all. It is an absence of response in which non-acknowledgement and non-engagement is the “most radical form of silence possible”. It signals the absence of a problem to those whose interests it seeks to protect (Cohen, 2001; p. 103).

Traditionally, Arendt (1971; 1972) argues, the purpose of lying was to hide *particular* facts, and deceive a *specific* enemy. Deception was strategically deployed by

only a small circle of statesman and diplomats whose job it was to keep enemies at bay. Because deception was used selectively, truth was ultimately preserved and protected (Arendt, 1971, p. 253). In short, traditionally, lies would “tear a hole in the fabric of factuality”, but leave the texture intact. Contemporary organized lying, on the other hand, destroys large bodies of information, and distorts reality in ways that deceive not only enemies, but also the liars themselves. Today, lies are so intricately woven that that they can rearrange the entire factual texture of society.

But as Gamson et al. (1992) note, truth is not a monolith exclusively defined by the media in a hegemonic power formation. There is much diversity and conflict between reporters, editors and sources in the gathering and framing of the news. Official viewpoints do not always monopolize the news-making process. Truth commissions, for example, have validated victims experiences of atrocity and suffering and provided spaces for subaltern perspectives to be heard, understood, memorialized, and officially recognized. Similarly, public inquiries have been deployed as official acknowledgers of wrongdoing and promoters of shared truths about disturbing conduct. They have uncovered and disclosed anomalous acts and embarrassed and shamed their perpetrators. Dominant power players have been forced to confront the truth of their power. But in their official discourses, especially around the rule of law and the production of news, they have been especially skillful at avoiding blame, condemning others and decontextualizing people and events from the structural, material world of cause and consequence. The relationship between the press and the powerful is not one of collusion or conspiracy, but their cultural assumptions and bureaucratic structures are concordant

making them conduits of that power (Lofquist, 1998, Lynch et al., 1989; McCormick, 1999; Morash & Hale, 1987; Scraton et al., 1995; Wright et al., 1995).

Vocabularies of denial contribute to the diffusion of particular “regimes of truth” which are then used by the press to frame resolutions to corporate harm and other government atrocities (Cohen, 2001; 1996; 1994). According to Cavender & Mulcahy (1998), resolution brings closure to tragedies and leaves audiences with the sense that justice has been realized. In the crime news frame, it serves an ideological role “by highlighting dominant definitions of order and authority; blaming individuals rather than the social structure for social problems, and implying that the system works” (Cavender & Mulcahy, 1998, p. 701). In criminal trials, for example, resolution is often swift and direct, and represented by the conviction and sentencing of the offender. The truth of the offender’s guilt or innocence is arrived at by evaluating two evidential narratives put forth by the prosecution and the defense. In public inquiries, however, resolution is more diffuse and indirect. It is usually achieved through reconciliation between offenders and victims, public shaming of the offenders, apologies and policy reform. Truth is difficult to ascertain because it flows out of a multiplicity of conflicting narratives, investigations and evidentiary exhibits.

In the case of Westray, criminal charges against Curragh Resources and its’ managers were abandoned before a clear story resolution could be achieved. The public inquiry was the only institutional site in which resolution was achieved and a resistance narrative mobilized. As Foucault (1990; 1980) notes, the exercise of power creates cleavages that produce tension and resistance. As he (1990) puts it:

“These [cleavages] then, form a general line of force that traverses the local oppositions and links them together; to be sure, they also bring about

redistributions, realignments, homogenizations, serial arrangements, and convergences of the force relations” (p. 94).

These points of resistance can discursively reconfigure power relations, and mobilize a politics of change. The media can be a facilitator of social justice and reform by operationalizing these narratives in news discourse and disseminating them to public audiences.

### *Conclusion*

Foucault (1995; 1991; 1990; 1988; 1977), Arendt (1972; 1971); Cohen (2001; 1996; 1994;) and Becker (1967; 1963) argue that the newsmaking process is the product of the distribution of power in society which, in turn, orders and registers knowledge in certain ways, and constructs specific discourses, and “regimes of truth” which tend to support the overall functioning of power/knowledge relations. Official discourses such as those produced by a trial or public inquiry and the press coverage of these truth-telling processes are circulated and supported by a web of power/knowledge relations which form a society’s general “politics of truth” (Foucault, 1980). My study explores how these power relations operated by analyzing how journalists: (a) constituted the truth about the causes of the explosion and who was responsible; (b) framed the morality of the tragedy; (c) operationalized statements as true and false; (d) valorized certain sources as truth-tellers; (e) constituted notions of law, crime and justice; and (f) registered and validated narratives from below.

The goal of my thesis is to see whether news reporting of the Westray inquiry was useful in mobilizing narratives from below. Were reporters proactive or reactive in their investigations of cause, harm, intent, responsibility and resolution in the news coverage?

Did they change the content and tonality of their coverage? If so, how do my findings compare with the research on news reporting in the immediate aftermath of the explosion (McMullan 2001; McMullan & Hinze, 1999; Goff, 2001; Richards, 1999; McCormick, 1995)? Did the press register, witness and acknowledge “subjugated” truths in their news coverage of the inquiry that recognized the issues of law and order in the workplace, moral responsibility and accountability for corporate harm and the importance of justice? What were the press procedures for the construction and distribution of statements about Westray? How were they linked with corporate and state power to induce and extend “a regime of truth”? Was there a “vocabulary of denial” and a “vocabulary of deviance” produced about Westray and its’ aftermath? What are the implications of this for social justice?

.3.  
*The Judicial Aftermath  
of the Westray Mine Explosion*

*Introduction*

Before analyzing the news sample it is useful to contextualize the public inquiry and its' aftermath by examining the judicial processes that preceded it. In order to understand the significance of the public inquiry fully one must understand how it symbolized and epitomized justice and accountability to the family members of the bereaved, miners and the public. The Westray explosion and its' legal aftermath must be understood in relation to its' political-economic context. It is within this milieu that a culture of non-compliance with the law prevailed and which eventually contributed to the mine explosion and the death of twenty-six miners. Furthermore, how the government responded to the disaster and its' aftermath were informed by dominant norms and ideologies regarding corporate and state misconduct. By examining the judicial aftermath of the explosion one sees how Westray came to be seen as a "legal disaster". After five years of judicial indecision, legal wrangling and government lassitude the public inquiry promised to determine the causes of the explosion, to hold individuals and institutions accountable, to acknowledge victims' accounts, and to try to correct systemic failures and prevent future catastrophes.

Within weeks of the Westray mine explosion, four separate probes were underway. Almost immediately, the Premier of the province promised a public inquiry and on May 15<sup>th</sup>, after rescue efforts were abandoned, he appointed Justice Richard, a judge of the Nova Scotia Supreme Court to investigate the disaster. “Nothing and no person with any light to shed on this tragedy”, the Premier insisted, “will escape the scrutiny of this inquiry” (Chronicle Herald, May 15, 1992, A1). The Department of Labor, who had oversight responsibilities for the Westray mine since its inception in 1988, launched an internal investigation into the causes of the explosion. The police, normally a pre-eminent group in post-disaster tragedies, however, were slow to develop an investigative role. Nevertheless, by May 21, twelve days after the explosion, the RCMP initiated a criminal investigation. Finally, a company-paid panel of experts were hired to conduct an internal corporate assessment of the disaster. Inevitably, personal loss had quickly become public property (McMullan, 2001).

### *The Regulatory Regime and Non-Compliance*

Even though the public was shocked by the explosion, bereaved family members were not truly surprised. In nine months of operation, Curragh Resources had been cited for excessive levels of methane gas, poor ventilation underground, and explosive levels of coal dust on the mine floor. In fact, inspectors had visited the mine over fifty times since 1988, and their reports revealed that mine managers were repeatedly warned to clean-up the mine site in order to prevent an explosion (Jobb, 1999). On April 29<sup>th</sup>, ten days before the disaster, an inspector issued a written order threatening prosecution

unless a coal dust prevention plan was implemented. But the mine blew up before the fourteen day waiting period had elapsed (Richard, 1997, p. 62).

The Department of Labor pursued a non-confrontational, compliance approach to mine oversight. This encouraged a culture of indifference between Curragh Resources and provincial inspectors, and a conflict of interest between local politicians who lobbied for the Westray project and regulators who tried to monitor it (Richard, 1997). The Premier, for example, convinced the federal government to invest \$ 85 million to finance the mine and his own government provided a \$12 million infra-structure incentive, and a fifteen year take-or-pay contract with the Nova Scotia Power Commission to supply 700,000 tones of coal per year at three times the market rate (Glasbeek & Tucker, 1999; Tucker, 1995).

Profits were put ahead of people. Miners could not convince mine managers to correct obvious safety infractions. Several quit while others who complained were intimidated. Those who informed labor department officials personally were told that their “hands were tied” (Chronicle Herald, January 4<sup>th</sup>, 1996, A1). Still others who remained at Westray worked in fear, hoping beyond hope that they could defy injury or death. A “mock bureaucracy” prevailed at the mine site: managers, workers, and inspectors were aware of rules but they made few attempts to adhere to them because they held no legitimacy (Hynes & Prasad, 1999).

It was not until October, 1992, almost six months after the explosion, that Nova Scotia’s Department of Labor finally filed fifty-two charges against Curragh Resources and two mine managers, alleging violations of the *Occupational Health and Safety Act* and the *Mines Regulation Act* (Jobb, 1999; 1994; Glasbeek & Tucker, 1999; Tucker,

1995). But their actions were rather too little too late. They failed to censure Curragh Resources and its' officials accountable for their role in the explosion. By April, 1993 the fifty-two charges were dropped in favor of a criminal prosecution. Based on the principle of double jeopardy, both sets of charges could not be advanced at the same time. So the violations under the regulatory statutes were abandoned without much thought as to the consequences (Jobb, 1999; 1994).

### *The Police Investigation and the Problem of Prosecution*

The police were certainly on the scene within minutes of the explosion. The RCMP were mostly concerned with monitoring a social crisis: media management, traffic control and body identification were their main activities. It was not until September 17<sup>th</sup>, four months after the explosion, that they secured the mine site and seized company records and equipment. Over the next several months they collected evidence underground to support charges of criminal negligence and manslaughter against Curragh Resources and two mine managers. They seized material evidence inside the mine including coal dust samples, methane monitoring devices, a miner's diary and mining machinery (Jobb, 1999; 1994). Through on site investigations and interviews with witnesses they learned that Curragh Resources had failed to properly train miners for underground work, that ventilation inside the mine was inadequate, that measures to reduce coal dust were not implemented, and that methane detectors had been illegally altered to keep mining machines operating when methane levels were above the legal limit (Jobb, 1999; 1994; Glasbeek & Tucker, 1999; Tucker, 1995; Comish, 1993).

From the very beginning, however, the criminal prosecution was not prepared to handle the highly technical, complicated Westray case. The Director of Public Prosecutions did not assign staff to the case full-time until September, 1992. The RCMP had been investigating the causes of the explosion for months, but prosecutors were not present to provide timely advice about warrants, searches and appropriate legal procedures. The two prosecutors assigned to the case were inexperienced and over-worked. They expressed concerns that the government was not properly funding and resourcing the case against Curragh Resources and its' officials. Assigned to working in a spare office with inadequate budgets, little expertise and no support staff, they eventually resigned in early 1993 (Jobb, 1999; 1994). Their last memo to the Director of Public Prosecutions was prescient:

“We have been maintaining responsibility for the largest criminal prosecution in the history of the province without offices, desks, telephones or full-time support staff for the last five-and-one-half months . . . If we cannot do the job properly, we cannot do it at all” (cited in Jobb, 1999; p. 174).

They claimed that the provincial government was too deeply implicated in the explosion to be relied on to effectively finance the criminal justice prosecution. Before the case went to trial, the prosecutors prophetically predicted it would not conclude with a just resolution for both victims and the accused.

Meanwhile, the R.C.M.P were placed in the precarious position of presenting the criminal case without the legal guidance of the Crown lawyers (Jobb, 1999; 1994). Not surprisingly, this resulted in police errors. Under the Criminal Code the police cannot seize evidence for more than three months without laying charges, unless, of course, they obtain a court order for a longer period. The RCMP failed to seek an extension on the

warrant. Immediately the defense attorneys demanded that this evidence be handed over to them for purposes of cross-examination. The judge resisted this legal request, but cautioned the prosecution to follow the letter of the law. He granted the police one more month to lay charges or lose evidence pertinent to the case. On April 20<sup>th</sup>, 1993, the RCMP laid charges of criminal negligence and manslaughter against the company and two mine managers. But like the first team, the new prosecutors were not prepared to handle the highly technical case. The criminal charges were immediately contested. Provincial Court Judge Patrick Curran deemed them too vaguely worded to allow Curragh Resources and the mine managers a fair defense. The RCMP and Crown prosecutors redrafted the charges. They withstood a second challenge but the case was already severely crippled. The criminal justice process, it seems, was destined to stumble before it could stand (Jobb, 1999; 1994).

### *The Criminal Trial and It's Aftermath*

The Premier had early on promised a comprehensive public inquiry to explore the causes of the explosion, the political circumstances surrounding mine development, and the role of health and safety inspectors in providing oversight. The public inquiry hearings were scheduled for late in 1992, but suddenly they were suddenly suspended. Could criminal proceedings exist concurrently with a public inquiry? Could the families demands for accountability and justice be squared with the constitutional rights of Curragh Resources and its' managers to a fair trial? Were the initial terms of reference of the inquiry so broad that they overlapped with those of the criminal law? Legal experts wrestled with these questions for some time, but defense lawyers for Curragh Resources

and its' Westray managers had little difficulty convincing the provincial government to ban public inquiry hearings until the criminal prosecutions were completed. If made to testify at the inquiry, they argued, their clients would be denied their constitutional right to remain silent and their testimony would be used against them in the criminal courts. But the terms of reference of the inquiry was a more contentious issue. In November, 1992 the Nova Scotia Supreme Court struck down the public inquiry. Examining evidence to establish culpable neglect, they opined, was synonymous with establishing criminal negligence. This, the Nova Scotia Supreme Court insisted, was a criminal justice issue to be heard under federal, not provincial jurisdiction. The government of Nova Scotia appealed this ruling and in January, 1993 the inquiry was reinstated. But the inquiry hearings had to be delayed until the criminal trial was concluded. In effect, the public inquiry's future was in the shaky hands of the Crown prosecutors and the RCMP. It would not commence hearings until November 6<sup>th</sup>, 1995 (Jobb, 1999; 1994).

The Westray trial eventually commenced on February 6<sup>th</sup>, 1995 with a new team of Crown prosecutors after 1, 003 days of allegations, frustration, legal battles and political wrangling (Chronicle Herald, February 6<sup>th</sup>, 1995, A1). Right from the beginning, criminal wrongdoing was secondary to technical disputes over disclosure of Crown evidence. After hearing evidence from twenty-three witnesses, Justice Anderson suddenly halted the trial on March 2<sup>nd</sup>, 1995. He secretly contacted the Prosecution Service's Director and blamed the lead prosecutor for the disclosure problems that were slowing the trial proceedings. He demanded that he be removed from the case. The Prosecution Service Director immediately revealed this incident to the Crown lawyers. They, in turn, criticized Justice Anderson for interfering in the criminal justice process

and argued that his actions were biased against the Crown. They demanded a mistrial, but Justice Anderson refused. The Crown then secured an emergency hearing before the Supreme Court of Canada on April 5<sup>th</sup>. But this Court ruled that it did not have jurisdiction to intervene in mid-trial. Ironically, they ordered Justice Anderson to evaluate the merit of his own actions. Not surprisingly, he deemed his actions appropriate and within jurisdictional bounds and he ordered the trial to proceed. Then, on June 9<sup>th</sup>, Justice Anderson stayed the criminal charges against Curragh Resources. He accepted a defense motion that the Crown's failure to disclose evidence amounted to an abuse of process. The Crown appealed to the Nova Scotia Court of Appeal and in December, 1995 Anderson's decision was overturned. On appeal, the charges were reinstated and the Crown was not deemed responsible for non-disclosure. The Westray case, the Appeal Court argued, was unique. It involved extensive and highly technical documents, and the Crown could not be expected to disclose all of their evidence as promptly and efficiently as in other criminal cases. The Court of Appeal agreed with the Crown that Justice Anderson's actions were biased against them. They ordered a new trial with a different judge.

The prosecution service, headed by a new director, and funded by a new government tried again to prosecute the Westray case. But the defense appealed the decision for a new trial to the Supreme Court of Canada in an attempt to have the charges stayed once and for all. On March 2<sup>nd</sup>, 1997 the Supreme Court upheld the Appeal Court's decision. In a seven to two decision, it ruled that Justice Anderson's actions were biased against the Crown. Two dissenting judges, however, also condemned the Crown's handling of the case (Jobb, 1999; 1994). They cited a litany of abuses: the Crown had

misled the court, ignored court orders, broken rules of procedure, not disclosed evidence in a timely manner and attempted to cover up mistakes. In the end, all judges agreed that systemic failures had tainted the state's criminal case. They ordered the Crown to repay the legal costs incurred by the defendants.

Following this decision, however, the Crown did not return to court. Instead, the province's Director of Public Prosecution ordered an internal report to assess the Crown's case and the likelihood of conviction, and external reviews to evaluate the public prosecutors' role in assembling the Westray case, including their relationship with the government and their refusal to contribute sufficient resources to the case. In the end, the Prosecution Service was absolved of responsibility for the failures of the criminal prosecution. In July, 1998, however, the Prosecution Service accomplished what the defense, the Court of Appeal and the Supreme Court of Canada was unable to do. They stayed the criminal charges against the Curragh Resources managers for good. Disagreements among mining experts about the cause and spread of the explosion, they argued, made a criminal conviction unlikely (Jobb, 1999; 1994). After hearing forty-four days of testimony that produced sixty-seven hundred pages of court transcript and cost over three million dollars, no one was held criminally responsible for the deaths of twenty-six miners.

### *The Public Inquiry*

On May 4<sup>th</sup>, 1995 the United Steelworkers of America, the union representing the Westray miners, initiated an appeal to the Supreme Court of Canada that revived the public inquiry before the criminal prosecutions were completed. This decision was

precipitated by the defendants' decision to be tried in a criminal court by judge alone. The earlier stated concern that publicity surrounding the inquiry would prejudice a jury was no longer compelling to the Supreme Court of Canada. It restored the public inquiry and made the government of Nova Scotia responsible for deciding whether an inquiry, a criminal justice prosecution, or both should proceed. By delaying an inquiry in favor of a criminal justice prosecution, one Supreme Court judge argued that the government risks losing its' ability to establish truth and attribute blame and accountability for wrongdoing. According to this judge, the confidence crisis is especially poignant when a government and its' agents are implicated in the harms committed and the remedies delayed or denied (Jobb, 1999; 1994).

After five years of legal wrangling and judicial indecision, the long-anticipated public inquiry was allowed to proceed. To that time, two separate judicial investigations had not established the causes of the explosion, attributed blame and responsibility to individuals or institutions, or provided fair and just resolutions. Over three years family members of the bereaved and miners had since become skeptical of the government's ability to uncover and to tell the truth about the Westray explosion and promote social justice for victims and survivors (Dodd, 1999). This distrust was further exacerbated by the government's reluctance to disclose hundreds of documents that were withheld from the public under confidentiality and cabinet secrecy claims. Six weeks before the inquiry started, however, the government released most of the sequestered documents (cabinet discussions, legal opinions and financial records) to the public inquiry (Jobb, 1999; 1994).

The inquiry began hearing testimony on November 6<sup>th</sup>, 1995. Miners, mining experts, labor inspectors, government bureaucrats, politicians and three Curragh Resources officials provided accounts of their involvement with Westray mine and its' aftermath. Typically, Crown ministers and their officials and senior politicians deflected blame and responsibility on to subordinates and miners, or claimed outright ignorance of the causes and consequences of the explosion. But Curragh Resources executives and mine managers did not testify even though their refusals to do so were challenged by inquiry lawyers, and bereaved family members who sought to subpoena them as witnesses from outside the province of Nova Scotia. The two Curragh Resources officials who did testify offered contradictory, provocative and insensitive accounts of their roles and responsibilities and denied any wrongdoing in either the circumstances leading up to the explosion or in their official reactions after the disaster. Clifford Frame, the CEO of Curragh Resources belittled the inquiry calling it a "railroad job and a farce" and insists to this day that the explosion was a "simple accident" (Chronicle Herald, April 18<sup>th</sup>, 1996, A1). Former Premier Donald Cameron also claims that "Westray's truth" had nothing to do with him or his government's actions (Chronicle Herald, May 30<sup>th</sup>, 1996, A1). He openly condemned the miners as the agents of their own deaths!

"The families . . . will never find any peace if they don't get to the truth, and that's why I am so upset that people wouldn't own up to what they were doing. And instead of briefly speaking about it and shoving it under the table. The bottom line is that the mine blew up on that morning because of what was going on in there at that time. That's the bottom line" (Chronicle Herald, May 31, 1996, A1).

The lack of cooperation and the evasive and forgetful testimony of corporate and state officials contrasted sharply with the clear and consistent accounts provided by

mining experts, bereaved family members and miners. The former were critical of Curragh Resources' method of operations and argued that the explosion was both predictable and preventable. The latter reported that they tried to convince the company to implement a plan to neutralize coal dust, and improve ventilation and roof conditions at the mine site (Comish, 1993; Dodd, 1999). These officials, the inquiry was told, either ignored these complaints or stated that they lacked the power and authority to act on them. Family members of the dead miners, for their part, often left the hearings in anger, tears and disbelief. By July 22<sup>nd</sup>, 1996, the last day of the hearings, the inquiry had heard testimony from seventy-one witnesses over seventy-seven days of meetings and produced 16, 816 pages of official transcript (Chronicle Herald, July 22, 1996, A1).

By autumn of 1997, corporate executives and mine managers had still to account to the public for their actions and policies, and they have steadfastly refused to do so to this day. However, Justice Richard decided to release his long-awaited report in December of 1997. His powers allowed him to assess the actions of individuals and attribute blame so long as his language did not state criminal or civil liability. Justice Richard was direct and focused in his evaluation: "The Westray story," he wrote, "was a complex mosaic of actions, omissions, mistakes, incompetence, apathy, cynicism, stupidity, and neglect" (Richard, 1997). The politicians who negotiated the financing of the mine went "beyond the call of duty" to bring it into operation. Mine managers and executives encouraged a corporate mindset that placed production and profits ahead of health and safety. A culture of intimidation and recklessness, he opined, prevailed at the mine site where occupational health and safety violations were normalized and even encouraged. The Natural Resources and Labor departments failed to enforce proper

oversight and allowed Curragh Resources to operate an unsafe mine. The formula for disaster, he argued, was abundantly clear: “management failed, the inspectorate failed, and the mine blew up” (Richard, 1997).

The final report contained seventy-four reform recommendations for an overhaul of underground mining and safety regulations, the regulatory regimes, guidelines for the conduct of elected politicians and the criminal law to make corporate officials more responsible and accountable for workplace violence (Richard, 1997). While Justice Richard hoped that his report afforded closure and justice for the bereaved family members by absolving their loved ones of blame and dispelling the myth of accident, it did not lead to criminal convictions or civil actions against those identified as responsible for homicide in the workplace.

### *The Westray Families and the Experience of Injustice*

The Westray report provided some closure for the victims and survivors of the explosion. But their experiences of loss, and their pervasive and long-term feelings of grief and frustration toward the government for its’ failure to resolve the event swiftly and with a degree of moral certainty would remain etched in their minds forever. Indeed, there is a chilling complacency behind the state’s failure to address the harm, trauma and homicide of Westray. Their sense of injustice was then, further exacerbated by the utter moral indifference expressed by Curragh Resources officials, and their refusal to atone themselves for harms committed by evading responsibility and accountability. In Dodd’s (1999) interviews with the bereaved family members there is deep pain and resentment in their voices. They describe their feelings as stemming from: (a) the government’s failure

to return the bodies of their loved ones for proper burials, (b) their failure to provide a comprehensive accountability for the explosion, including responsibility for individual wrongdoing in a criminal context, (c) their disregard for their experiences demonstrated by their failure to offer appropriate public recognition and apology, for not implementing an agenda of preventative reform, and for denying civil claims that would have eased the many torments of injustice over the past decade (Dodd, 1999).

The latter decision, which was announced in August, 2002, effectively meant that the government of Nova Scotia could not be held responsible under civil law for negligence in licensing and funding a dangerous mining enterprise, even though the public inquiry had indicated their culpability. The Supreme Court of Canada stayed the civil compensation suit against the Government of Nova Scotia on the grounds that the provincial government, who funded the Westray mine, was actually the miners' employer and had already compensated the Westray families under the Worker's Compensation Act.

After ten and a half years of legal maneuvering, corporate denial and government deceit, those most closely affected by the disaster were effectively re-victimized: lax regulatory responses and police practices, flawed technocratic criminal justice procedures, official bureaucratic secrets, miniscule compensation awards, and the failure to discipline those responsible were so serious that they transformed a physical disaster into a legal disaster and undermined justice (McMullan, 2003; Jobb, 1999; 1994; Dodd, 1999). The brother of a dead miner stated this forcefully:

"Those bastards did this and they are walking away from this . . . you cannot touch Frame . . . He's the ultimate. That's where the blame lies . . . and yet we cannot even get at the goddamn managers that were there. So I'm trying to see where this friggin' justice system fits in. It doesn't fit nowhere. Unless you

happen to be a nobody, then they'll nail your ass right to the wall. It's odd. I just can't let it go that these people were able to kill twenty-six people and just walk away" (cited in Dodd, 1999, p. 238-239).

This thesis is premised on the idea that the law is socially constructed and it produces and transmits knowledge as truth. Truth-seeking agencies filter and interpret people's stories, and produce 'true' discourses that are typically restricted to formal recollections and then further deduced and limited by adversarial adjudication to narrower and narrower statements and texts. I argue that the processes involved in the production of truth are more complicated than this because through the selection, construction and narrative formation of legal truth, the legal system circulates knowledge as truth by appealing to established conventions, norms and ideologies.

The techniques of investigation, evaluation and narrative construction deployed by these truth-seeking agencies are inextricably linked to the political context of the production of truth. The weighing of personal rights and freedoms, the balancing of political priorities and necessities, the entanglements of juridical boundaries and the selective processing of disingenuous "official memories" together expose the myth of any simple truth and underscore that establishing "the facts" is not uncontroversial. Misspeaking the truth in law and politics, Hannah Arendt (1972; 1971) reminds us, is a necessary weapon in the arsenal of the powerful, and one that is increasingly active, organized and aggressive in manufacturing incorrect and misleading information about things and events that are known to practically everybody. This is apparent in government programs, policies, publications and actions in which, time and time again, known and established facts are ignored, rearranged, decried or suppressed if they hurt a corporate interest or harm the credibility of a state agency. As Cohen (1993) observes:

“This is not a matter of secrecy, in the sense of lack of access to information, but an unwillingness to confront anomalous or disturbing information” (p. 102). The news-making process, moreover, is also closely tied to official delineations of truth, and the press tend to speak the hegemonic truth of the powerful.

In the Westray case, legal “truth” reflected what Becker (1967) calls “a hierarchy of credibility” – the unequal moral distribution of the right to be believed. The mechanisms, instruments, techniques and procedures lay barely concealed beneath the surface of Westray’s “official discourses and memories” and the state’s legal maneuverings, manipulations, diversions and refusals. They informed how the explosion was conceptualized and written about by the press and how “views from above” and “views from below” were registered, circulated, acknowledged and memorialized. How then, was power exercised in the press coverage of the public inquiry?

*.4.**Methodological Issues**Introduction*

This chapter formulates my research methodology, and explains how I will deploy content and discourse analysis to study news coverage of the Westray inquiry. First, I define what I mean by discourse and content analysis and explain how I integrate them methodologically in order to illuminate quantitative and qualitative dimensions of the news sample. Second, I discuss my selection of news source and my sampling strategy. Third, I define the central themes and research questions that were derived from my theoretical framework and explain how they were refined, revised and operationalized as variables.

*Discourse, Content Analysis and the Study of News*

Some researchers argue that news discourse is best understood when research strategies combine more than one method to study a phenomenon (Ericson et al., 1991; Chermak, 1994). Some advocate using content analysis and interviewing news personnel and sources (Bentz & Shapiro, 1998, Ericson et al., 1991; 1989, Chermak, 1994). This, in turn, allows for a better analysis of discourse access, narrative writing, and the

constitution of truth. These researchers insist that content analysis, on its' own, yields a static view of news discourse (Chermak, 1994; Ericson et al., 1991; 1989). Content analysis, they say, studies only what is presented to audiences, and is unable to reveal the dynamics of news-making and the interrelationships between news producers and sources.

I argue that the dynamics of newsmaking can be captured by studying both the content of news reports and their distinct discourses. This allows for both quantitative and qualitative analyses of the tone, style, and form of news reporting, as well as the rhetorical strategies used to construct particular regimes of truth. (Cohen, 2001; 1996; 1993, Foucault, 1990; 1991; 1980, Becker, 1967; 1963 and van Dijk, 1993).

The newsworthiness of news reporting, the news themes, and the extent to which reporters use a vocabulary of deviance were quantitatively analyzed according to content categories and subcategories derived from my theoretical framework. I studied the accounts of sources and how certain truth claims were authorized and validated in modes of writing. My intent was to deconstruct news narratives by revealing how linguistic strategies of evasion, deflection and denial both decontextualized news about Westray and re-registered the disaster in less harmful terms.

I conceptualized news reports on the public inquiry as a "knowledge network" or "discursive formation" (Foucault, 1990; 1991; 1980). This discourse operated according to certain rules that govern its' "objects, operations, concepts, and theoretical options", and made its' existence possible at a given point in time (Foucault, 1991). How did the divisions between moral and immoral, normal and deviant, just and unjust operate in news discourse? Who defined these concepts? How did these distinctions change over

time? By studying the “connections, encounters, supports, blockages, plays of forces, and strategies” that inform news discourse I analyzed how the Westray public inquiry was constructed as a complicated discursive formation (Foucault, 1991).

According to van Dijk (1993) one of the major functions of discourse is to manufacture consensus, acceptance, and legitimacy of dominance. Discourse tends to induce and sustain hegemonic power relations. Sometimes this makes it difficult to distinguish between dominant social groups (those whose knowledge claims get articulated in official discourse), and subordinate social groups (those whose knowledge claims are usually disqualified or displaced). Critical discourse analysis is useful for unraveling complex webs of power relations by providing “discourse access profiles” (van Dijk, 1993, p. 256).

The media is a powerful signifier of social meaning and powerful social groups such as state agencies, and corporate officials work hard to maximize their access to media discourse. They often hire press officers, regulate press releases and press conferences and hire public relations experts to assist them in constructing positive images and accounts. However, less powerful groups can also achieve access to official discourses. Previously subverted accounts can be reconstituted and registered. According to van Dijk (1993), the power to exclude the claims of subordinated groups can be seen in discursive structures themselves:

“Indeed, some voices are thereby censured, some opinions are not heard, some perspectives ignored: the discourse itself becomes a ‘segregated’ structure” (p. 260).

Following Foucault (1980; 1991), I analyzed the limits and the forms of the “sayable” in news discourse about the Westray explosion and the public inquiry. I

studied the euphemisms, denials, understatements, word choices and uses of source citations in news texts. I revealed repeated patterns and continuities in news discourse, as well as discontinuities and ruptures that were triggered by shifts in power/knowledge alignments. This, in turn, suggests that power/knowledge relations were in a state of tension and that “truth” was contentious and constructed.

Discourse analysis must be distinguished from content analysis.

Content analysis when used to study news coverage of corporate crimes has several strengths and limitations. It is useful in revealing patterns in news content, and uncovering unarticulated assumptions about newsmaking. Because it uses repetition as a its’ key indicator of significance, the calibration of repeated themes, phrases and words also allows for identification of causal relationships (Bentz & Shapiro, 1998; Jones, 1996). But this emphasis on repetition means that absences in news discourses are sometimes overlooked or ignored. The study of silences or absences in news texts provides insight into what Foucault (1995; 1991) describes as “the limits and forms of the sayable” at a given point in time. Although content analysts can account for absences in news texts they may be unexplored if they are not codified prior to analyzing texts (Ericson et al., 1991).

My analysis, however, codified news reports in ways that captured both the patterns and absences in news content. My content categories included values that reflected both the presence and absence of variable indicators, and allowed me to examine whether news producers used a vocabulary of deviance to frame the Westray public inquiry. So my research strategy directed me to shift back and forth between

codifying news content and analyzing the discursive structure and required at least two close readings of the texts.

Researchers who use content analysis to study news texts identify patterns that are compared to other measures of “reality”. These comparisons are used to highlight what is overrepresented or underrepresented in the news when compared to other measure of reality (Bentz & Shapiro, 1998). So researchers who use content analysis to study news representations of crime often compare news representations of crime and criminal justice with official statistics in order to locate biases or distortions in news content (Ericson et al., 1991; 1989). However, this approach to the study of crime news has limitations because the role of police, judges, magistrates, politicians, and corporate officials in the construction of both crime statistics *and* crime news remains unquestioned. There is a need to query official statistics as the absolute “truth” about crime, and to question the deeper processes in the social construction of deviance. My research strategy deployed content analysis in order to explore how the police, the courts, and the law operated within a field of power relations which tends not to criminalize and punish corporate deviance, and in which the law, the press, and the corporation collaborate in framing corporate deviance in ways that deny harm, and evade responsibility and accountability.

Some researchers who use content analysis claim that they are objective and that their results are unbiased. However, as Ericson et al. (1991) point out, “content analysis, like the mass media generally, is the product of social conflict” (p. 51). Objectivity is a chimera that denies the impact of power/knowledge relations in the news-making process; the socially constructed nature of crime discourses; and the interconnected

nature of the law, police, news organizations, corporate/state officials, and academic researchers. Similarly social science researchers are interested social actors who are influenced by power relations and moral values. van Dijk (1993) warns that researchers who say they are value neutral are actually “playing down, leaving implicit, or understating” their particular interests and agendas. She advocates advancing an explicit sociopolitical stance and this is captured by Becker’s (1967) well known admonition:

“To have values or not to have values: the question is always with us . . . This dilemma, which seems so painful to so many, actually does not exist, for one of its horns is imaginary. For it to exist, one would have to assume, as some apparently do, that it is indeed possible to do research that is uncontaminated by personal and political sympathies . . . it is not possible and, therefore, the question is not whether we should take sides, since we inevitably will, but rather whose side are we on?” (p. 204).

### *The News Source and the Sampling Strategy*

Some researchers in the field of media and corporate crime have used multiple newspapers and compared and contrasted regional and national coverage (Goff, 2001; Lynch et al., 1989; Swigert and Farrell, 1980; Molotch and Lester, 1978). This has certainly produced interesting findings and enhanced reliability and validity of data (Cavender and Mulcahy, 1998; Wright et al., 1995). Indeed, the inclusion of television sources often revealed fresh content and different discursive significations. Certainly an exhaustive sample of everything the national and provincial press presented on the Westray public inquiry might uncover new findings and alternative clusters of connotations although it would be a costly research venture and beyond the scope of this thesis. But I want to emphasize that I familiarized myself with the press coverage from other local sources as well as the coverage from another major Canadian national

newspaper before I decided to analyze the total press coverage of the public inquiry available from the *Chronicle Herald*. I am confident that my analysis uncovered the main themes that made up a complex set of discourses of media reporting about the Westray public inquiry, and the public responses to it. My study provides a new shape and a sharper and fresher tone to the media analysis of the Westray disaster because it provides a focused view of the local social climate during the time of the inquiry, and an enduring description of one society's way of responding to a disaster (Scraton, 1999; 1995).

The Halifax *Chronicle Herald* newspaper afforded permanence and visibility to accounts that would otherwise be transitory and opaque, including public data, identification of community leaders and citizens, and invaluable "features" (stories, letters, opinions, photographs, cartoons, announcements, etc.) which illustrated socio-cultural values and differences about the explosion, the public inquiry and the public responses to it. The Halifax *Chronicle Herald* was an indispensable narrative which structured in thought, memory and word, notions of self, social interaction and place, as well as the community's sense of expected conduct. It provided the most complete and contextualized portrayal of the public inquiry over time. By comparing and contrasting news coverage of the public inquiry with that produced prior to it, I was able to understand how and why power/knowledge relations between reporters and news sources were structured into "truth regimes", and whether or not they were contested and transformed as the public inquiry unfolded.

I also selected the *Chronicle Herald* because it was (and still is) the predominant news organization in Nova Scotia. It employs almost sixty reporters, editors and

columnists who produce newspapers in seven offices around the province. It has a readership of 325,000 – one third of the provincial population – and it covers the entire province from Yarmouth in the south to Cape Breton in the north. It is the most widely read and circulated newspaper in Nova Scotia, and it has not missed a publication day since 1875 (Chronicle Herald, 2002). The Chronicle Herald also has a history of covering local disasters: the Foord mine explosion in 1880; the sinking of the Titanic in 1912; the Halifax explosion in 1917, the Allan mine explosion in 1918; the Albion Macgregor mine explosion in 1952; and the Springhill mine disaster in 1957. It was especially useful as a source for studying Westray because their reporters: (1) reported “on the spot”, and did not rely on wire services or second hand informants to gather most of their information; (2) tracked and reported the Westray explosion throughout the public inquiry and compiled an extensive archive of news reports, editorials, opinions, interview texts and public commentary; (3) had an intimate knowledge of regional mining communities and local political and economic contexts when compared to other regional or national newspapers. The news reports were also easily accessible, and available on CD ROM at the library university.

My goal was to obtain all news reports on the Westray public inquiry. I defined my sample time period to include stories written six months prior to the public inquiry hearings, and six months after Justice Richard released his report. This enabled me to observe changing patterns in the content, tone, and form of news reporting on the public inquiry, and to analyze how the press “framed” and understood this event and the public responses to it. I sampled broadly using ‘Westray’ and ‘inquiry’ as my search terms. I saved all the news items to disk, examined a random, pre-test sample of news reports

from each year, and developed a strategy for excluding certain news items based on relevance and length (Goff, 2001; Chermak, 1995; Wright et al., 1995; Ericson et al., 1991; 1989).

Story relevance was determined by examining whether each story focused on the Westray public inquiry. For example, some narratives pointed out parallels between the events and issues surrounding the Westray public inquiry and other corporate projects, other cuttings made comparisons between Westray and other industrial disasters, and still other stories drew associations between the Westray public inquiry and other Westray investigations that proceed concurrently, but they did not focus their coverage on the Westray public inquiry proper. There was little text to code or analyze, and so these types of stories were omitted from the sample. On the other hand, when the connections, comparisons or associations between the public inquiry and other topics, events and actors were extensive and continuous the news reports were included in the sample.

Story length was determined by the column inches of each news report. Following Chermak (1995), Ericson et al. (1991), and Wright et al. (1995), I excluded news reports and capsules that were less than three column inches because they did not contain enough information to analyze. *Letters to the editor*, however, were treated differently in the exclusion process. Each *letter to the editor* included several entries from different citizens, but they each were typically less than three column inches and would be excluded if I apply the 'less than three column inches' rule. Since I wanted the sample to reflect public opinion I used the following rules. The first entry in the cluster that was more than three column inches in length was included, and all remaining entries

were excluded. If none met the criteria of relevance and length, then the entire news item was omitted.

*Cartoons* raised commentary about the public inquiry. They were often satirical and presented perspectives seldom found in other sections of the newspaper. But they could not be analyzed as extensively as other news items. They tended to signify singular images of the inquiry with clear and direct messages. They were coded by theme only. In the end, I excluded 151 news items: 128 news reports were not relevant, and 23 news reports were less than three column inches in length. I retained a total working sample of 371 news reports, editorials, letters to the editor and cartoons (Table 1).

### *Coding the Data*

The content and source categories of each news report in the sample were coded. I developed categories that measured the following general themes and questions: (a) **power/knowledge and newsworthiness**: What issues and accounts surrounding the public inquiry were considered to be credible and newsworthy? (b) **regimes of truth**: Did power/knowledge relations structure the news as a discourse and create “statements of truth” about causes of the explosion, and attributions of blame and responsibility, and if so, how were they different than those produced prior to the public inquiry? (c) **discourse and morality**: Did news producers frame a moral vocabulary about the explosion, and if so, how was it different than that produced prior to the public inquiry? Did they discuss the harms and losses caused by the explosion? (d) **discourse, justice and denial**: Did news providers construct images of social justice and reparation that were absent in the years prior to the public inquiry? How were the narratives produced

about the public inquiry different than those produced about the criminal justice, regulatory and civil investigations into the Westray explosion? Were voices that were previously ignored, silenced or disqualified in the years preceding the public inquiry heard and validated in news reporting of the public inquiry, and the response to it? (e) **the press, hegemony, and corporate crime reporting:** Did the news media examine the political economic context leading up to the explosion? Did the press follow their sources or were they critical investigators of the event and its' aftermath? Did reporters construct a law and order narrative about Westray? Was the news constituted ideologically according to dominant hegemonic understandings of corporate capital and state power?

I then constructed a codebook listing the content categories, subcategories and definitions. The subcategories of each content category were numbered consecutively. In all there were 23 content categories which was eventually reduced to 22. For the content categories comprising the '*vocabulary of deviance*' (see the next section) the subcategory 'no mention' was coded as '10' in order to measure the absence of coverage of each of the key indicators. Each news report in the sample (n = 371) was numbered consecutively and coded on a separate sheet. In the few cases where themes were ambiguous I made the final coding decision in consultation with my thesis committee.

The coding process involved a constant process of reflexivity, debate, and revision. There were at least three types of codebook revisions. First, I revised content subcategories when they did not accurately reflect the content of the news sample. In most cases, the codebook was revised by adding subcategories so that they were mostly mutually exclusive and exhaustive. For example, the content category 'cause' measured

the type of causal attributions journalists used to explain the explosion. But I soon discovered that in some reports they attributed the causes of the explosion to multiple sources. So I revised this category by adding “multiple attributions” as a subcategory. I then recorded the combinations of causal attributions made in each report on the code sheet.

Second, I revised subcategories so that they reflected the tone and language of news reports more precisely. For example, the category ‘story theme’ included ‘moral outrage’ as a subcategory. Morality, I discovered, was an important theme in the coverage, but the moral language of reporters did not generally portray emotions that constituted outrage. Rather, reporters demarcated boundaries of acceptable behavior, and disapproved of acts and omissions that violated these rules of conduct. Therefore, the subcategory (2) moral outrage, was redefined to include judgements of moral disapproval evinced in the texts.

Finally, some new source content categories were added to the preliminary list. My preliminary investigation demonstrated that journalists used a variety of sources in their writing about Westray, even though many are used more often and considered more authoritative. In order to register and analyze the entire range of news sources it was necessary to code the entire range of organizational positions held by news sources. This constant process of revision allowed me to capture the complexity of what Becker (1967) called “hierarchies of credibility” as it applied to the news production practices of the *Chronicle Herald* newspaper.

### *Content Categories and Thematic Analysis*

Some of my content categories were developed specifically for this research; others were borrowed from previous studies on the news media and corporate crime (Cavender & Mulcahy, 1998; Lofquist, 1997; Swigert & Farrell, 1980; Wright, Cullen & Blankenship, 1995). The **newsworthiness** of Westray and the credibility attributed to different news sources was measured by three indices. First, the **type of news coverage** measured the length of each news report in order to gauge the scope of coverage. Subcategories included: primary stories which measure 5 or more column inches of text; secondary stories which measure between 2.5 and 4.9 inches of text in length; and tertiary stories which measure between 1.6 and 2.4 inches of text in length (Lofquist, 1997; Chermak, 1995). Second, the **placement of news reports** was measured by examining where news reports are situated in the newspaper. Events that were featured on the front pages of newspapers were often the most important and newsworthy (Ericson et al., 1991; Chermak, 1995). Subcategories included: front page news; section A news, editorials, and other sectional front page news (ie. B1, C1, D1), and other inside page news (ie. B2, C3, D4). Finally, the **type of news story** was measured by examining the newspaper's system of news identification. Subcategories included: ordinary news reports, feature stories, editorials, commentaries/opinions, entertainment stories, cartoons, and other news stories. Together, then, these variables measured the newsworthiness of Westray as an event.

The extent to which journalists developed a "vocabulary of deviance", by which I mean news narratives that, delineates cause, attributes blame and responsibility,

demarcates harm, and uses a moral/criminal language to frame the Westray public inquiry and its' resolution was measured by the following indices (Wright, Cullen & Blankenship, 1995; Lofquist, 1997; Cavender & Mulcahy, 1998; Goff, 2001; Swigert & Farrell, 1980). First, what **causes** did journalists attribute to the explosion? Was the explosion a result of: (a) Worker negligence; (b) corporate criminal conduct; (c) systemic failures; or (d) specific individuals behaving irresponsibly; or (e) natural disaster.

Second, how did journalists characterize the **harm** caused by the explosion? Was harm considered: (a) direct – focuses on the miners killed in the explosion; (b) indirect – focuses on the grief and loss experienced by family and friends of the deceased miners; or (c) community-based – focuses on the impact of the explosion on the regional economy and community relations. Third, how did journalists write about **intent** as it relates to criminal culpability? Was intent: (a) overt – as in instances when corporate officials, regulatory personnel, and local politicians ignore the safety complaints of miners, experts, and industry; or (b) indirect – as in instances when mine officials fail to monitor and maintain a safe worksite and properly train miners for work underground.

Fourth, how did journalists constitute **blame and responsibility** for the explosion? In their news narratives were the responsible parties registered as: (a) mine managers; (b) regulatory personnel; (c) politicians and/or corporate executives; (d) miners; (e) or a combination of the above. Fifth, how did journalists frame discussions of story **resolution** in their news narratives? Did they register justice as a matter of: (a) legal reform; (b) civil compensation; (c) organizational reform of bureaucracies; (d) apology and reconciliation for family members, friends, and the public; (e) public inquiry; or (f) multiple attributions of resolutions and justice. Finally, how did the press frame

**morality** in the news coverage? Was Westray: (a) an accident beyond human control and morally neutral; (b) an act of omission or commission by individuals who are immoral and/or criminals; (c) an act that is the structured outcome of a political-economic system that is organizationally immoral or even criminogenic.

I included ten source categories in order to gain insight into whose accounts and explanations about Westray were considered most credible. These included: (1) corporate sources – executive officers, managers, other Westray ‘officials’, and other unknown Westray sources; (2) regulatory sources - members of the Department of Labor and the Department of Environment; (3) police sources – chiefs and superintendents, sergeants and constables, special investigators, spokespersons, and unknown police sources; (4) legal sources – judges, defense lawyers, Westray Families Group lawyers, civil lawyers, inquiry lawyers, and other legal sources ; (5) expert sources – government-paid consultants, privately-paid consultants, independent consultants, unknown expert sources; (6) citizen sources – miners, victim’s spouses, victim’s relatives, community members, Westray Families Group and other citizen sources; (7) political sources - members of the Premier and Members of Cabinet, other members of the political party in power, and the opposition, and mayors, other political party affiliates; (8) government sources – ministers (other than the Labor and Environment ministers), boards and agency officials and unknown government officials; and other government officials; (9) labor sources – the United Steelworkers of America union, unknown union officials, Labor Federations, and other labor sources; and (10) private sources – analysts, mine competitors, outside media sources and law firms. Additionally, I included the variable

'press sources' which enabled me to codify the type of news producers: reporters, editors, newswire sources, columnists/editorialists, and cartoonists.

By tracking news sources and their organizational positions in news coverage of the public inquiry I was able to analyze: (a) the types of knowledge and expertise that are deemed most credible by journalists; (b) the interworkings of power/knowledge relations by examining who is authorized to give accounts and explanations about Westray; (c) the process of news neutralization, disqualification, or denial surrounding representations of Westray; and (d) the dynamics of power and the press' valorization of specific "regimes of truth" and the development of a general "official politics of truth" about the explosion and its' aftermath.

Each news report was coded according to its' **theme** or ideological story narrative. These themes were derived, in part, from the secondary literature on Westray (McMullan, 2003, 2001; McMullan & Hinze, 1999; Goff, 2001; Richards, 1999; McCormick, 1999, 1995) and then, after the pre-test, added to and revised for this study. Nine news discourses were identified: (a) the accident discourse where Westray is framed was a human interest story which mobilized a vocabulary of harm, loss, grief, bravery, and sacrifice typical of miners and their communities; (b) the moral disapproval discourse where Westray and its' aftermath is constituted as a morality play where moral boundaries were transgressed; (c) the law and order discourse where Westray and the social responses to it are demarcated as violations of law, with precise offender/victim relationships, and criminal justice punishments; (d) the regulatory failure discourse where the explosion is narrated as an event caused by incompetent health and safety inspectors who are unable or unwilling to monitor and regulate the mine site; (e) the legal discourse

which constitutes the Westray explosion and its' aftermath as primarily a legal case emphasizing procedural rules, strategies, courtroom dramas, and judicial appeals and decisions that decontextualize social processes and events while simultaneously individualizing responsibility; (f) the failure of government discourse which views the explosion and its' consequences as the result of negligent, irresponsible decisions by senior politicians and government officials, or their ineptness at managing their departments; (g) the political economy discourse which highlights the political economic context surrounding the Westray explosion and its' aftermath, and relates how it precipitated the explosion; (h) the reform and prevention discourse which discusses Westray as an awful example of things gone wrong, and change through new preventative measures; (i) 'other' indexed news reports that are not represented by any of the themes.

So what precisely was the form and content of news coverage of the Westray inquiry, and how was it different from the news coverage that preceded it?

.5.  
*The Press, The Public Inquiry  
And the Construction of Westray's Truth*

*Introduction*

This chapter has three main objectives. First, I describe the form and content of the news coverage of the public inquiry. Second, I present discursive illustrations extracted from news texts in order to demonstrate the language and tone of the narratives used to frame the news coverage of the public inquiry, and how sources' accounts were registered by the press and reconfigured into news plot-lines. Third, I compare and contrast my findings with those of previous research on the press coverage of the Westray explosion (McMullan, 2003; 2001; McMullan & Hinze, 1999; Goff, 2001; Richards, 1999; McCormick, 1995). This provides insights into the dynamics of newsmaking, and shows how Westray was constituted differently as a news event over time. In chapter six I analyze my findings and deconstruct the news texts. I explain how news coverage of the Westray inquiry operated inter-discursively with previous news narratives about Westray and its' aftermath, and intra-discursively as a distinct and definable "regime of truth" about Westray.

### *Newsworthiness of the Westray Public Inquiry*

From January 1<sup>st</sup>, 1995 to June 2<sup>nd</sup>, 1998 news coverage consisted mostly of primary type stories that provided readers with much information and opinion. Journalists provided almost daily information about key events and people, and they actively pursued the public inquiry as a news event by reporting on legal arguments, witness testimony, evidence, findings, recommendations and the implications of reforms for the future prevention of workplace disasters. They evoked powerful images of Westray by embedding their narratives in wider discussions about politics and the regional economy, and by drawing parallels between the Westray explosion and workplace disasters elsewhere. They examined the Westray miners' and bereaved family members' experiences of grief and injustice in order to connect biographies to place and events. Indeed they sometimes made themselves the subjects of the news, evaluating and criticizing their own coverage, and comparing it to other media outlets.

Not surprisingly, 77% of all the news reports about the public inquiry were located in Section A of the newspaper, and 28% were front-page stories. Eight in ten news stories were ordinary reports, followed by editorials (10%), cartoons and feature stories (5% each) and letters to the editor (3%). (Tables 2 and 3). Most news reports were more than five column inches in length (83%), and (17%) were less than five column inches in length (Tables 2, 3, 4 and 6).

News coverage was primarily constructed by news reporters (83%). Editors produced 8% of the news, followed by cartoonists (5%), columnists and editorialists (2%), and news wires/sources (2%). Public narratives were minimal and reporter's voices were dominant in the representation of the Westray public inquiry. (Table 5).

Fully four-fifths of their coverage focused on legal issues, as well as the presentation of evidence and witness testimony at the hearings. Few stories discussed Justice Richard's findings and recommendations (7%), and journalists were not all that inclined to report on the official and public responses to them (13%).

Story length, story placement, and type of story reveal important coverage features. Newsworthiness increased as the inquiry unfolded, and the number of primary stories that reported on the hearings increased from 14% to 63% of the news coverage. The number of front page stories increased in the hearing stage from 18% to 67% of the news coverage, and the overall proportion of section A stories more than doubled. The overall volume of news coverage decreased after the hearings concluded, but the percentage of primary stories increased after the findings were released (8% to 15%), as did front page (6% to 10%) and section A stories (8% to 15%). Secondary coverage also increased after the government and the public responded to the inquiry's findings and recommendations (3% to 12%). Stories about the Westray public inquiry focused on primary issues and developments, and they were almost always featured prominently in the Chronicle Herald newspaper from beginning to end (Tables 7 and 8).

### *News Narratives and a Vocabulary of Corporate Deviance?*

Legal themes were certainly predominant in the news coverage accounting for 32% of the sample. Reporters covered the constitutional conflicts over the criminal trial and the public inquiry, the collection and filing of evidence, the debate over the disclosure of government records to the inquiry, and judicial appeals and decisions. But, as we shall see, they did not develop a law and order discourse about the Westray

explosion. Less than one in ten stories were framed in such a vocabulary (6%). For the most part, legal stories “individualized” the blame and responsibility for the explosion, and emphasized the technical side of law by dwelling on legal rules, judicial procedures, courtroom conduct, lawyer/client privileges, and due process appeals (Table 9). The following represents an exemplar of a legal narrative:

“**At least three officials of the Department of Labor will be questioned** about missing Westray documents at a **special session** this month . . . Sources connected with the Westray inquiry say the **witness list includes** . . . The department’s lawyer, Marian Tyson, and Stewart Sampson, an occupational hygienist who was responsible for **collecting documents** for the inquiry, will also testify. The inquiry ordered all Westray documents to be turned over three years ago. But some of Mr. White’s notebooks, which outlined his activities before the explosion, only surfaced two months ago” (Chronicle Herald, July 1<sup>st</sup>, 1995, A2).

As seen in table 9, the two next most common themes, regulatory failure and moral disapproval, accounted for 18% and 15% of the sample respectively. Consider the following excerpts from stories discussing the failure of health inspectors and mine managers to properly regulate safety at the mine; and expressing moral disapproval of individuals and institutions for the harms committed.

“Things went wrong at the Westray mine not because of ‘an act of God – it was just **misplanning**’, a Colorado mining engineer said Monday . . . He said the provincial **Labor and Natural Resources departments both had responsibilities that, at times, neither carried out** . . . ‘The **actual control of safety has not really been done well**’ . . . So, its’ **not giving you the impression of a very thorough, competent enforcement**” (Chronicle Herald, January 9<sup>th</sup>, 1996; A3).

“As a wise man once said, there’s a big difference between demanding our rights and **doing what’s right** . . . Clifford Frame and Marvin Pelley, executives of now defunct Curragh Inc. won at least a temporary battle Friday to quash subpoenas that would have required them to testify before the judicial inquiry into the 1992 explosion of Curragh’s Westray mine . . . Mr. Frame and Mr. Pelley do have every legal right to oppose subpoenas. **But if they did what is right, these legal instruments would be unnecessary.** . . . **they should cooperate with the inquiry** . . . Out of **common decency and corporate responsibility**, Messrs. Frame and

Pelley owe **this much to the families of the dead miners** . . . For the corporate executives to refuse to participate in a legitimate public inquiry is **outrageous and shameful** . . . Mr. Frame and Mr. Pelley are **not being dragged to a pillory; they are simply being asked to answer questions** . . . **The right and honorable thing** for them to do is to answer, without subpoenas” (Chronicle Herald, July 30<sup>th</sup>, 1996, C1).

For the most part, the press overlooked the political-economic context that precipitated the explosion in their news coverage of the public inquiry. But the news coverage of the public inquiry was direct about reporting on responsibility for the explosion. Consider this response to ex-Premier Donald Cameron’s testimony.

“Cameron told the inquiry he had no knowledge of safety problems at Westray, and no inkling the province’s mine engineers and mine inspectors were not doing their jobs. Without such knowledge, he contended, there’s no political responsibility . . . **But there would have been no mine in the first place without massive government backing, and that’s a subject Cameron knows well . . . he was the driving force behind those deals**” (Chronicle Herald, June 1<sup>st</sup>, 1996, C1).

Even though these stories evoked strong moral tones and language, they rarely framed the explosion or the reactions to it as crimes. They discussed corporate wrongdoing and government misconduct, but they stopped short of developing a discourse of criminal censure. However, a small portion of news stories did identify criminally negligent acts and called for a just conclusion to the disaster (6%).

“**We want a conclusion**, and we’re determined to get one, **we want closure** of some sort – **with results**’. Testimony from two dozen former miners . . . portrayed Westray as a **disaster waiting to happen**. Coal production was paramount . . . **Miners who complained to their bosses were threatened with firing. Department of Labor inspectors turned a blind eye to infractions and ignored miners** who were brave enough to file an official complaint. **Managerial indifference and bureaucratic bungling** culminated in Canada’s worst mining disaster in more than 30 years . . . The prospect of the courts never passing judgement on the guilt or innocence of Westray’s bosses is what the Martin’s and other families fear most . . . ‘I think justice probably means a lot of things to a lot of people, but to most, **someone has to be held legally**

**accountable . . . Twenty-six people are dead, we know that people are responsible, so why aren't people being held accountable?"** (Chronicle Herald, May 3<sup>rd</sup>, 1997, A1).

One third of the news reports discussed wrongdoing in terms of either regulatory failure or political incompetence and/or negligence (Table 9). The press coverage was especially critical of corporate and state acts of omission in the planning and operation of the mining project. Fully one-third of the stories characterized the explosion as a failure of health and safety inspectors and mine managers to regulate the mine (18%); and a consequence of negligent business and state planning and management (14%). Yet the state and the corporation were seen as relatively passive entities detached from their decisions, and not criminally accountable subjects who should be punished for having caused outrageous harm and death (Table 9). The following excerpt is exemplary.

**"As the fourth anniversary of the Westray mine disaster passed Thursday, families of the 26 miners killed in the explosion had fresh experience of the *slack attitude of the bureaucracy* that was supposed to protect the lives of their loved ones . . . *Lost without a map* seems a fitting metaphor for Mr. McLean and the safety bureaucracy. It's clear *they failed in their duty*. What isn't clear is why."** (Chronicle Herald, May 10<sup>th</sup>, 1996; A1).

As the inquiry unfolded, the tone of the reporting became increasingly skeptical. There were efforts to map out precise relationships between victims and offenders. But the writing reflected moral, not criminal censure. When the latter was advanced by the press blame and responsibility were individualized. Middle-level corporate and government bureaucrats were targeted as the exemplars of reckless and negligent conduct. The law and order discourse signified wayward individuals, but not usually those who were senior politicians or corporate executives.

On the other hand, the news coverage certainly expressed moral opprobrium. It chronicled clear relationships between certain individuals, social institutions and practices. Here the press conveyed the message that “systemic problems” caused the explosion and that responsibility and accountability resided with those at the top of bureaucratic social structures:

“ Lawyers for miners and relatives of the men who died asked the inquiry to zero in on individuals. There were calls for the firing of government employees, some of whom are alleged to be incompetent, to have committed perjury or distorted safety problems. And **politicians associated with Westray – particularly former Premier Donald Cameron – were strongly chastised . . . the province should have done more to protect workers’ safety at the Pictou County mine. ‘The evidence . . . paints an unfavorable picture of a number of parties, including the province,’** said Mr. Endres . . . the families’ group is calling for a **complete review of government employees with ties to the Westray project**” (Chronicle Herald, July 23<sup>rd</sup>, 1996, A1).

In contrast to the law and order discourse, corporate executives, senior politicians and government ministers were prioritized in the media’s hierarchy of blame and responsibility. Press narratives (especially after Justice Richard’s report) conveyed moral disapproval of Curragh Resources for failing to prevent a predictable disaster; the federal government for investing millions of tax dollars in a high risk venture; and the provincial government for refusing to offer the families of the bereaved compensation for their pain and suffering. They tended to develop narrative plot lines that followed official discourses. While Westray miners, family members, the United Steelworkers of America and mining experts earlier testified that Curragh Resources broke the law and ignored miner’s complaints about safety hazards, these narratives were more strongly registered and validated by the press when they were published by Justice Richard in his report.

“To no one’s surprise, [the report] **concludes** that a spark from a giant mining machine ignited a cloud of methane, a gas that seeps naturally from coal, and in turn set off an inferno of coal dust that ripped through the mine. **But the**

presence of lethal quantities of gas and dust, in contravention of Nova Scotia's mining laws, points to widespread safety lapses and human failings that the judge explored in detail. Justice Richard said the **disaster was the result of a 'complex mosaic' of events**, and that it would be simplistic to single out 'one or two persons' for blame . . . He recommended the federal and Nova Scotia governments consider **new laws to ensure company officials and members of boards of directors are accountable for workplace safety**" (Chronicle Herald, December 2<sup>nd</sup>, 1997, A1).

Indeed, many of the narratives expressed moral lessons for social equilibrium by offering closure and justice. They inscribed the message that the social system would function better when legal and organizational reforms were implemented. Did journalists mobilize a vocabulary of deviance in their news coverage of the Westray public inquiry? Fifty-nine percent of the news coverage did not mention cause of the explosion at all. This is surprising since new information concerning the origins of the explosion was uncovered in the public inquiry and Justice Richard's report was the first official statement identifying the immediate and systemic causes of the disaster. Forty percent of the news narratives, however, catalogued the explosion in a language of causation, and 18% of them attributed cause to individuals, not to organizations (Table 10). Interestingly, their conduct sometimes was reported as organizationally embedded in a morally suspect political culture.

"Mr. Merriam said Mr. Cameron sometimes became involved in what seemed to be **'dealbreaker issues'** . . . **'It's hard to negotiate with someone when they know they can go out of the room, pick up the phone and call somebody above you'**, said Mr. Merrick. Mr. Merriam said the province didn't carry out its usual financial assessment of Westray . . . Federal bureaucrats opposed the project and a deal was only reached after lengthy negotiations . . . Mr. Merrick said the evidence has shown that **politics played a role in Westray**. **'Political interference can be in a variety of forms'** he said. 'It can be a direct phone call or it can be a way of doing things that changes everything as a result. I think the evidence has pretty clearly indicated that there obviously were **political influences** of that more general kind' (Chronicle Herald, June 14<sup>th</sup>, 1996, A1).

Or alternatively, news narratives were just as capable of explaining causality by reference to internal individual goals and values, detached from social relationships and institutions.

“Jack Noonan, the labor department’s executive director of occupational health and safety, was let go . . . the **Nova Scotia Federation of Labor said it had lost confidence in Mr. Noonan’s ability to serve as the province’s top safety official.** Claude White, the former director of mine safety, testified he was unable to convince Mr. Noonan to commit more money to monitoring Westray . . . the department had **referred Mr. Noonan to the Nova Scotia Commission on Drug Dependency. He was undergoing treatment when the explosion occurred.** Inquiry lawyer John Merrick has referred to Mr. Noonan’s problem only as a **‘disability’**. Union official Robert Wells has been more blunt, telling the inquiry **Mr. Noonan had a ‘drinking problem on the job’**. One of Mr. White’s memos to Mr. Noonan, outlining the need for engineering assistance to monitor Westray, came back with sarcastic comments scrawled in the margins. **‘It’s his style to be abrasive’** noted Mr. White . . . (Chronicle Herald, June 10<sup>th</sup>, 1996, A5).

Even though cause was not mentioned in the majority of reporting, journalists did make a significant effort to contextualize discussions of cause in a socio-political milieu.

Individual wrongdoing was often explained in terms of shared organizational goals and values that were seen as governing individual conduct.

Worker negligence was almost never represented as the cause of the explosion, and the disaster vocabulary was proffered in only 1% of the coverage. Interestingly, the miners were rarely constructed as the architects of their own misfortune and ‘disaster’ news angle was reported minimally. Similarly, reporters rarely explained the explosion as a result of corporate crime (1%), although they did reveal systemic failures and inequalities. The following, published six days after Justice Richard’s report is typical of this type of coverage.

“The Pictou area MP described the controversial new coal mine as **‘an idea that came from the top down instead of the bottom up’** . . . the **disaster could have been averted – and the lives of 26 men spared – if the people at the top had**

**done their jobs . . .** Many factors contributed to the explosion, among them **cavalier managers, incompetent government inspectors, single-minded politicians and apathetic bureaucrats . . .** ‘we can’t have a hands-off approach . . . and you’ve got to have people qualified to do that, people who are prepared to rock the boat . . . we don’t rock the boat enough around here’” (Chronicle Herald, December 6<sup>th</sup>, 1996, A1).

Table 11 shows that the majority (70%) of news reporting of the public inquiry did not mention harm (70%). When it was narrated, reporters usually constituted the *direct* and *indirect* harms of the explosion (25% and 5%) and not the communal or residual consequences (1%). Stories focused on the tragic loss of life and emphasized the sacrifice and suffering that families of the bereaved endured with forbearance. They depicted harm in the disapproving language of justice deferred or denied. Bereaved family members were seen as “victims” of corrupt practices and system failures that were insensitive to their pain and suffering. As one reporter stated:

**“Nova Scotia has failed, in ways big and small, to account for, or to hold anyone accountable for, the horrible explosion. The inquiry . . . was set back by court challenges, false starts, and a whole string of witnesses more interested in pointing fingers than in explaining their roles in the operation or regulation of the mine. Nor has the inquiry been successful in compelling Cliff Frame to testify . . . The vague criminal charges first laid against mine managers Roger Parry and Gerald Phillips were thrown out of court by one judge. A second judge, presiding at a trial on redrafted charges, stayed the proceedings over the drearily familiar issue of Crown disclosure (or lack of it). Earlier this year, the Supreme Court of Canada ordered a new trial, which has yet to begin. Take a look at this big picture, then, and you begin to understand the frustration of the people who lost loved ones five years ago . . . We should pardon the families, then, for the ongoing skepticism with which they view the tragedy and its aftermath”** (Chronicle Herald, May 8<sup>th</sup>, 1997, C1).

Nevertheless, the most striking finding is the degree to which harm was absent in the news coverage (Table 11).

Reporters had even less to say about intent in the news coverage of the public inquiry. Intent was not mentioned in 78% of the news coverage. When it was put into

texts it was usually inscribed as overt (14%) rather than indirect (Table 12). The following excerpts problematize the “dumb worker” and accident discourse and raise the spectre of corporate recklessness and negligence. This news report points to intentional wrongdoing and dismisses the claim that the explosion was a simple accident.

“ . . . the ventilation system was routinely tampered with, and the . . . sealed-off area was leaking gas . . . you have the ingredients for a methane explosion. Merrick, however, dismisses that theory as ‘simplistic’, noting **poor ventilation and high methane levels plagued the mine for months**. It also ignores the fact **bosses bullied miners who complained about working conditions or refused to do hazardous work**. And it conveniently **overlooks the role of coal dust**, which most mining experts agree gave the Westray explosion its’ lethal, mine-wrecking power. **Nova Scotia law demands that coal dust be mixed with powdered limestone – called stone dust – to make it incombustible**. But Westray miners say managers never established a stone dusting routine and allowed a thick layer of coal dust to build up underground. **Lack of stone dusting is the main allegation underlying the criminal charges against Phillips and former underground manager Roger Parry**. It’s also a major reason Nova Scotia’s department of Labor is under attack for failing to crack down on the company. **Ten days before the explosion, safety inspector Albert MacLean ordered Westray to immediately clean up coal dust and spread stone dust to prevent an explosion**. He allowed the mine to stay in business, and never followed up to ensure the company complied (Chronicle Herald, June 1<sup>st</sup>, 1996, C1).

In the following excerpt, wrongdoing is acknowledged to have occurred, but the explosion is seen as the result of unintentional negligence instead of it being the result of intentional and deliberate acts of omission and/or commission.

“Mine executive Colin Benner took his share of responsibility Tuesday for the Westray disaster and said others should too . . . ‘My fault was that **I assumed that was working**’. He says he was ‘somewhat seduced by technology’ and **assumed what was billed as state-of-the-art equipment at the mine was functioning properly** . . . Mr. Benner said the responsibility for mine safety lies with management at the site, supervisors and workers. **Government regulators may not have had a direct responsibility but should have been ‘the watchdogs and guardians’ over safety and welfare of workers** . . . He [Benner] always **wonders whether he could have done ‘something more**’. ‘You never know’” (Chronicle Herald, July 10<sup>th</sup>, 1996, A1).

Attributions of blame and responsibility were more strongly represented in the news writing about the public inquiry than were cause, harm and intent. But they were still absent in 55% of the coverage. The press often held multiple actors accountable for the explosion and its' aftermath (21%). But they typically identified three parties responsible: mine inspectors (11%), mine managers (6%) and senior politicians and corporate executives (6%) (Table 13). Their attributions of blame and responsibility were constructed against a backdrop of official denials, contested evidence and insidious deflections of the truth. The following editorial aptly entitled "Westray Confronts Some Artful Dodgers" is apposite.

"Buchanan's message was clear: Any Westray proposals put before cabinet were the responsibility not of Buchanan, but of premier-to-be Cameron . . . 'Before 1990, I was the premier of Nova Scotia'. This was the senator's quaint way of saying he didn't know much about what happened at Westray after he went to . . . the Canadian senate. Buchanan's rambling testimony had one thing in common with Cameron's . . . **Both men**, in common with the score of government witnesses who went before them, **refused to take any blame for the tragedy that killed 26 men . . .**"

"His [Buchanan's] testimony differed from Cameron's in tone, and in its' **insistence that Donnie himself was largely responsible for the Westray file . . .** [Cameron's] comments before the Westray inquiry, **blaming miners for the tragedy and federal bureaucrats for its prelude, were more outrageous in tone than they were in content . . . his view that ministers and premiers are not responsible for the actions of the public service dismisses any notion of accountable government . . .** [MacKay] is the former federal cabinet minister who somehow **managed to escape the inquiry without adequately explaining how an . . . indifferent prime minister** by the name of Mulroney allowed his cabinet to approve an \$80 million loan guarantee for Curragh . . . It's been a week of **dodging at the Westray inquiry – some of it artful, some of it a Donnybrook**" (Chronicle Herald, May 31<sup>st</sup>, 1996, C1).

Or consider the tone of news coverage regarding Curragh Resources CEO's rebuttal of public inquiry testimony, which he refused to provide before the inquiry under oath.

“Frame believes the [coal dust] contained enough impurities to make it safe. ‘Now all I heard about was coal cuttings . . . That ain’t gonna blow you up. Just ten days before the explosion, mine inspectors ordered Westray to spread stone dust and clean up coal dust to prevent an explosion. **The order, the expert opinions and the miners’ testimony do not convince Frame.** ‘It doesn’t matter whether it was a coal-dust explosion . . . What matters is that gas (methane) was released and wasn’t carried away, wasn’t detected. That’s the cause of the accident’. . . **All of this leaves Frame with a clear conscience.** ‘Christ, I’m sitting up here in Toronto . . . How in the name of God would I know that anybody was adjusting a methane detector? And if I didn’t know that, how could I have any feeling of guilt, other than the fact that I shouldn’t have developed the Goddamned mine in the first place’. Frame was asked about other allegations such as men threatened with suspension or firing if they complained about unsafe practices. ‘That’s where Gerald and Roger will have to stick up for themselves,’ he responded. **And he distanced himself from Phillips and Parry, who stood trial in 1995 and face a retrial**” (Chronicle Herald, November 11, 1997, A12).

A “blame the victim” narrative which often typifies media accounts of corporate and state wrongdoing was not represented in the news coverage of the public inquiry (1%) (Table 13). Consider again, the press coverage of Premier Donald Cameron’s comments before the public inquiry. The press invalidated his claims, and expressed strong moral disapproval of him for blaming the miners as the architects of their own misfortune.

**“Donald Cameron came to the Westray inquiry Tuesday not to explain his role in the development of the ill-fated mine, but to complain about the part played by others . . . he said that the mine blew up because of what happened that morning’ and not because of any political pressure from the province . . . Donald Cameron is his own perfect moral arbiter and guide . . . He congratulated himself for appearing [at the inquiry] on vacation days and travelling at his own expense – Mr. Cameron’s testimony was an embarrassment and a disgrace”** (Chronicle Herald, May 29<sup>th</sup>, 1996, C1).

While some experts and miners admitted that laws were broken underground, the press registered this as pressure from above to meet production quotas, or fear of job loss.

**“The judge also absolved the miners, both dead and living, of blame.** While some had ‘undoubtedly indulged in many dangerous and foolhardy practices’, he said **intimidation of workers and management’s emphasis on production** led to tampering with methane detectors and other improper acts. **‘Had it not been**

for these unsafe practices attributed to the miners, would the explosion of May 9<sup>th</sup> occurred?’ he asked in the report. ‘The answer must be yes it would have’” (Chronicle Herald, December 2<sup>nd</sup>, 1997, A1).

The press “individualized” blame and responsibility for the explosion, but they did not ignore the organizational context that enabled negligence and recklessness to occur in the first place. As table 15 shows, in the coverage of the public inquiry the press did document systemic complicity and recklessness, as well as individual immorality. It must be remembered, however, that the majority of the news coverage did not actually attribute blame or responsibility or construct the event as a corporate crime.

Table 14 shows that the press was also reluctant to proffer resolutions to the tragedy such as legal or organizational reform, financial compensation, or public apology in their story writing. Fifty-six percent of news reports did not discuss resolution at all. When the news coverage did attribute resolution, it typically saw the public inquiry as offering closure and justice to the bereaved family members and to the public. Indeed, the failure of the criminal justice processes made the public inquiry the last resort for social justice. The following excerpts indicate the symbolic significance of the public inquiry (Dodd, 1999; Jobb, 1999).

**“The report will be a milestone** for those whose lives were torn apart by the disaster. **‘It’s closing another door’**, he [miner] said . . . I’m not really looking at any big revelations or any major changes, but **it [the inquiry] was something that was necessary . . . I hope, whatever comes out, that it’ll help prevent it from ever happening again.** That’s the big thing” (Chronicle Herald, November 29<sup>th</sup>, 1997, C1).

**“The Westray report has given Genesta Halloran something she’d waited more than five years for. ‘It does definitely give you some type of closure. . . It’s almost like a peace of mind knowing we were right all along . . . It was preventable . . . Those men lost their lives senselessly. It didn’t have to happen. That was the biggest thing I wanted him [Justice Richard] to come out and say”** (Chronicle Herald, December 2<sup>nd</sup>, 1997, A1).

The press rarely promoted financial compensation to the families and the miners (4%). Nor did they see an apology to the families and to the public as either necessary or just (1%) (Table 14). They did, however, indicate the need for legal and organizational reform for prevention of future disasters (13%).

The press, it must be said, was rather reactive in their coverage. They mobilized a minor vocabulary of reform and prevention, but only after the public inquiry concluded and Justice Richard authorized this as a legitimate discourse (Table 14). Consider the following news items:

“Every time someone wants to cut corners or bend the rules, we will remind them’, he said. **‘There will never be another Westray, and this government will not allow it’**” (Chronicle Herald, December 2<sup>nd</sup>, 1997, A1).

“The government will have a plan of action before Christmas. **This is not a report we will put on the shelf . . . This government will do the right thing. We will make this province a safer place** for people to earn a living and raise their families” (Chronicle Herald, December 2<sup>nd</sup>, 1997, A1).

“I’m sorry’. Why is it that governments find it so hard to be human?” asked Mr. Hamm, who apologized on behalf of a party he did not lead and a government he was not a member of when the disaster occurred. ‘I believe the party I now lead, while in government, bears responsibility for what happened at Westray. For that, I am sorry’” . . . **Mr. Hamm said he accepts the report without condition, and with it, his party’s share of the responsibility.** ‘Let the chips fall where they may’, he said. **‘If the finger of blame points our way. I’m not going to try to rewrite history’**”. (Chronicle Herald, December 2<sup>nd</sup>, 1997, A1).

Interestingly, the press almost never represented the need for criminal sanctions for corporate offenders, but they did write in the language of moral approbation and organizational ethics. While narratives *not* mentioning criminality and immorality accounted for almost 50% of the news coverage, individual immorality and individual

criminality were identified in 26% of the news coverage, followed by systemic immorality and criminality (24%). Reporters rarely registered 'accident' (1%) as a moral issue in the news coverage of the public inquiry (Table 15).

Judgements, however, were formed within an "individualization paradigm" most often, and, moral vocabularies overshadowed criminal metaphors. Journalists avowed a powerful iconography of images of omission and commission.

**"I'm not saying Mr. Phillips is Snow White . . . but what makes him the Prince of Darkness above all others? (Chronicle Herald, December 15<sup>th</sup>, 1997, A1)"**

**"One would think both he [Clifford Frame] and Mr. Pelley would feel morally bound to help the inquiry under Justice Peter Richard get to the bottom of this tragedy. Instead, their steadfast refusal to do the right thing resulted in a complex legal row . . . This isn't too much to ask, of any decent human being" (Chronicle Herald, June 18<sup>th</sup>, 1997, C1).**

**"Frame, lets face it, launched a vile argument against testifying before the inquiry. His lawyers said compelling Cliff to appear would somehow infringe his liberty. Huh? This is a man who spent about \$100 million of public money to open a mine that blew up, killing 26 men. As Judge Sheard said last month, Frame and his second in command Marvin Pelley raised an 'unfortunate argument' in their bid to escape scrutiny. 'What we are dealing with is the deaths of 26 men. That could be described as an infringement of their liberty too'" (Chronicle Herald, July 18, 1997, C1).**

But equally importantly and interestingly, the press also represented social systems as "immoral", although not often criminogenic.

**"He [Albert McLean] would have had to be a hero to merely do his job. Like most of us, he wasn't. Nor did these departments end up in such a bureaucratically depraved state because the individuals in them weren't doing their job, as the report implies. The nature of civil service depends on the political culture in which it operates. Civil servant's motivation, their sense of public service, depends largely on the clarity and purposefulness of their tasks. Bureaucratic lassitude, on the other hand, is most often a reaction to the politicization of their tasks – interference for partisan purposes, promotions**

**based on politics not merit, the rules being bent for political reasons.** There need be no direct order given from the political level. With time and usage, the limits are understood” (Chronicle Herald, December 12<sup>th</sup>, 1997, C1).

Taken together then, the press framed the Westray explosion as a moral issue more often than not, although it must be said that some news narratives tried to portray some of the organizational dynamics of corporate crime. A few narratives did develop a criminal tonality in their story writing, and this increased with time as the public inquiry uncovered ever more immoral, unethical and illegal corporate and state conduct (Table 15).

#### *Sources, Claimsmaking, and the Production of News*

Newsmaking was closely tied to the press’s ability to maintain open, communicative relationships with their sources so that “facts” could be aggregated and registered as news on a regular and timely basis. Not surprisingly, legal sources (35%) were most frequently reported in the news coverage, followed by political (25%), citizens (13%), labor unions (8%), company (8%) and expert (8%) sources (Table 16). Even though corporate and state sources promoted the view that the explosion was an unforeseen tragedy, or the result of worker negligence, the press cited these statements as counterpoints to the persuasive evidence posited by the miners, engineers and union supporters that the blame lay elsewhere.

“ . . . [Phillips] challenged the grim portrayal of the way the mine operated under his command. ‘It’s simple to blame someone. The simplest person to blame is me.’ Phillips and Westray’s former underground manager, Roger Parry, face charges of manslaughter and criminal negligence causing the miner’s deaths . . . At the inquiry, miners and foremen have testified that pressure from senior management – Phillips included – forced workers to cut corners and take risks. Phillips, however, contends he was not aware employees were breaking the law.

**Despite all the finger-pointing, the criminal charges reflect the fact that Nova Scotia's Coal Mines Regulation Act puts overall responsibility for safety squarely on the manager's shoulders"** (Chronicle Herald, April 22<sup>nd</sup>, 1996, A3).

“I really find it peculiar that Albert [McLean] has **convenient amnesia** when it comes to every encounter he had with all the different people in the mine.’ . . . Mr. McLean . . . told the inquiry no miners came to him with complaints about working conditions. **That flew in the face of the sworn testimony** of Mr. Comish and other miners. They say he was warned about high levels of explosive gas and dust and other hazards, or could see the problems for himself . . . When confronted with their evidence, **Mr. McLean either denied making the statements or couldn't recall the discussions** . . . ‘It seems very odd that the one person who was paid to know and correct the situations says he know nothing of what went on at Westray’, Comish said. **Another former miner, Carl Guptill, responded publicly to Mr. McLean's denials** . . . He insisted he warned the inspector about serious safety problems five months before the explosion” (Chronicle Herald, May 16<sup>th</sup>, 1996, A5).

The press favored legal experts in the newsmaking process. Nevertheless, the tone of the news coverage was quite critical. Instead of reporting only legal arguments and technical decisions, the press was open to narrating opinions, interpreting evidence and judging the credibility of witness testimony. While most news coverage used abstract and morally neutral legal-talk, a significant minority of news reports criticized Curragh Resources and state officials for failing to accept responsibility and accountability for harms committed and for refusing to testify altogether.

“Some [government witnesses] tried to **distance themselves from their own words** . . . Others had trouble remembering important decisions or conversations. . . ‘I think it's a natural tendency in a bureaucracy or a large organization like this government . . . to want to close ranks where there are fingers being pointed’ says Halifax lawyer David Roberts . . . ‘There have been times when you would have **expected certain witnesses to accept responsibility for the failures of the system**’, he added in an interview. **‘It can't be denied that the system failed here. And they wouldn't do it’**. That reluctance frustrated relatives of the explosion victims, who have been waiting for answers for more than four years. It also raised suspicions that government witnesses may have had other reasons for **evading responsibility**. It's no secret that lawsuits against the province, the federal government, Westray's owners and managers, and manufacturers of

mining equipment will be the next battleground . . . **none of the government witnesses was willing to shoulder the blame**, Herbert says **the facts speak for themselves** . . . inquiry evidence shows mine inspectors and government engineers often took a hands-off approach to Westray, even when serious safety concerns were raised or suspected” (Chronicle Herald, June 29<sup>th</sup>, 1996, B1).

“Inquiry Commissioner Justice Richard will be asked to issue a subpoena for the former mine manager . . . **‘By attacking the integrity of the inquiry, by attacking the truthfulness of our members and other witnesses, Phillips has surrendered any claim he might have to special consideration’**, David Roberts said . . . ‘It’s intolerable that he should be making these attacks without the inquiry doing whatever it can to **bring him forward as a witness**’ . . . ‘If he has evidence **he has a duty** to the people who worked for him, and the people who died in his mine, to bring that forward’. Dozens of former Westray employees have taken the witness stand, opening themselves to criticism and cross-examination, he noted. **Their sworn evidence about unsafe conditions and management’s intimidation is ‘much more believable than what Gerald Phillips says from the comfort of his office** . . . Last fall, Justice Richard lashed out at Westray officials and their lawyers for using the media to snipe at the inquiry ‘from afar’. He said **they have a ‘moral obligation’** to assist his investigation” (Chronicle Herald, April 29<sup>th</sup>, 1996, A3).

As table 16 demonstrates, corporate and state officials were not able to actively manage the news and register their versions of veracity. They were increasingly placed in a reactive position. State and corporate sources had to defend their words and actions about wrongdoing, responsibility, prevention and justice, and contest the accounts of their critics.

As seen in table 17, the press used a variety of citizen sources, but miners were the most common (54%) newsmakers. They were followed by bereaved family members (not spouses) (21%), the Westray Families Group (17%) and spouses of the deceased (8%). In the news coverage of the public inquiry, the press used their voices to frame compelling narratives about corporate harm and responsibility, disaster prevention and social justice (Table 17). Also, the tone of the narratives became increasingly critical of corporate and state actors, and more decisive as to who was blameworthy and how justice

was to be achieved as the inquiry unfolded. Consider the following excerpts: the first was from a report published early on in the hearings, and the second was from a news report published a few days after Justice Richard's report was released to the public.

“Wayne Cheverie . . . said as simply and as powerfully as anyone could **what this inquiry has to do. ‘Never again . . . should workers’ lives be risked or deemed expendable for profit’** . . . His story is deeply shocking. A supervisor, he says, set a crucial methane-meter to accept higher levels of gas the day before the explosion. Explosive coal dust was ankle deep on the shift before the tragedy and, at times, two feet deep. Welding torches were used underground; safety training was non-existent; work went on in gas concentrations three times the level for mandatory evacuation. The responses of mine officials to complaints about safety were **reprimand and intimidation** . . . A mine inspector told him – wrongly – he had no power to shut down the mine for safety violations. Mr. Cheverie’s observations are horribly consistent with expert testimony . . . It seems **failures by many people went into the making of this tragedy. But a bleak overall picture is emerging of workplace safety standards appropriate to the Dark Ages** . . . No one has established political interference at Westray, but we need a system that **guarantees inspectors professional independence from political pressure, real or perceived. This would give workers more confidence to defy browbeating bosses and report hazards.** Wayne Cheverie’s story is like a harsh and painful light in the eyes. It should be used to lead us out of very **deadly Dark Ages**” (Chronicle Herald, January 20, 1996, C3).

“ . . . the families of 26 dead miners are owed . . . **a plain, no-weasel-words acceptance by the province of its share of responsibility** . . . Mr. Downe made it clear the government is not accepting any legal liability by apologizing. And the carefully lawyered wording of his sorry (‘I apologize for any role government *may* have played’) reflected that **slippery dodge** . . . Downe **sidestepped the issue of compensating them** [Westray families] out of court . . . What is this weasel talk that government ‘may have played’ a role in the tragedy? **The inquiry report is clear that government negligence, lassitude, and incompetence DID play a key role in the failure to prevent a predictable disaster.** . . . The plain-as-your-nose answer is **the government cannot, morally or legally, wriggle out of compensating the Westray victims’ families** . . . it [the government] will lose most if it chooses litigation. That way the price will not just be more money, but more **shame, more bitterness, more distrust**” (Chronicle Herald, December 20<sup>th</sup>, 1997, B11).

Unions and mining federations were significant minor representations in the news coverage (8%). They provided alternative accounts that were virtually absent in the

reporting period just after the explosion. For example, The United Steelworkers of America's call for health and safety reform, financial compensation for lost employment, and better accountability mechanisms received significant coverage in the news. At bottom, some legal and human interest narratives depoliticized and diminished the subversive tone of citizen and labor sources, but the press was more inclined than before to narrate these accounts within critical plot-lines. (Table 16).

Company sources were also a minor representation in the news (8%), and managers and executive officers were almost exclusively cited. They communicated with the press and contested the narrative accounts that framed their conduct within a law and order news narrative. They denied their negligence and recklessness in causing the explosion and, in turn, they degraded the narratives of bereaved family members, unions, lawyers, experts and others who thought otherwise. But the press viewed their accounts with skepticism and distrust, and reformulated them into more critical plot-lines. In the following excerpt an editorial journalist rebukes Curragh Resources' CEO for labeling the explosion as "a simple accident" and for refusing to testify.

"one would expect him [Frame] to show a little sympathy for the relatives and friends of the 26 victims . . . **the testimony of the two men [Frame and Pelley] is essential if justice is to be done** . . . There is little reason for Mr. Frame and Mr. Pelley to feel persecuted here . . . They are simply being asked to help the inquiry find the facts . . . In the few public pronouncements Mr. Frame has made in the last five years, he has indicated both his contempt for the Westray inquiry (which he labeled a 'farce') and his contempt for the fact-finding mission (he has dismissed the tragedy as a 'simple accident'). **He should test those views in the fire of cross-examination.** . . Surely, **the public has waited long enough** for the justice system and the public inquiry to provide some answers on these issues . . . The last hurdle could be knocked down in a hurry, if Mr. Frame and Mr. Pelley would only agree to **do the right thing**" (Chronicle Herald, July 19<sup>th</sup>, 1997, A19).

Regulatory agencies were also a secondary but consistent news source (10%) in the coverage. Labor ministers frequently sourced the news production process as did mine inspectors and managers within the Labor Department and the Department of the Environment. But unlike corporate sources who were often deliberately invisible or criticized the inquiry from afar, these officials offered their accounts in public and under oath. Their accounts were conveyed as confusing and contradictory. Some even contested the narratives of co-workers, and undermined previous statements made at the criminal justice and regulatory investigations (Tables 16 & 18).

**“The testimony of John Smith . . . has been filled with rambling, convoluted answers, frequently punctuated by short bursts of laughter and lengthy anecdotes but often little substance . . . Inquiry commissioner Justice Richard also seemed irritated by Smith’s answers and asked him for a simple yes-or-no response . . . ‘These are the people they [government] picked to watch over us’, said Ms. Bell. ‘God help us all’. Inquiry lawyer John Merrick [said] . . . ‘I think evidence has raised serious questions about the ability, the quality, the competence by which the inspectorate function was being performed . . . Mr. Merrick suggested that the Labor Department might have been manipulated by Westray managers. Under questioning . . . Mr. Smith reluctantly agreed. He also confirmed at least some of Mr. Guptill’s version of a meeting in mid-December, 1991. Mr. Guptill said Mr. McLean told him he was pleased to receive complaints of safety infractions because the department could then do something. Mr. McLean . . . denied making the statement, but Mr. Smith confirmed the comment. ‘It was said, and it could have been that I might have said it’” (Chronicle Herald, May 19<sup>th</sup>, 1996, A1).**

The overall image portrayed was that of bureaucratic bungling and deceit. In the news coverage of the official responses to Justice Richard’s report, government ministers and politicians were depicted as evasive and uncaring in regard to their roles in the disaster and after. But unlike conventional types of harm and homicide, their acts of omission and commission were constructed as immoral, and not usually as instances of crime.

Table 19 shows that judges, defense lawyers and inquiry lawyers actively constituted the news. They rehearsed inquiry statements, requests for legal aid, reviews of judicial procedures and decisions and debates about the constitutionality of a public inquiry proceeding at the same time as a criminal trial. Even citizen's accounts (13%) were sometimes reframed as legal narratives instead of moral stories. Consider the following excerpt from a legal report:

**"The inquiry wants to question about 15 managers – mainly foremen, geologists, and engineers who worked underground at the Pictou County mine. But so far only a half-dozen have agreed to appear, said Mr. Barnes, who acts for the group. He would not reveal their names . . . The inquiry has heard from former Westray miners who condemned management's cavalier attitude toward safety . . . Several Westray foremen were singled out by name and accused of breaking the law . . . All but a handful of mine officials sought by the inquiry live outside Nova Scotia, beyond the reach of a subpoena . . . But few are in a mood to co-operate. They resent the inquiry's refusal to pay Mr. Barnes to attend the full slate of hearings, which has deprived them of a chance to challenge miners' testimony . . . a lawyer involved in the inquiry says future testimony from managers . . . should balance the miners' 'strong perspective' on how Westray was operated . . . Managers who agree to testify will take the witness stand some time in March. The inquiry resumes February 5<sup>th</sup> with more testimony from miners"** (Chronicle Herald, January 30<sup>th</sup>, 1996, B2).

Interestingly, and consistent with previous findings, the police were not a major news-maker at all (1%). But the media's registration of legal voices also offered new significations in the news coverage of the public inquiry. Not all of the legal coverage used technical argots. Rather much of the news narratives on the public inquiry was framed in vocabularies of prevention, reform and policy improvement rather than legal denial or confrontation. Even mining experts, engineers and consultants constituted the explosion as predictable and preventable.

**"The report by Andrew Linley, a mine ventilation expert from England, was released at the provincial inquiry . . . Mr. Phillips didn't have the qualifications to be a mining engineer as he claimed . . . Mr. Linley describes John Vincent**

Smith, an electrical and mechanical inspector, as **being uninterested in his job, incompetent or both**. Mr. Smith's **lack of awareness of events at Westray** 'suggests **he gave the Westray management an unduly easy ride**' and **failed to ensure regulations were upheld**, Mr. Linley wrote. 'I would have taken these comments to suggest that, at best, **Mr. Phillips had a cynical disregard for safety** and, at worst, **he had lost touch with reality**' . . . Justice Richard . . . 'How do we go about inviting industrial operations into the province, supervising the industrial operations while they're here, and how skeptical or questioning should we be of these operations?' . . . **you can't sit back and assume or presume that everything's going to be done right**'" (Chronicle Herald, January 16<sup>th</sup>, 1996, A3).

In sum, the press preferred the narratives of juridical, citizen and government sources. They wrote legalistic narratives that tracked and reported on the public inquiry. But embedded in the legal discourse was a moral narrative that criticized dangerous corporate mining practices and government ineptness at regulating safety. In these accounts they made a significant effort to piece together an account of corporate wrongdoing, as well as the need for reform and prevention. When attributions of blame and accountability were registered, mine owners, mine managers, politicians and bureaucrats were "individualized" and censured, but more often they were seen as interrelated, and as authors of production plans and business agendas that precipitated the explosion. But individual and collective wrongdoing were not actively investigated and constructed until evidence was confirmed and validated by official sources. Because the regulatory and criminal justice investigations did not convict and punish Curragh Resources and its' officials, news coverage of the Westray public inquiry was reluctant to call the explosion "a crime", or label individuals and the corporation as "criminals". The news coverage of Justice Richard's findings and recommendations was more critical of hegemonic viewpoints and institutions than the coverage that preceded it. Journalists reflected Justice Richard's findings. The coverage had a moral tone, and it made some

effort to attribute cause, harm, intent and responsibility for the explosion and its' aftermath. As a result, the social construction of corporate death in the workplace was represented as a moral issue subject to social censure and requiring socio-legal and political reform. But the criminal justice imbroglio in the mid-1990's, the press's failure to critically investigate the explosion in the immediate aftermath, and their reliance on official news sources minimized the use of a crime news discourse in the coverage of the public inquiry. The majority of reporting did not mention cause, harm, intent, blame and responsibility and resolution, and even though the press constituted Westray as a moral issue, a vocabulary of deviance was represented only minimally.

.6.

*Acknowledging, Accounting and Understanding News Truth*

*Introduction*

This chapter has three main objectives. First I analyze how news coverage of the public inquiry operated as a distinct and definable discursive formation that governed what could and could not be said about Westray from 1995 to 1998; second, I compare and contrast the “politics of truth” of the immediate aftermath of the Westray disaster (1992-1994) with my findings for the later period of the public inquiry; third, I draw out the implications that the media has had on witnessing, acknowledging and memorializing Westray “truth” and relate this to the secondary literature that studies media representations of corporate crime.

*Newsworthiness, Truth-Telling and the Exercise of Power*

The data from the previous chapter shows that Westray and its’ aftermath remained newsworthy even though three years had passed by the time the public inquiry finally began its’ hearings. By 1998, however, the volume of news coverage declined considerably. The press seemed to prefer the structured and pre-defined boundaries of the public inquiry which allowed them to produce news quickly, and with a measure of

moral resolution based on conventional authoritative sources (Cavender & Mulcahy, 1998). The press made little effort to critically interpret the report or draw out its' implications for social reform, prevention of future disasters, or civil compensation for the victims and the bereaved. Following the release of the report, reporters did not have a repertoire of announced and available actors to make news and the volume of stories declined substantially.

The news coverage, however, evinced a strong moral tone and language that attributed blame and responsibility, but this was interpolated with a vocabulary of disapproval and injustice. This latter finding must be seen against the backdrop of the civil case for compensation, severance pay for lost employment and the aftermath of the inquiry report. There were loud criticisms of the government for refusing to take responsibility for their role in the explosion, and there were strong public protests expressed by the Westray Families Group, and trade unions against the government for failing to implement policy and legal reforms in a timely manner. The press bolstered these views by narrating them in a morally prescriptive language. They urged the government to “make rhetoric, reality” by acting on the report promptly and pragmatically:

“ . . . the provincial cabinet has a chance to be more than rhetorically sorry for government’s failure to prevent the Westray tragedy . . . The miners want the province to **pay them [severance for lost income] now** and recoup the cost when [Curragh’s] assets are sold. **It is little to ask.** The miners have spent five and a half frustrating years, often in financial hardship, waiting for someone to be held responsible. **They should not have to wait any longer for someone to actually be responsible. That somebody should be cabinet . . . It [cabinet] has continued, shamefully, to dodge the ultimate responsibility:** paying a share of damages to the injured parties. Mr. MacLellan and his colleagues can **start putting substance in their sorry** by promptly paying the severance awards. **And that is just a prologue to a graver duty: negotiating compensation for the families of the 26 who died”** (Chronicle Herald, January 1<sup>st</sup>, 1998, D1).

“ . . . [the miners] have asked cabinet to settle up now, rather than delaying until assets are sold. **Given the circumstances of Westray – a disaster that was in large part of government making – that was a reasonable request.** Many Westray families are still trying to overcome the financial consequences of a **disaster that government negligence allowed to happen.** Here, then, was a ready opportunity for the . . . government to **demonstrate both humanity and a real sense of accountability.** Instead, it has scurried behind the skirts of its lawyers’ gowns . . . The message is [that] **taking responsibility, in our political culture, remains an assignment for government speechwriters.** It is not to be confused with paying actual damages to people injured by government . . . ‘All help short of relief’ might have been coined for cabinets’ approach to Westray’s victims. And ‘sorry is as sorry does’ is the test it [the government] **has flunked.** **Even partial payment of the severance would have been a show of good faith.** **That cabinet could not even do this much is disgraceful.** Forty-three days ago, we said the Westray report **cried out for ‘a serious reassessment of the meaning of public responsibility’.** **Like the miners, we’re still waiting”** (Chronicle Herald, January 1<sup>st</sup>, 1998, B1).

The failure of the government to hold Curragh Resources and its’ officials criminally accountable was critically re-examined in light of Justice Richard’s findings of willful negligence and reckless disregard for the lives of the miners. Consider the critical, condemning tone and language of the following excerpts from reports published in the months after Justice Richard’s report was released.

“Public inquiries are meant to illuminate and reveal . . . in practice their creation is often a tactic of **evasion and procrastination – a substitute for political will.** . . . we anticipated the unmasking of the true culprit with each new witness – from managers to inspectors, from bureaucrats to premiers. **We were always disappointed. . . diffuse responsibility – buck-passing and butt-covering – is in the very nature of bureaucracy and government.** Inquiries have also increasingly become substitutes for a **poorly functioning justice system . . . The inquiry’s function is primarily therapeutic for the bereaved families – a role that a trial, with justice done and seen to be done, would have served better”** (Chronicle Herald, February 1<sup>st</sup>, 1997, C10).

Justice Richard’s report confirmed the truth of the explosion, and the state’s refusal to make amends with the families of the bereaved and the miners by financially

compensating them compounded past injustices and evasions of accountability. The press would not allow government officials and politicians to shirk responsibility again, and even though they tried to justify their inaction by appealing to legal precedents and technicalities a vocabulary of legal defense and accountability was disavowed and disqualified by the press. They saw the government as conflating “real” moral accountability with “rhetorical” legal accountability and this was viewed with derision. Although government sources were still frequently cited, their claims were countered and rebutted in opinion stories by press editors and columnists, or else in news reports by members of the political opposition, labor union representatives and lawyers for the Westray families and miners.

In short, the immense volume of news coverage of the inquiry investigation and hearings was closely related to press’ ability to access legal sources and write factual legal narratives on a daily basis. But when the hearings concluded, the press became more diverse in their use of news sources and mobilized a more critical discourse around issues of corporate and government accountability, social justice and reform, and prevention of corporate harm. In the coverage of the aftermath of the public inquiry, it is this latter discourse which maintained the newsworthiness of Westray by framing compelling narratives about systemic immorality and social injustice.

The conclusion of the hearings and the release of Justice Richard’s report brought about a discursive transformation and a shift in the politics of truth, and legal sources were superceded by official government and political sources and non-official sources such as miners, unions and family members of the victims. Government ministers and their agencies were no longer seen as credible news sources, and their truth claims were

viewed with skepticism and suspicion. A tone of distrust and even cynicism characterized this later coverage regarding the government's promises to compensate miners for lost employment, and to implement Justice Richard's reform recommendations. Perhaps most surprisingly, these critiques of law, politics and government were not evinced only in opinion stories and editorials where restrictions on critical, investigative story-writing are loosened. They were also clearly and poignantly articulated in regular news reports where narratives are limited by space and time constraints and dominant news frames. Furthermore, journalists frequently elaborated and bolstered critical accounts posited by alternative sources such as miners, labor union representatives and family members of the bereaved, by drawing out their moral meaning and implications for social justice and contextualizing information in time and space. This discursive shift clearly demonstrates Foucault's (1977; 1990; 1995) notion of the constant and pervasive tension between "power from below" and hegemonic forms of power. As he (1990) states:

"The manifold relationships of force . . . are the basis for wide-ranging effects of cleavage that run through the social body as a whole. These then form a general line of force that traverses the local oppositions and links them together . . . they also bring about redistributions, realignments, homogenizations, serial arrangements and convergences of the force relations. Major dominations are the hegemonic effects that are sustained by all these confrontations" (p. 94)

In the coverage of the aftermath of the inquiry, a discourse of the 'legal' was extended and broadened to include the 'moral' dimensions of the Westray disaster. Power relations were such that the claims of official news sources were cited within critical plot-lines which questioned their validity and status as "truth", and news producers endorsed "views from below" and articulated these narratives themselves with little recourse to

union and citizen sources. Furthermore, the discursive parameters of news reports were expanded to include moral attributions, and the press asked critical questions regarding corporate and government accountability and social justice that previously were articulated only in opinion and editorial sections of the newspapers.

The most critical news texts of all, however, were cartoons which doubled in volume in the news coverage of the public inquiry. Cartoons proffered powerful, poignant and satirical significations about Westray that were disavowed or minimized in all other sections of the newspaper. The most prominent pictorial theme portrayed in cartoons was the failure of the government and its' institutions to enforce safety at the Westray mine, and to resolve the explosion justly and in a timely manner. For example, in the midst of the hearings the *Chronicle Herald* printed an image of six newspapers in separate frames with the headlines:

“Lack of Safety at Westray Astonishing!” – Worker; “Westray Worst Mine I Ever Saw” – expert; “Westray Sets Record for World’s Crappiest Mine” – Guinness Book of World Records; “Westray Really, Really Sucked Bad” – Electrician; “Westray Gross, Yuk, Ptooeey!!” – Just About Everybody; “Pattern Developing in Westray Testimony” (*Chronicle Herald*, January 25<sup>th</sup>, 1996, B1).

On May 9<sup>th</sup>, 1996 they printed an image of Labor Department inspector Albert MacLean wearing a badge that said, “Mine Inspector Clouseau”. The caption read: “Everything looked fine to me, although it was hard to tell with all that coal dust everywhere . . . “.

Echoes of subversion were evinced in cartoons which were resonant with the frustration expressed by victims’ families, survivors and the public. The government’s reticence at making individuals and institutions accountable for harms committed was looked upon with derision and contempt, and even when the public inquiry concluded the press continued to publish cartoons that denounced government actors and institutions.

In fact on the day that Justice Richard's report was released the *Chronicle Herald* printed a sketch of the Westray report leaning against a gravestone under the heading "Cold Comfort". Even though the report offered some amount of closure and resolution to the bereaved families, the miners and the public, the press sent the message that the government and its' officials would not be forgiven quickly nor easily, and Justice Richard's long-awaited report could not reconcile the enormous loss of life caused by the explosion. Justice and reparation would require "changed attitudes" toward regulating workplace health and safety, a "radically different mindset" of the government toward corporate business practices and meaningful legal reform of accountability structures and institutions. This theme is clearly evinced in the following excerpt from a news report published a few days after Justice Richard's report was released.

"Merrick explains that **change has to start at the top** . . . everyone in the chain of command has to be dedicated to excellence, and must demand nothing less from those below them. A lot is being said this day about closure, about moving forward. Justice Richard told families of the men who died that he hoped his report would help bring them closure. Merrick, however, is quick to draw a **distinction between closure and complacency**. 'Anytime 26 people die because of stupidity, you can't ever have closure'. . . **The failings of government regulators do not absolve Westray's bosses of blame** . . ." (Chronicle Herald, December 6<sup>th</sup>, 1997, C1).

When examined in the context of McMullan's (2003) investigation of the press coverage of the immediate and legal aftermath of the disaster we see that the press made a substantial effort to maintain the newsworthiness of Westray for ten and a half years even when there were no new legal developments to report.

"Journalists provided almost daily information about key events and people, and they actively pursued Westray as a news event by reporting on the history of mining, fund raising for Westray family members, and memorials for the Westray miners . . . Indeed, they often made themselves the subjects of the news,

evaluating and criticizing their own coverage, and comparing it to other media outlets” (p. 1).

The way in which the press covered the public inquiry, moreover, was remarkably similar to Goff’s (2001) findings that news coverage of the judicial investigations over-represents the preliminary phase and under-reports the later stages of investigations. Even though the tone and language of the news narratives in the aftermath of the public inquiry was more critical of corporate and state power, the overall volume of news diminished substantially. But the newsworthiness of Westray must not be measured and evaluated solely on the basis of the quantity of news reporting. The quality of the coverage, including the press’ use of sources, changed substantially. When the news coverage of the public inquiry is examined as a cohesive discursive formation, we see that what could and could not be avowed about Westray, by whom, and in what language changed over time. In short, the volume of news coverage declined after the inquiry concluded, but the press was increasingly forthright in denouncing the government for failing to protect the miners from reckless corporate practices, and then for refusing to be accountable to survivors and the public. After the hearings concluded, legal actors and courtroom drama were no longer available to guide the newsmaking process. Information could no longer be formulated into stories quickly or easily, and so maintaining the newsworthiness of Westray became problematic for the press. But they did not fill the news void with “fluff and feelies” human interest reporting as they did previously (McCormick, 1995). Instead, government officials and politicians were constituted as subjects of the news, and the press used their claims to write insightful

narratives about the chasms between moral and legal responsibility and the necessity for social reform and prevention.

*Newsworthiness, the Absence of Human Interest Narratives  
and the Predominance of Legal Narratives*

Human interest narratives, then, which virtually predominated the news coverage in the immediate aftermath (McMullan & Hinze, 1999; McMullan, 2001; Goff, 2001; McCormick, 1995) were virtually absent in the news coverage of the inquiry. Abundant evidence of corporate wrongdoing and state negligence brought forth in the criminal justice investigation and trial made human interest narratives difficult to maintain for the press. They needed to account for the volatility and chaos of the criminal justice process and its' aftermath, and ultimately the failure of the state to resolve the case against Curragh Resources and its' managers and to offer justice and closure to the bereaved and the public. This required them to develop new narratives that framed stories about Westray within a more critical moral vocabulary that accounted for wrongdoing and the lack of closure and justice, and which inevitably displaced narratives documenting grief, sorrow and suffering of the bereaved and the miners. In effect, the criminal justice imbroglio surrounding Westray, including the lack of a firm and just resolution to the case caused a shift in power relations between the press, official corporate and state sources and the family members of the bereaved and the miners. Indeed, the "politics of truth" governing the press' statements about the explosion were transformed and this is clearly evinced in their reporting of the public inquiry. The event came to be seen as an unresolved moral dilemma with culpable subjects and wronged victims instead of as a tragic loss of life caused by nature or fate and outside the realm of the social and the

moral. Foucault (1991) explains that events cannot be understood fully apart from a society's "politics of truth". Moreover, 'true' discourses are governed by the political technologies of truth discovery, the enunciations which a society deems acceptable or not, the mechanisms it uses to judge true and false statements, the sanctioning the statements, and the validation of claims-makers as truth-sayers (McMullan, 2001). As Smart (1986) elaborates:

"The question which Foucault asks is not about codes but about events: the law of existence of statements, that which rendered them possible – them and none other in their place: the conditions of their singular emergence; their correlation with other previous or simultaneous events, discursive or otherwise . . . Archeology foregrounds discontinuities, gaps, ruptures and the emergence of new forms of positivity and in so doing it makes a feature of differences, refuses to reduce them, and thus problematizes evolutionary conceptions of change and succession. Yet it does not neglect repetitive and uninterrupted forms for they too, like the multiplicity of differences which arise with transformations, are subject to the rules of formation of positivities" (p. 50).

It is precisely this sort the discursive transformation that is seen in the news coverage of the public inquiry. As Westray came to be seen as a moral and social issue, the politics of truth governing press coverage of Westray became unstable and truth was contentious and in a state of tension and flux. This provided the press with an opportunity to posit new significations and interpretations of the event that censured individuals and institutions for harms committed and pointed out avenues for social and legal reform. This "regime of truth" proved to be more critical of state and corporate power than those that preceded it.

The news coverage of the public inquiry demonstrates that the press reconciled this transformation of the event from one of a "tragedy" without cause or consequence to one of moral disapproval and social censure by reporting primarily on the legal

dimensions of the inquiry. Studies of the immediate aftermath of Westray found abundant human interest narratives chronicling the losses of the bereaved family members, the bravery of the mine rescuers and community compassion (McMullan, 2001; McMullan & Hinze, 1999, Goff, 2001, Richards, 1999, McCormick, 1995). The tone of legal reporting, however, was typically rational, morally neutral and formal, and this contrasted sharply with the emotive human interest news reporting that characterized the earlier news coverage of the immediate aftermath of the explosion.

In the news coverage of the public inquiry, moreover, the press decontextualized corporate and state acts of omission and commission. They rarely traced the relationship between high unemployment in the region, the government's eagerness to invest in the Westray project, the absence of proper oversight structures and the causes of the explosion and its' protracted legal aftermath. The absence of this theme represents yet another discursive disjuncture between news coverage of the public inquiry and the earlier reporting that preceded it. Indeed, McMullan (2003) found the press to be quite curious about the political economic context that precipitated the explosion. But they were ambiguous as to who was responsible for the explosion, and how the aftermath might be resolved. As he (2003) states:

“Reporters hinted at corporate wrongdoing and government misconduct in the political economic discourse, but they almost never framed the coverage in a moral language of censorship or culpability” (p. 5).

But the overwhelming legal coverage of the public inquiry was interpolated with more critical, poignant and insightful narratives that morally denounced Curragh Resources and its' officials, government bureaucrats and politicians for harms committed.

The predominance of a legal discourse in the coverage reflects a shift in power/knowledge relations that informed the credibility of news sources and their ability to tell the truth about the explosion and its' aftermath. Corporate officials were no longer in a position to have their version of veracity registered and circulated by the press and to encourage them to frame the explosion as a spontaneous accident. Indeed, the criminal justice trial against Curragh Resources and its' managers heard abundant evidence of wrongdoing which made their accounts morally suspect. They had the legal right to remain silent given the possibility of a new criminal trial, and they made themselves invisible as press sources by refusing to testify at the inquiry. As we saw earlier, however, they did occasionally communicate their version of the truth to the press. But instead of actively managing the production of truth as they did in the initial aftermath of the explosion, they defended their deeds, refuted witnesses' accounts and claimed ignorance of the facts. The public inquiry, moreover, was a discursive battleground whereby the accounts of miners, experts, and union supporters contradicted those of state officials and politicians.

In order to maintain the newsworthiness of Westray, the press needed to communicate these conflicting narratives in an efficient manner. They accessed legal sources who relayed the facts in a legal language that was largely devoid of moral meaning and critical interpretation. The relationship between the press and legal experts was a strategic power alignment that enabled them to mobilize a discourse about Westray even though corporate officials were no longer accessible as news sources. Although this discourse was written in the language of law and emanated from the legal domain of the public inquiry, it was not a law and order narrative governed by the thematics of

repression, censorship and prohibition of corporate harm. Rather, the politics of truth were such that the legal discourse was not capable of demarcating boundaries between 'moral' and 'immoral' conduct, or of censuring individuals and institutions for harms committed. That is not to say that legal experts did not make moral claims in the news coverage of the public inquiry. Indeed, in contrast to the criminal justice coverage, lawyers were not adversarial representatives of the state and the accused parties. So they did sometimes critically interpret evidence by pointing out inconsistencies in the testimony of state officials, and by sketching out a context of corporate harm and state negligence. But for the most part, the press filtered the accounts of legal sources and posited them formulaically, as legal narratives that lacked inquisitiveness and explained the inquiry's terms of reference, the scope and powers of the commission, and detailed the court proceedings on a daily basis.

### *The Disavowal of a Vocabulary of Deviance*

In contrast to McMullan's (2001), McMullan & Hinze's (1999), Goff's (2001), McCormick's (1995) finding that the press did not constitute the explosion as a moral violation committed by blameworthy subjects, I found that the press evoked a strong moral tone and language in the news coverage of the public inquiry. Nevertheless and despite this, law and order narratives were minimal in the news coverage. As we saw earlier, almost one third of the public inquiry coverage was written in a language of law, and this is consistent with previous studies of the press coverage of the criminal justice process. But, following Foucault (1977; 1990; 1991), the legal discourse on Westray was governed by rules defining "the limits and forms of the sayable", and authorized speakers

of the 'legal' truth about Westray and its' aftermath. As we saw previously, legal experts functioned discursively as speakers of truth in the legal narratives, and the rules governing the production of legal truth were distinct and definable. The legal discourse was technocratic and self-referential and it was formulated in a morally-neutral, formal and technical language that made statements about lawyer's conduct, the presentation of evidence, legal rules and proceedings and judicial decisions. News producers did not represent corporate and state officials as active decision-makers and certainly not as criminally culpable subjects. Instead, individual actors were seen as inert, and their conduct was detached from institutional settings and the social world of cause and consequence. Nor did journalists interpret evidence, or contextualize the court proceedings in a socio-political framework. Legal narratives simply chronicled the inquiry proceedings in a "factual" and decontextualized manner. Even though legal narratives were published on a daily basis they were not related to each other as segments of a unified, dynamic, unfolding story. Each report was represented as a singular narrative in that it was disconnected from past legal actions and proceedings, and did not make predictions about future outcomes and consequences beyond setting up the court agenda for the following day. Legal narratives were astoundingly formulaic in that they almost always began with statements such as "in today's proceedings . . ." and concluded with statements such as "tomorrow the inquiry will resume with . . .". The body of legal reports was usually formulated in play-by-play, "he said . . . she said" factual statements that narrated the courtroom happenings of the day. Legal sources provided expertise by explaining terms of reference, and translating legal-techno jargon into a language that could be understood by story-writers and readers.

In order to understand how legal narratives operated discursively in press coverage of the public inquiry it is important to understand Foucault's (1991) idea of the discontinuity of discursive formations. By defining the legal discourse about Westray according to its' rules of formation, that is, "its' objects, operations, concepts and theoretical options" it is possible to see how it operated both *interdiscursively* and *intradiscursively* (Foucault, 1991). Press coverage of the public inquiry represented a "discursive threshold" whereby the rules governing the production and dissemination of truth were transformed. As stated earlier, legal narratives about Westray were predominant in the press coverage of the regulatory and criminal justice processes which occurred between 1993 and 1995. It must be seen then, as what Foucault describes as a discursive "remenance", or as one element in a broader, more complex and indeed contradictory discursive transformation. The boundaries governing statements of truth about Westray were expanded during the public inquiry, and a multiplicity of conflicting narratives were heard and validated in an official public forum. This enabled news producers to access the accounts of miners, family members of the bereaved and union representatives more consistently than previously and with little effort. But more importantly, the rules governing the presentation of accounts and evidence, the manner in which witnesses were cross-examined, and the scope and form of official conclusions allowed previously subverted truth claims to be registered and validated in official discourse. The adversarial rules and procedures governing statements of truth in the criminal justice trial excluded narratives of blame, responsibility and moral censure, but in the public inquiry the politics of truth expanded the "limits and forms of the sayable" (Foucault, 1991). The inquiry's mandate gave Justice Richard the authority to examine

“all matters related to the establishment and operation of the mine which he considered relevant to the event” (Jobb, 1999). He examined whether any neglect caused or contributed to the explosion and determined whether it could have been prevented. He was also authorized to investigate the systemic causes of the explosion, including the political decisions that lead to the mine’s development. The mechanisms of truth discovery, confirmation and registration were thus transformed, and this opened up the possibility of constituting a new official “regime of truth” about Westray that was informed by accounts that previously, the state, the law and indeed the press had subverted, disqualified and silenced.

The press did not narrate Westray and its’ aftermath as a crime. This is surprising since crime news represents a primary genre of news reporting and it accounts for approximately fifteen percent of all news space (Chermak, 1994; Barak, 1994). But the data does reveal an interesting dimension of press reporting of the Westray public inquiry which contradicts the findings of previous studies of press coverage of corporate crime. Even though the press did not frame stories in a language of criminal culpability and censure, they were increasingly forthright in their denunciations of the government and Curragh Resources for evading responsibility and accountability for harms committed. The discursive boundaries governing what could and could not be avowed about Westray were clearly drawn at articulations of individual and systemic moral censure, and the press rarely labeled individuals and institutions as criminally culpable. The press, it seems, followed the path of official discourse. The failure of the government to convict Curragh Resources and its’ officials under the criminal law disqualified a vocabulary of criminal deviance. But the inquiry did provide a legitimate institutional milieu that

effectively transformed power relations and the politics of truth-telling. In order to understand why the press constituted a new “regime of truth” about Westray in the coverage of the public inquiry it is necessary to answer the question:

“How is it that at certain moments and in certain orders of knowledge, there are these sudden take-offs, these hastenings of evolution, these transformations which fail to correspond to the calm, continuist image that is normally accredited?” (Foucault, 1977, p. 112).

Foucault (1977) contends that the importance of these transformations is not that they are rapid and extensive. Rather,

“It is that this is only the sign of something else: a modification in the rules of formation of statements which are accepted as true . . . It is a question of what governs statements, and the way in which they govern each other so as to constitute a set of propositions which are valid and acceptable” (p. 112).

Indeed, it is a question of examining the effects of power that flow from the play of statements at a particular point in time.

Even though cause and responsibility were not mentioned in the majority of reporting, journalists were much more inclined than previously, to contextualize discussions of cause in a socio-political milieu and to attribute responsibility to individuals and institutions. Similar to McMullan’s (2001), McMullan and Hinze’s (1999), Goff’s (2001) and McCormick’s (1995) investigations of the immediate aftermath and criminal justice coverage, the “individualization” paradigm was certainly present, but individual wrongdoing was more often explained in terms of shared organizational goals and values that were seen as governing individual conduct. Also the victims of the disaster were not constructed as the architects of their own misfortune, and somewhat surprisingly, this is consistent with the news coverage of the initial aftermath when the ‘disaster’ news angle was most strongly registered and

represented by the press (McMullan, 2001; McMullan & Hinze, 1999; Goff, 2001; Richards, 2001; McCormick, 1995). Nonetheless, the press disavowed a language that explained the explosion as an instance of corporate crime worthy of criminal punishment, even though they did delineate systemic failures and inequalities as causal attributions.

Journalists constructed a hierarchy of wrongdoing which constituted individuals and institutions according to a moral status. But the rules governing what could and could not say about deviance were closely tied to relations of power and authority. In fact, the discursive hierarchization of moral deviance was aligned with and informed by the hierarchical distribution of power in corporate and state bureaucracies. Deviance, moreover, was classified according to the following divisions: criminogenic institutions, criminal individuals, immoral institutions and immoral individuals. The press almost never constituted the corporation as criminogenic and deserving of criminal prosecution. But they did produce a minor law and order discourse that labeled individuals and their acts and omissions as deserving of criminal censure. Law and order narratives, however, attributed a criminal status only to those situated in the middle of corporate and governmental power structures. The press excluded senior politicians, government ministers and corporate executives from this criminal categorization. This is somewhat surprising since those situated in the uppermost echelons of corporate and governmental power structures were seen as embodying the institutional "mindset" or moral code governing the decision-making and conduct of their subordinates. On the other hand, senior corporate and state officials were deemed immoral. Corporate executives, government ministers and senior politicians could be reformed through proper moral guidance. In contrast to their criminal subordinates who deserved to be punished by

demotion or dismissal if not by criminal sanctions, they were seen as having the capacity to act morally within a reformed institutional environment. Indeed, they could be morally transformed, and they could be instrumental in reshaping institutional norms and values by modeling good behavior.

The public inquiry, it seems, operated as a “ceremony of power”, and the press wrote morality plays between ‘good’ and ‘evil’ actors. Journalists constituted the public inquiry as a news event by observing individuals’ courtroom conduct, listening to witness testimony, judging their credibility and moral status in truth, and then by narrating morality plays meant to normalize wayward conduct. In Foucault’s (1995) words:

“This mechanism makes possible a number of operations characteristic of disciplinary penalty. First, the definition of behavior and performance on the basis of the two opposed values of good and evil; instead of the simple division of the prohibition, as practiced in penal justice, we have a distribution between a positive pole and a negative pole; all behavior falls in the field between good and bad . . . the disciplinary apparatuses hierarchized the ‘good’ and the ‘bad’ subjects in relation to one another . . . By assessing acts with precision, discipline judges individuals ‘in truth’ (p. 181).

The press, then, functioned as moral entrepreneurs who discursively constituted moral subjects through what Foucault (1995) calls “infra-law”.

“The distribution according to ranks or grade has a double role: it marks gaps, hierarchizes qualities, skills and aptitudes; but it also punishes and rewards. It is the penal functioning of setting in order and the ordinal character of judging” (Foucault, 1995, p. 181).

In short, the press strategically deployed hierarchical observation and normalization as disciplinary mechanisms that ordered and labeled individuals and institutions as more or less morally blameworthy. But as Becker (1967) argues, moral entrepreneurs do not have absolute power over definitions of morality and deviance. They frequently rely on professionals or what Foucault (1995) calls “specific intellectuals” in order to enforce

and reinforce moral rules and definitions. The truth of Westray as evinced in news reporting of the public inquiry, moreover, involved processes of negotiation and contestation, and as we will see later, the power exercised by the press to define acts and actors as moral subjects was informed by what Becker (1967) calls “hierarchies of credibility”.

Moral attributions of cause, blame and responsibility extended up the corporate ladder and expanded laterally, interlinking immoral individuals with corrupt political and corporate agendas and organizational structures. But the press was relatively silent on the harm and victimization caused by the explosion and its’ legal aftermath. The vocabulary of sudden, surprising, and shocking death that framed harm in the immediate aftermath and criminal justice coverage was not present in the reporting of the public inquiry (McMullan, 2001; McMullan & Hinze, 1999; Goff, 2001; Richards, 1999; McCormick, 1995). In the news coverage of the public inquiry, the politics of truth avowed a narrow definition of harm and only those who died in the explosion were represented as victims. In contrast to attributions of blame and responsibility, the press did not generally narrate the broader spectrum of victimization: hundreds of disrupted lives, long-term emotional turmoil, disintegrated families, and lost income and employment that devastated families of the bereaved, miners and communities. A pending civil suit against Curragh Resources and the government to financially compensate the families of the bereaved meant that corporate and state officials had to work hard to calibrate press coverage in ways that acknowledged wrongdoing but denied reckless negligence, accepted responsibility but downplayed familial and communal victimization. This strategic and

guarded acknowledgement of accountability is perhaps most clearly evinced in the press' reporting of the government's apology to the families and the public:

"Mr. Downe also did something no other member of government has done in the five and a half years since the explosion. **Choosing his words carefully, he apologized for 'any role the government may have played' in the disaster. 'We are deeply sorry for the Westray disaster'"** (Chronicle Herald, December 19<sup>th</sup>, 1997, A1).

The press also posited Justice Richard's attributions of systemic blame and responsibility in a language of legal accountability and defense, and they rarely narrated individual intent. Even in the news coverage of the criminal trial proceedings press attributions of intent were few and far between, but when the criminal charges were stayed in 1995, they decreased almost entirely (Goff, 2001). Before and during the inquiry hearings questions about whether Curragh Resources and its' officials could be held criminally culpable under the criminal law were a moot point. But given Justice Richard's findings of blame and responsibility, prosecutors raised the spectre of criminal charges once again. The press, however, cited defense attorneys most often and their strategic manipulations of legal truth were represented as fact. This undermined and disqualified discussion about the criminal culpability of Curragh Resources officials and the likelihood of criminal prosecution and sanction. Consider the following excerpt from a legal report:

"Prosecutors should reconsider pursuing criminal charges against two former mine officials in light of the findings of the inquiry, a defense lawyer says. **Gordon Kelly says Justice Richard's sweeping condemnation of the coal mine's management and government safety inspectors raises questions about why an RCMP investigation singled out top managers Gerald Phillips and Rogar Parry. 'With the blame that he spreads around, you've got to ask yourself why anybody's charged . . . There were a lot of people who were involved in running this mine, top to bottom', Kevin Coady said. 'You can't just go and grab two people and say 'lets hammer these guys' . . . 'The issue [in the criminal case] isn't whether he's a good guy or a bad guy. The issue is**

**whether he did what they say he did”** (Chronicle Herald, December 3<sup>rd</sup>, 1997, A3).

Although some reporting acknowledged bereaved family members as victims of an amoral political system and an unfair criminal justice system, in the legal narratives these moral dimensions were, for the most part, subverted and disqualified.

The press was strikingly reactive in their attributions of resolution in their reporting of the public inquiry, and this corroborates McMullan's (2001) findings in his study of news coverage of the immediate aftermath and criminal justice process. As the aftermath of the explosion unfolded, the press was increasingly inclined to narrate the need for the disaster to be resolved with a sense of justice. But journalists did not speculate about how harm, grief and loss might be reconciled and immoral acts atoned. They narrated resolution in a shortsighted manner that followed the path of official hegemonic accounts. The press almost never narrated the need for criminal sanctions for corporate offenders, but they were much more inclined than before to write in the language of moral opprobrium and organizational ethics (McMullan, 2001; McMullan & Hinze, 1999; Goff, 2001; McCormick, 1995). Also contrary to previous research, reporters rarely registered 'accident' as a moral issue in the news coverage of the public inquiry (McMullan, 2001; McMullan & Hinze, 1999; Richards, 1999; McCormick, 1995).

In the coverage of the inquiry power relations between the press and legal and government sources disavowed a vocabulary of deviance. The press did make some effort to make sense of the conflicting and contradictory accounts of miners, experts, government bureaucrats, politicians, and corporate officials during the hearings, but they

did not usually critically examine and evaluate testimony, draw inferences, or arrive at firm conclusions until after the hearings ended and Justice Richard's report was released. The press followed the path of official discourse which meant that narratives about cause, harm, intent responsibility and resolution were not posited by the press until Justice Richard authorized these issues as a legitimate and valid version of the truth. But government and legal agents were unable to subvert subversive accounts completely, and the regime of truth brought forth by the inquiry did not preclude a discourse of moral censure which demanded accountability, reform and social justice.

### *Experts, Interdiscursivity and News Truth*

Legal narratives operated intra-discursively with a vocabulary of moral opprobrium that laid blame and responsibility for the explosion in the corridors of power. Individuals and institutions were denounced for their incompetence and negligence in bringing the Westray mine into operation, and then for failing to enforce laws regarding workplace health and safety, and ultimately for failing to protect workers from harm. This finding is somewhat surprising, since most of the press coverage of the criminal justice and regulatory investigations was formulated in a morally neutral language despite abundant evidence of corporate and government wrongdoing (McMullan, 2001; McMullan and Hinze, 1999; Goff, 2001; McCormick, 1995). The precision, clarity and consistency of the miner's stories contrasted sharply with the vague, ambiguous, and conflicting accounts of mine inspectors, politicians, and government bureaucrats, and these conflicting narratives brought forth a shift in power relations. Early on in the reporting of the public inquiry a power alliance was evinced between the press, family

members of the bereaved, miners and union representatives, and the press verified and validated their stories by formulating them as moral narratives which, in turn, constituted the truth about Westray.

But this power alliance was not fixed, and in order for the press to produce and circulate a new regime of truth that was critical of corporate and state power and that attributed blame and responsibility, discursive reinforcement by legal and scientific experts was necessary. As Foucault (1995) writes:

“These relations go right down into the depths of society, [and] they are not localized in the relations between the state and its’ citizens or on the frontier between classes and they do not merely reproduce, at the level of individuals, bodies, gestures and behavior, the general form of law or government . . . They are not univocal; they define innumerable points of confrontation, focuses of instability, each of which has its own risks of conflict, of struggles, and of an at least temporary inversion of power relations” (p. 27).

Indeed, it was at the interstices of power, that power/knowledge relations were inscribed in news discourse to produce and sustain a new regime of truth. As McMullan (2001) aptly states:

“ . . . the relationship between truth and power is organized in a highly specific fashion. ‘Truth is often registered through professional discourses that strategically ‘take charge’ of social issues . . . It is where institutional and professional discourses intersect that ‘views from above’ become strategically united and rationalized, while ‘views from below’ become disputed or disqualified . . . Truth-making and truth-telling are dynamic, involving processes of emergence, consolidation, contestation and displacement” (p. 134).

In the press coverage of the public inquiry legal experts functioned as truth-tellers on two distinct, but interrelated discursive fronts. The press required them to explicate legal terms and judicial procedures in order to provide an understanding of the technical side of the public inquiry and to show how it functioned as a legal mechanism for arriving at truth. But although less frequently, they also functioned as “moral entrepreneurs” and as

advocates of social justice. They posited moral truth claims with regard to corporate and government conduct and accountability and drew out the social implications of harms committed. Legal experts exercised power to elicit truth in witnesses statements by controlling the context of the production of truth. As van dijk (1993) put it:

[The powerful] may control of occasion, time, place, setting and the presence or absence of participants in events. In other words, one way of enacting power is to control context . . . modes of exclusion are apparent in discourse structures themselves. Indeed, some 'voices' are thereby censured, some opinions are not heard, some perspectives ignored: the discourse itself becomes a segregated structure" (p. 260).

By regulating the flow of information, censoring certain claims and validating others legal experts guided and directed the truth-telling process. When government agents and politicians were questioned regarding their roles and conduct with lawyers frequently demanded clarification when remarks were vague and ambiguous, provided context and guidance when memory failed to recollect facts and elicited precise conclusions from inexplicit and elusive testimony. They were quick to reveal contradictions in witnesses statements, and constructed complete truths from half-truths, partial acknowledgements and quasi-admissions. The press, moreover, accredited legal experts as credible and important sources of information and as we have seen, news producers "were constrained to a large degree to produce the truth of their power" (McMullan, 2001, p. 135). The moral language of inquiry lawyers was most clearly articulated in the news reports when politicians and government officials refused to accept responsibility for the explosion. Consider the critical and condemning tone evinced in news reports of lawyers' responses to the testimony of politicians and government officials:

**"There's a problem with the regulator in this province. It isn't that they made a mistake. It's that they refused to acknowledge that they made a mistake. And that strikes me as being a very serious problem . . . You've just given me**

a long answer **trying to justify your actions . . . refusing to acknowledge that anything went off the rails – and that’s the problem**” (Chronicle Herald, May 3<sup>rd</sup>, 1996, A3).

“**. . . you want the commission and the rest of the people in this room to believe . . . that they’re all lying and only you, Albert McLean, is telling the truth?**” (Chronicle Herald, May 14<sup>th</sup>, 1996, A6).

“Mr. Merrick . . . suggested there may have been a behind-the-scenes plan: ‘A Mr. Guptill comes forward with a range of complaints, including an injury. I’m going to suggest to you that the evidence may support the conclusion that Mr. Phillips puts on his charming hat and a cheque, apologizes to Mr. Guptill, takes statements from all the men involved and in effect sort of **buys a solution to the complaint until the department has closed its’ file. Then they threaten to put Guptill underground again, so he has to quit. So . . . a man who had safety complaints and an injury gets bought off by the company until the inspectorate has closed their files – and then . . . gets forced out**’” (Chronicle Herald, May 16<sup>th</sup>, 1996, p. A1).

“If you don’t accept any responsibility, that perhaps creates the concern that we haven’t learned anything, nothing really will change. We will cover up and move on and we’re basically the same breed of animal we were before . . . **This is the real world and somebody has to carry the big stick. And who’s that going to be**” (Chronicle Herald, May 23, 1996, A1).

“Justice Richard said he has been left with the impression the province’s **internal responsibility system provides a very neat vehicle for the inspectorate to dodge their responsibilities**” (Chronicle Herald, June, 12<sup>th</sup>, 1996, A1).

“Inquiry lawyer John Merrick told reporters Mr. Cameron’s testimony gave a picture of the mindset in the province in the years leading to the explosion. **‘We’ve heard over and over again that safety starts at the top. The proper approach begins at the top. Mindsets begin at the top. Quality begins at the top. We’re seeing the top’**” (Chronicle Herald, May 29<sup>th</sup>, 1996, A1).

Scientific experts also performed this double-discursive role as truth-sayers. The press cited engineers and other technical experts who explained the immediate causes of the explosion in scientific terms. On the one hand, these accounts were registered and reconstituted by the press into narratives that saw the explosion as a natural disaster. These stories explained the explosion according to the laws of nature and scientific

knowledge, and were devoid of moral meaning and social context. But on the other hand engineers and mining technicians were asked to scientifically evaluate the viability of the mining enterprise; assess the effectiveness and vigilance of the safety inspectorate; and judge whether or not the explosion could indeed have been prevented. These accounts were strikingly moral in tone and language. They morally denounced mining inspectors, government bureaucrats and Curragh Resources officials for failing to properly plan and operate the mine with expertise and due diligence.

The public inquiry forum transformed the role and position of legal and scientific experts as truth-tellers. Even though the press often posited their accounts within the languages of law and science, they also functioned as “moral entrepreneurs” in the news coverage by asking critical questions that elicited more and more evidence of corporate and state wrongdoing and negligence. Legal experts denounced state officials and bureaucrats for playing truth games and evading responsibility. By contradicting previous statements, deflecting blame on to subordinates and offering confusing accounts of their actions, their unwillingness to tell the truth was clear. As the hearings unfolded their credibility as truth-tellers deteriorated. The press, however, did not usually posit the previously subjugated knowledge of the victims of Westray and their supporters in a discourse of moral disapproval and prevention until legal and scientific experts authorized their truth officially and within the legitimate bounds of the public inquiry.

### *News Sources, the “Hierarchy of Credibility”, and the “Vocabulary of Denial”*

In contrast to the reporting of the “emergency” and early phases of the explosion, corporate and state officials were not able to actively manage the news and register their

versions of veracity without answer. In the weeks just after the explosion corporate officials were particularly adroit at defining their role in the explosion, and displacing responsibility onto “mother nature”, “inanimate chemical reactions”, and eventually miners and inspectors (McMullan, 2001; McMullan & Hinze, 1999; Goff, 2001; Richards, 1999; McCormick, 1995). By 1995, however, corporate executives and managers were less important as news sources. While their communications with the press certainly criticized the public inquiry as being biased, their ability to have their claims validated and circulated in news stories was increasingly restricted (McMullan, 2001; McMullan & Hinze, 1999; Goff, 2001; Richards, 1999; McCormick, 1995). Their accounts were reported as cowardly, and their denials, disqualifications and deflections were reported with suspicion.

In the immediate aftermath of the explosion, corporate and state officials reconstituted the explosion as a spontaneous, tragic accident through what Cohen (2001; 1996; 1994; 1993;) and Arendt (1972; 1971) call “literal denial” or the politics of lying. They strategically managed the “territorial site for the production of truth” by controlling the flow of information between the press and news sources, and by encouraging a propaganda model of model of news coverage (McMullan, 2001; McMullan & Hinze, 1999; Richards, 1999; McCormick, 1995). They protected their corporate image and reputations by refusing to admit that the explosion was anything more than a simple accident, and by encouraging the press to frame the explosion as a human interest story (McMullan, 2001, p. 138). As Goff (1995) states:

“This massive coverage in the immediate aftermath provided smothering detail of the tragedy: the explosion, the attempt to rescue the trapped miners, discovering the bodies, flooding the mine and the suffering of the families. It was the human interest story next door, a tragedy in a primary industry in a traditional economy.

However, much of the reporting is not critical or informative, but emotional . . . [and] full of sentimental phrases” (p. 203).

They deflected and disqualified questions about safety violations raised by the press. As Richards (1999) observes:

“The safety of the Westray mine became an immediate concern for journalists. They recognized it as a key element to the Westray story that they had not adequately covered prior to the explosion, and that haunted them. But Curragh deflected the safety issue from the outset. Often questions from the media during news conferences were not allowed, especially questions about safety (p. 149).

By engaging in literal denial, Curragh Resources officials promulgated the view that the explosion was neither predictable nor preventable.

At the inquiry, however, oppositional interpretations and accounts contested their truth-telling exercises. As abundant evidence of corporate recklessness and government negligence was heard at the inquiry, literal denial could no longer suppress the awful truth of the explosion and the press viewed the accounts of corporate and government officials with skepticism. The “plasticity of the law” and legal discourse “upped the ante” of official truth-telling practices and corporate and government officials had to deploy more sophisticated and complex forms of truth evasion and contestation. As Cohen (2001) puts it:

“If literal denial is countered by irrefutable evidence that something indeed happened . . . the strategy may switch to legalistic reinterpretations or political justifications . . . There is room for legitimate controversy, claims and counter-claims, not because of the sociolegal truism that all actions are interpreted, but because the dominant language of interpretation is legal” (p. 106).

The “politics of definition” at the inquiry enabled mine inspectors, government bureaucrats and politicians to engage in “games of truth” that disconnected acts from

actors, sanitized moral meaning, diffused harm and deflected responsibility onto subordinates. Strategies of interpretative denial enabled them to admit the raw facts but deny the interpretative framework placed on events. This functioned in the news to blur the boundary between rhetoric and reality (Cohen, 2001). Some government officials, particularly politicians who promoted the Westray project, attempted to exonerate themselves by offering justifications for their actions. They deployed strategies of implicatory denial by attacking the credibility of victims ('the miners are lying'), accusing the inquiry of being biased against them ('they just want to blame someone so they are blaming me'), or excusing their actions through a language of moral righteousness ('we had to cut corners in order to create employment . . . meet production quotas . . . prevent financial loss'). Consider Donald Cameron's testimony:

**"The mine blew up because of what happened that morning and not because of any political pressure from the province". 'I don't understand why people don't come back and take responsibility', he said, referring to miners who allegedly doctored methane monitors and ignored safety problems underground"** (Chronicle Herald, May 29<sup>th</sup>, 1996, C1).

But these accounts were posited late in the inquiry and the unwillingness of political actors to tell the truth had become clear. The accounts of victims of the explosion, on the other hand, were seen as much more credible, and the press disavowed a "blame the victim" narrative, and refused to validate accounts that saw the immense harm of the explosion as in any way justifiable.

Nonetheless, as we have seen, much of the news coverage of the public inquiry was written in legal argots which neutralized the moral status of actors and detached the meaning of their actions from the social world of cause and consequence. Even though the status of corporate and government sources as truth-tellers was degraded and their

claims became increasingly morally suspect, the press did not expose strategies of interpretive denial. The press did mobilize a myriad of powerful moral signifiers to frame the explosion and its' legal aftermath. It was "a scandal", "a disgrace", "an abuse of authority", "an instance of government corruption", "mismanagement", "incompetence", but in the news coverage there was a remarkable absence of a social vocabulary of corporate crime.

Corporate officials engaged in what Cohen (2001) labels "passive denial" whereby "they closed their shell and withdrew from any engagement" (p. 102). Indeed, this is the most cunning and damaging strategy of denial because it signals the absence of a problem to those whose interests it seeks to protect. As Cohen (2001) states:

"Because of pressures from outside (stigmatization, sanctions, boycotts, isolation) and their own internal ideology (everyone is against us, no one understands us), they do not react at all. They see no political necessity for dialogue with the rest of the world; nor do they have to contend with internal criticism. Their silence is the most radical form of denial possible" (p. 102-103).

Indeed, Curragh Resources executives and managers refused to testify at the public inquiry. But this evasion of the official truth-telling process situated them at the bottom of the press' hierarchy of credibility.

"Where's Cliff Frame when you really need him? Well, **the former boss of the Westray mine will have to duck (or should we say stoop) a little lower** now if he wants to avoid the long, slow-moving arm of the Westray inquiry . . . **The best way to regain some credibility . . . will be making a full and frank disclosure** to the people of Nova Scotia – on behalf of those 26 men who died so tragically . . ." (Chronicle Herald, February 5<sup>th</sup>, 1997, C1).

**[Frame] ducked bailiffs . . . refused to speak to RCMP . . . and turned down a request to come voluntarily to Nova Scotia . . . Frame and his Curragh colleagues can't shirk their responsibilities by pleading ignorance or blaming underlings** (Chronicle Herald, 1997, February 8<sup>th</sup>, C10).

The press also criticized corporate executives for using legalistic games of truth in order to avoid testifying at the inquiry:

**“Mr. Frame and Mr. Pelley do have every legal right to oppose subpoenas. But if they did what is right, these legal instruments would be unnecessary. . . They should co-operate with the inquiry . . . For the two executives to refuse to participate in a legitimate public inquiry is outrageous and shameful . . . The right and honorable thing for them to do is to answer, without subpoenas”** (Chronicle Herald, 1996, July 30<sup>th</sup>, C1).

**“Delay, delay and delay some more. This is the strategy of Messieurs Frame and Pelley. These two men should drop their vexatious legal challenge and simply do the right thing. The truth must come out. Natural justice must be served in memory of those 26 men who died”** (Chronicle Herald, 1996, September 25<sup>th</sup>, C1).

Indeed, the sworn testimony of miners, experts, and government officials was seen as “much more believable” than the words of Curragh Resources officials who were criticized for “taking potshots at the inquiry from afar” (Chronicle Herald, 1996, April 30<sup>th</sup>, A1). The fact that they were “not prepared to put their evidence on record” at the inquiry was seen as evasive and uncaring and their silence constituted the truth of their immorality for the press.

Even though the press viewed the accounts of miners, family members of the bereaved, labor union representatives and experts as more credible than those of government officials and politicians, the latter were still cited more frequently. But similar to their use of corporate sources, the press narrated official accounts with a tone of cynicism and distrust. They documented patterns of claims and counter-claims, and criticized Ministers, inspectors, government bureaucrats and politicians for pleading ignorance, or else deflecting blame onto subordinates and victims. They aptly narrated the “convenient amnesia” displayed by government officials and politicians when asked to recall facts and information.

“Mr. McLean often **tried to deflect responsibility from himself onto supervisors or mine managers**” (Chronicle Herald, April 9<sup>th</sup>, 1996, A1).

“What we heard was a **denial of any responsibility for failures** to spot or correct safety violations before the tragedy, and a **litany of sometimes incredible excuses** that provoked groans from victims’ relatives” (Chronicle Herald, 1996, April 10<sup>th</sup>, B1).

“Both men [John Buchanan and Donald Cameron], in common with the score of government witnesses who went before them, **refused to take any blame for the tragedy . . .** It’s been a week of **artful dodging** at the inquiry . . .” (Chronicle Herald, May 31<sup>st</sup>, 1996, C1).

“After pouring over information gathered by the inquiry and RCMP investigators, **Cameron is convinced the blame lies with miners and foremen** who cut corners . . . But one thing is clear from this week’s testimony – politics distorted how Westray was conceived, financed and constructed” (Chronicle Herald, 1996, May 31<sup>st</sup>, A1).

This disavowal of responsibility by government officials was also criticized by inquiry lawyers and the press narrated their views as authoritative and credible:

“Senior lawyer John Merrick lashed out at **bureaucratic dodging of responsibility** for the blast . . . ‘There is a problem with the regulator in this province. It isn’t that they made a mistake. It’s that they refused to acknowledge that they made a mistake. And that strikes me as a very serious problem’” (Chronicle Herald, April 3<sup>rd</sup>, 1996, A3).

But although the press chronicled webs of complicity and denial, they did not sketch out a context for interpersonal misconduct, or narrate a vocabulary of criminal censure.

Their conduct was seen as suspicious and immoral, but not usually as deviant criminal acts.

Citizen’s narratives were not entirely configured into human interest stories as they were in the news coverage of the immediate aftermath of the explosion (McMullan, 2003, 2001; McMullan & Hinze, 1999; Goff, 2001; Richards, 1999; McCormick, 1995).

The grief, anger and despair expressed by the bereaved family members were not seen as

wholly internal and individual. Journalists did not conflate rhetorics of powerlessness, mistrust and betrayal, with sorrow, shock, and surprise caused by sudden death and loss. They made some effort to contextualize these accounts in time and space, and to connect them to criticisms of corporate capital, government betrayal and criminal justice failure. The intensity, bias and careless reporting of the immediate aftermath and criminal justice process was replaced with a more considered, multidimensional press coverage, where truth was constructed as a reflection of a more varied and complicated “hierarchy of credibility”. Although “views from below” were not reported as often as “views from above”, they were considered by the press to be more credible, accurate interpretations, and they were cited more frequently and more favorably than previously.

### *The Press, News Truth and Corporate Crime: A Conclusion*

When the press coverage of the Westray inquiry is compared to other studies of news coverage of corporate crime we see similarities and differences.

Even though the press favored the accounts of official government and legal sources, they did try to balance these accounts by citing a variety of citizen and labor union sources who were deemed credible. The proactive reporting evinced in the aftermath of the inquiry contradicts other studies that found journalists to be rather reactive and homogeneous in their reporting of corporate crime (Cavender & Mulachy, 1998; Lofquist, 1997; Wright et al., 1995; Lynch et al., 1989; Swigert & Farrell, 1980; Molotch & Lester, 1975). But although journalists were more inclined to write compelling and insightful critiques of government and corporate capital in the aftermath of the inquiry, investigative narration was indeed spurred by Justice Richard’s official

findings of systemic incompetence and reckless negligence. Previously subjugated accounts were officially validated, and this encouraged journalists to follow suit by citing “views from below”. By 1998, the victims’ experiences of injustice were deemed credible and newsworthy. In short, the more critical, varied and investigative reporting of the aftermath of the inquiry is best understood when examined temporally, in the context of how power/knowledge relations functioned between the press, official news sources and miners, family members of the bereaved, labor union supporters and the public. Justice Richard’s report validated a new “regime of truth” about Westray that mapped out the systemic and institutional causes of the explosion, and absolved the miners of responsibility for the blast and its’ aftermath. The official acknowledgement of previously subjugated versions of the truth opened up the discursive parameters of news narration, and bolstered the credibility of previously subverted citizen and labor union sources of news.

This latter finding challenges Cavender & Mulcahy’s (1998) notion that media representations of corporate crime are largely determined by dominant news frames. This implies that the newsmaking process is static, and that news narratives are predictably hegemonic and unidimensional. As we have seen, however, news representations of Westray were fluid and they changed dramatically over time. The human interest story-writing of the immediate aftermath was gradually eclipsed by legal narratives of the criminal justice processes and the public inquiry. But the regime of truth that emerged out of the public inquiry represented a complex mosaic of narratives that operated intra-discursively and inter-discursively with the regimes of truth that preceded it. Legal narratives were still prominently featured, but as the inquiry unfolded they were

increasingly fractured and interpolated by a discourse of moral opprobrium which included denunciations of Curragh Resources and its' officials, attributions of government incompetence and negligence, and a strong but minor law and order discourse. The production of news truth, then, was not informed by a standard, hegemonic news frame, but by a terrain of shifting power configurations between the press on the one hand, and official and non-official news sources and their conflicting versions of veracity on the other hand. Following Foucault (1995; 1991; 1977), newsmaking cannot be understood fully when analyzed outside the struggles, conflicts and discursive disjunctions brought forth within a field of power/knowledge relations at a particular point in time. As Dean (1994) explains:

“Techniques of power are themselves political in that they are inscribed within forms of political rationality. Although polyvalent, and capable of being put to different ends, the techniques of power are not intelligible outside the particular forms of rationality and relations of power and strategy within which they are employed. Moreover, the ‘techniques of power’ are not merely ‘means for acquiring power’ but the very material form of power itself” (p. 147).

News discourse about corporate crime, then, must be seen as a technique of power that involves complex processes of interpretation, contestation, negotiation and legitimation of truth (Gamson et al., 1992). This is clearly evinced in the multiple and nuanced interpretations of Westray; in the press' use of a variety of conflicting accounts from different news sources; and in the journalistic struggles over moral meaning found in different genres of story-writing (i.e. cartoons and editorials versus news reports).

Even though Cavender & Mulachy (1998) adopt an overly-deterministic consensus model of power as ideological and as stemming from hegemonic forces of domination, the effects of power that they derive from this are consistent with my

analysis of the Westray public inquiry. The hegemonic model of news production over-emphasizes the capacity of official viewpoints to monopolize the news. But as we saw previously, even though the production of news truth involved struggles over moral meaning, they, nevertheless, did not develop a sustained law and order narrative. The corporation and its' officials were not constituted as criminally culpable subjects and a vocabulary of deviance was, for the most part, absent. This is not the case with news coverage of conventional crimes in which the press draw clear and precise relationships between victims and offenders, demarcate violations of moral boundaries and promote social order through rigorous policing and punitive punishments (Surrette, 1998; Chermak, 1994; Barak, 1994; Maguire, Morgan & Reiner, 2002; Ericson et. al., 1989; 1991). Even though there was some dissonance in the reporting of the public inquiry, the overall effect was to reinforce and sustain hegemonic power relations. The corporation and the government were viewed as morally blameworthy, but not criminogenic. The press exposed the mistakes of the powerful, and offered a normalizing discourse that shamed individual wrongdoers, but they did not challenge conventional categories of 'crime' and 'criminality', nor did they see the criminal justice system as being potentially instrumental in convicting corporate crime (Cavender & Mulcahy, 1998). As Reiner (2002) aptly states:

“While news may be a competitive arena of conflicting viewpoints, it is one which is culturally and structurally loaded . . . the news media are as much an agency of policing as the law-enforcement agencies whose activities and classifications are reported on. They reproduce order in the process of representing it . . . although contemporary mass communications present an appreciably open terrain for struggles for justice, the dice are loaded in favor of dominant interests – even if they have to struggle harder for their hegemony” (p. 408).

Despite an overall shift in the tone and language of the news narratives in the aftermath of the public inquiry, the overall volume of news diminished substantially. This finding corroborates Lofquist's (1997), Wright's et al. (1995), Chermak's (1994), Barak's (1994), Ericson's et al. (1989; 1991), Randall's (1987; 1988), Evans & Lundman's (1983), and finding that news coverage of judicial investigations over-represents the preliminary phase and under-reports the later stages of investigations. As Wright et al. state in their (1995) study of news coverage of the fire-related deaths of twenty-five employees at the Imperial Food Products plant in North Carolina:

“The lack of coverage devoted to the outcome of the case – the manslaughter convictions – is also noteworthy. Again, although it was a major case of corporate violence, the criminal conviction of the company's owner either was not covered or was conveyed in a relatively short report placed deep within the pages of the newspaper” (p. 32).

The Westray case is unique, however, because it involved four separate judicial investigations, and the public inquiry was the only official venue that brought forth a resolution to the tragedy after more than five years of legal wrangling and judicial indecision. Despite a decline in the volume of news coverage of the aftermath of the inquiry, then, Westray was consistently constituted as a news event by the press for almost seven years. This contradicts of finding that press coverage of corporate and conventional crimes is short-sighted and that newsworthiness declines over time (Wright et al., 1995; Lofquist, 1997; Ericson et al., 1989; 1991; Randall, 1987; Randall, Lee-Simons & Hagner, 1988; Evans & Lundman, 1983; Barak, 1994; Chermak, 1994).

The failure of the criminal justice process to resolve the regulatory and criminal cases against Curragh Resources and its' officials meant that the public inquiry represented the last opportunity to provide a comprehensive explanation for the

explosion, and to offer a sense of justice and closure to the family members of the bereaved, miners and the public. Indeed, the press wrote compelling narratives about the necessity for an official acknowledgement of corporate recklessness and government negligence with regard to Westray, and portrayed family members of the bereaved and miners as victims of an unfair criminal justice system and insensitive government who failed to respond swiftly to their need for closure and justice. The press represented the public inquiry hearings and Justice Richard's findings and reform recommendations as the absolute and final truth of Westray. The inquiry, then, epitomized justice and closure in that it officially documented the causes of the explosion, attributed blame and responsibility, and pointed out avenues for legal and governmental reform.

Following Swigert & Farrell (1980), Wright et al. (1995) and Cavender & Mulachy, the press did see the Westray explosion as a violation of moral boundaries that needed to be officially resolved. As Cavender and Mulachy's (1998) found in their study: "The stories ended in resolution. Wrongdoing was proved or admitted, and wrongdoers were punished by denunciations, monetary loss and resignations" (p. 713). But congruent with their findings, their reporting of Justice Richard's findings and the official responses to them did not seriously challenge hegemonic notions of criminal or moral deviance. Denunciations of Curragh Resources and its' officials for harms committed and then for refusing to repent by testifying at the inquiry; condemnations of the government for demonstrating incompetence and moral apathy with regard to regulating workplace safety and protecting miners, and then for failing to hold individuals and institutions accountable were informed by dominant ideologies. The public inquiry functioned as a "degradation ceremony" that named, blamed and shamed

corporate and government officials into submission. But it also functioned to “wipe the slate clean”, and sent the overall message that social systems would be easily reformed and reconciled. In short, the press did not destabilize dominant notions of law, crime and economy, and did not serve as a vehicle for policing crimes of the powerful and protecting the public from corporate harm.

The purpose of this study has been to examine how the press constituted a regime of truth about Westray in their news reporting of the public inquiry. The novelty of my study is my focus on the ways in which power/knowledge relations operated between the press and their sources creating: (a) a discourse of moral opprobrium that constituted the inquiry as a morality play between ‘good’ and ‘bad’ actors, and morally chastised the corporation, government agencies and their officials as blameworthy subjects; (b) a hierarchy of credibility that enabled the previously subjugated narratives of citizens including family members of the bereaved, labor unions and miners to be heard and validated in official discourses; (c) a vocabulary of denial that provided corporate and state officials with mechanisms to strategically resist accountability, deny harm and evade responsibility for wrongdoing; and (d) a discourse of legal defense and accountability which enabled legal experts to manage the labels of ‘crime’ and ‘criminality’, and to manipulate the truth in ways that minimized the press’ production of a law and order narrative and a vocabulary of deviance.

I argue that the press coverage of the public inquiry brought forth a new regime of truth about Westray that was more complicated, divergent and multifaceted than the discourses that preceded it. The human interest reporting of the immediate aftermath and the legal reporting of the criminal justice process were gradually superseded by more

compelling, critical narratives that constituted the explosion as both predictable and preventable. The strong moral tone and language of the public inquiry reporting contrasted sharply with the emotive, sentimental language of the human interest reporting and the abstract, neutral vocabulary of the legal reporting. But that is not to say that these discourses were not present in the later reporting of the inquiry. Rather, these narratives are discursive remences that functioned inter-discursively with an emergent discourse of moral opprobrium, social censure and legal accountability and defense. The intense legal reporting of the criminal justice process, moreover, was still strongly represented in the coverage of the inquiry. It underwent a discursive mutation, however, whereby lawyers were no longer represented as adversarial adjudicators of truth but as “moral entrepreneurs”. They posited moral claims, managed labels of ‘crime’ and ‘criminality’, and countered the strategies of denial and evasion of truth by corporate and government officials and politicians. In short, legal experts dominated the official production of news truth. But even though they spoke in the language of law and morality, law and order narratives were, nevertheless, minimized in the coverage.

This study points to the usefulness of public inquiries for attributing blame and responsibility for wrongdoing, mobilizing strategies for reform and prevention of corporate homicide in the workplace, and witnessing and acknowledging victims accounts of truth and justice. In the press coverage of the inquiry, journalists made significant efforts to posit previously silenced critiques of government, politics and law which, in turn, were useful in challenging accounts from above, and for making individuals and institutions accountable to victims and the public. Even though the press did not label Westray as a crime, or undermine the hegemonic underpinnings of corporate

capital and its' relation to government, they did prove useful in documenting alternative versions of social reality. The press did add an important human dimension in their reporting of the inquiry by validating citizen's accounts, and this is deeply resonant with the goals and values of victims rights organizations who see the salience of the mass media positively: as a possible means for social control of crimes of the powerful.

TABLESTABLE 1 - NUMBER AND RELEVANCE OF NEWS REPORTS FROM DECEMBER 1994 TO JUNE 1998

<u>Reporting Year</u>	<u>Number of News Reports (Total)</u>	<u>News Reports Less Than 3 Column Inches</u>	<u>Number of News Reports Not Relevant</u>	<u>Total Excluded</u>	<u>Total Sample</u>
1994 (Dec. Only)	1	1	0	1	0
1995.	141	2	55	57	84
1996.	228	12	38	50	178
1997.	113	4	32	36	77
1998 (Sept. to June)	39	2	5	7	32
<b>Total</b>					<b>371</b>

TABLE 2 - TYPE OF NEWS COVERAGE

<u>Type of News Coverage</u>	<u>N</u>	<u>%</u>
Primary	291	82.70%
Secondary	59	16.80%
Tertiary	2	0.50%
<b>Total</b>	<b>371</b>	<b>100%</b>

TABLE 3 - PLACEMENT OF NEWS COVERAGE

<u>Placement of News Story</u>	<u>N</u>	<u>%</u>
Front Page	102	27.50%
Section A	185	49.90%
Editorial	3	0.80%
Sectional Front Page	47	12.40%
Other Inside Page	35	9.40%
<b>Total</b>	<b>371</b>	<b>100%</b>

**TABLE 4 - TYPE OF NEWS STORY**

<u>Type of News Story</u>	<u>N</u>	<u>%</u>
Ordinary News Report	287	77.40%
Editorials/ /Commentary/ ry/ Opinion	36	9.70%
Letters to Editor	11	3.00%
Feature Stories	18	4.90%
Cartoons	19	5.00%
Total	371	100%

**TABLE 5 - NEWS PRODUCERS AND POSITIONS**

<u>Type of News Producer</u>	<u>N</u>	<u>%</u>	
Reporters	299	83.10%	
Editors	28	7.80%	
News Wires	7	1.90%	
Columnis s/Editorialists/ 7 Opinion Writers		1.90%	
Cartoonists	19	5.30%	
Total	360**	100%	**Citizens who wrote opinion letters were included in 'Citizen Sources'

**TABLE 6 - NEWS COVERAGE BY STAGES OF PUBLIC INQUIRY**

<u>Stages of Public Inquiry</u>	<u>N</u>	<u>%</u>
Pre-Public Inquiry Deliberations and Investigation	58	15.60%
Hearings	237	63.90%
Findings and Recommendations	27	7.30%
Response to Findings and Recommendations	49	13.20%
Total	371	100%

**TABLE 7 - TYPE OF NEWS COVERAGE IN STAGES OF PUBLIC INQUIRY**

<u>Stages of Public Inquiry</u>	<u>Primary</u>		<u>Secondary</u>		<u>Tertiary</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Pre-Public Inquiry Deliberations and Investigation	42	14.40%	12	20.30%	0	0%
Hearings	184	63.20%	38	64.40%	1	50.00%
Findings and Recommendations	23	8.00%	2	3.40%	1	50.00%
Response to Findings and Recommendations	42	14.40%	7	11.90%	0	0.00%
Total	291	100.00%	59	100%	2	100%

**TABLE 8 - PLACEMENT OF NEWS STORY IN STAGES OF PUBLIC INQUIRY**

<u>Stages of Public Inquiry</u>	<u>Front Page</u>		<u>Section A</u>		<u>Editorial</u>		<u>Sectional Front Page</u>		<u>Other Inside Page</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Pre-Public Inquiry Deliberations and Investigation	18	17.60%	23	12.40%	3	100.00%	6	13.00%	8	22.90%
Hearings	68	66.70%	119	64.30%	0	0%	31	67.40%	19	54.30%
Findings and Recommendations	6	5.90%	15	8.10%	0	0%	5	10.90%	1	2.80%
Response to Findings and Recommendations	10	9.80%	28	15.20%	0	0.00%	4	8.70%	7	20.00%
Total	102	100.00%	185	100.00%	3	100.00%	46	100.00%	35	100.00%

**TABLE 9 - TYPE OF THEME OF NEWS STORY**

<u>Story Theme</u>	<u>N</u>	<u>%</u>
Accident	18	4.90%
Moral Disapproval	56	15.10%
Law and Order	22	5.90%
Regulatory Failure	66	17.80%
Political Incompetence and/or Negligence	52	14.00%
Legal Issues	119	32.10%
Political Economy	5	1.30%
Reform and Prevention	27	7.30%
Other	6	1.60%
Total	371	100%

**TABLE 10 - ATTRIBUTION OF CAUSE IN THE NEWS COVERAGE**

<u>Type of Cause Attributed</u>	<u>N</u>	<u>%</u>
Worker Negligence	5	1.40%
Crime	2	0.60%
Organizational Causes	74	21.00%
Individual Causes	63	17.90%
Natural Disaster	1	0.30%
None Mentioned	207	58.80%
Total	352**	100%

\*\*Cartoons were analyzed for 'Story Theme' only

**TABLE 11 - ATTRIBUTION OF HARM IN THE NEWS COVERAGE**

<u>Type of Harm Attributed</u>	<u>N</u>	<u>%</u>
Direct	87	24.70%
Indirect	18	5.10%
Community	2	0.60%
None Mentioned	245	69.60%
Total	352	100%

**TABLE 12 - ATTRIBUTION OF INTENT IN NEWS COVERAGE**

<u>Type of Intent Attributed</u>	<u>N</u>	<u>%</u>
Overt	49	13.90%
Indirect	29	8.20%
None Mentioned	274	77.90%
Total	352	100%

**TABLE 13 - ATTRIBUTION OF BLAME AND RESPONSIBILITY IN THE NEWS COVERAGE**

<u>Type of Blame and Responsibility Attributed</u>	<u>N</u>	<u>%</u>
Company Management	22	6.30%
Government Regulatory Personel	38	10.80%
Senior Politicians and/or Corporate Executives	20	5.70%
Miners	4	1.10%
Multiple Attributions	74	21.00%
None Mentioned	194	55.10%
Total	352	100%

**TABLE 14 - ATTRIBUTION OF RESOLUTION IN THE NEWS COVERAGE**

<u>Type of Resolution Attributed</u>	<u>N</u>	<u>%</u>
Legal Reform	19	5.40%
Civil Compensation	14	4%
Organization Reform	25	7.10%
Apology	3	0.90%
Multiple Attributions	24	6.80%
Public Inquiry	71	20.20%
None Mentioned	196	55.60%
Total	352	100%

**TABLE 15 - ATTRIBUTION OF MORALITY IN THE NEWS COVERAGE**

<u>Type of Moral Attribution</u>	<u>N</u>	<u>%</u>
Accident	4	1.10%
Individual Immorality/ Criminality	93	26.40%
Systemic Immorality/ Criminality	84	23.90%
None Mentioned	171	48.60%
Total	352	100%

**TABLE 16 Sources of the News**

<u>Type of News Source</u>	<u>N</u>	<u>%</u>	
Company	47	8.00%	
Regulatory	58	10.00%	
Police	3	0.60%	
Legal	203	34.90%	
Citizen	78	13.40%	
Elected Politician	33	5.70%	
Expert	44	7.50%	
Labor	48	8.30%	
Private	12	2.00%	
Government	56	9.60%	
Total	582**	100%	**Includes all sources cited by the press

**TABLE 17 - TYPE OF CITIZEN SOURCES**

<u>Type of Citizen Source</u>	<u>N</u>	<u>%</u>
Miners	42	53.80%
Victim's Spouse	6	7.70%
Victim's Relative	16	20.50%
Community Member	1	1.30%
Westray Families Group	13	16.70%
Total	78	100%

**TABLE 18 - REGULATORY SOURCES AND POSITIONS**

<u>Position of Regulatory Source</u>	<u>N</u>	<u>%</u>
Ministers	12	20.70%
Management	17	29.30%
Mine Inspectors	18	31.00%
Labor and Environment Dept. Officials	11	19.00%
Total	58	100%

**TABLE 19 - LEGAL SOURCES AND POSITIONS**

<u>Position of Legal Source</u>	<u>N</u>	<u>%</u>
Judges	63	31.00%
Defense Lawyers	28	13.80%
Inquiry Lawyers	96	47.30%
Westray Families Group Lawyers	8	3.90%
Civil Lawyers	3	1.50%
Other	2	1.00%
Government Lawyers	3	1.50%
Total	203	100.00%

## ***BIBLIOGRAPHY***

- Arendt, H. (1972). The Crises of the Republic. New York: Harcourt Brace Jovanovich Inc.
- Arendt, H. (1968). Between Past and Future: Eight Exercises in Political Thought. New York: Viking Press.
- Barlow, M.H., Barlow, D.E., & Chiricos, T.G. (1995). *Economic Conditions and Ideologies of Crime in the Media: A Content Analysis of Crime News*. Crime and Delinquency, 41(1), 3-19.
- Barak, G (1994). *Media, Society and Criminology*. In G. Barak (ed.), Media, Process, and the Social Construction of Crime: Studies in Newsmaking Criminology, (pp. 3-45). New York: Garland Publishing.
- Becker, H. (1967). *Whose Side Are We On?* Social Problems, 14, 239-247.
- Becker, H. (1963). Outsiders: Studies in the Sociology of Deviance. New York: The Free Press.
- Beveridge, D.R. & Duncan, P.J. (2000). Review of the Nova Scotia Public Prosecution Service: Report on the Westray Prosecution. Halifax.
- Bohm, R.M. (1994). *Social Relationships That Arguably Should Be Criminal Although They Are Not: On the Political Economy of Crime*. In G. Barak (ed.), Media, Process, and the Social Construction of Crime: Studies in Newsmaking Criminology, pp. 3-29. New York: Garland Publishing.
- Canada. Supreme Court. (1994). United Steel Workers of America, Local 9332 and the Honourable Justice KI. Peter Richard and Gerald Phillips, Roger Parry, Glynn Jones, Arnold Smith, Robert Parry, Brian Palmer and Kevin Atherton, and the Attorney General of Nova Scotia and Westray Families' Group and Town of Stellarton. Ottawa: Supreme Court of Canada.
- Cavender, G. & Mulcahy, A. (1998). *Trial by Fire: Media Constructions of Corporate Deviance*. Justice Quarterly, 15(4), 697-717.
- Chermak, S. (1994). *Crime in the News Media: A Refined Understanding of How Crimes Become News*. In G. Barak (ed.), Media, Process, and the Social Construction of Crime: Studies in Newsmaking Criminology, (pp. 95-129). New York: Garland Publishing.
- Cohen, S. (2001). States of Denial: Knowing About Atrocities and Suffering. Cambridge: Polity Press.

- Cohen, S. (1996). *Government Responses to Human Rights Reports: Claims, Denials and Counterclaims*. Human Rights Quarterly, 18, 517-543.
- Cohen, S. (1993). *Human Rights and Crimes of the State: The Culture of Denial*. Australian and New Zealand Journal of Criminology, 26, 97-115.
- Comish, S. (1993). The Westray Tragedy: A Miner's Story. Halifax: Fernwood Publishing.
- Comish, S. & Comish, S. (1999). *The Road to Recovery is Long*. In C. McCormick (ed.), The Westray Chronicles: A Case Study in Corporate Crime (pp. 40-53). Halifax: Fernwood.
- Cullen, F.T., Maskestad, W.J. & Cavender, G. (1987). Corporate Crime Under Attack: The Ford Pinto Case and Beyond. Cincinnati: Anderson Publishing.
- Dodd, S. (1999). *Unsettled Accounts after Westray*. In C. McCormick (ed.), The Westray Chronicles: A Case Study in Corporate Crime (pp. 218-249). Halifax, Fernwood Publishing.
- Ericson, R., Baranek, P. & Chan, J. (1991). Representing Order: Crime, Law and Justice in the News Media. Toronto: University of Toronto Press.
- Ericson, R., Baranek, R. & Chan, J. (1989). Negotiating Control: A Study of News Sources. Toronto: University of Toronto Press.
- Evans, T.D., Cullen, F.T. & Dubeck, P.J. (1993). *Public Perceptions of Corporate Crime*. In M.B. Blankenship (ed.), Understanding Corporate Criminality (pp. 85-113). New York: Garland Publishing.
- Evans, S.S. & Lundman, R.J. (1983). *Newspaper Coverage of Corporate Price-Fixing*. Criminology, 21(4), 529-541.
- Ewick, P. & Silbey, S.S. (1995). *Toward a Sociology of Narrative*. Law and Society Review, 29(2), 197-226.
- Foucault, M. (1998). *The Concern for Truth*. In L.D. Kritzman (ed.), Michel Foucault: Politics, Philosophy, and Culture (pp. 255-267). New York: Routledge Press.
- Foucault, M. (1998). *Power and Sex*. In L.D. Kritzman (ed.), Michel Foucault: Politics, Philosophy and Culture (pp. 110-124). New York: Routledge Press.
- Foucault, M. (1995). Discipline and Punish: The Birth of the Prison. New York: Vintage Books.

- Foucault, M. (1994). *Thematics of State and Power*. In M. Dean (ed.), Critical and Effective Histories: Foucault's Methods and Historical Sociology (pp. 141-173). New York: Routledge Press.
- Foucault, M. (1991). *The Discourse on Power*. In R.J. Goldstein & J. Cascaito (trans.), Michel Foucault: Remarks on Marx. Conversations with Duccio Trombadori (pp. 147-187). New York: Semiotext(e).
- Foucault, M. (1990). The History of Sexuality. New York: Vintage Books.
- Foucault, M. (1990). *Politics and the Study of Discourse*. In G. Burchell, C. Gordon, and P. Miller (Eds.), The Foucault Effect: Studies in Governmentality. (pp. 53-71). Chicago: University of Chicago Press.
- Foucault, M. (1989). *The Concern for Truth*. In S. Lotringer (ed.), Foucault Live: Interviews (1966-84), Michel Foucault (pp. 293-308). New York: Semiotext(e) Foreign Agents Series.
- Foucault, M. (1988). *The Discourse on Language*. In A.M. Sheridan Smith (ed.), The Archaeology of Knowledge: Michel Foucault (pp. 215-237). New York: Harper Colophon Books.
- Foucault, M. (1982). *Power and Truth*. In H.L. Dreyfus & P. Rabinow (eds.), Michel Foucault: Beyond Structuralism and Hermeneutics (2<sup>nd</sup> ed.), (pp. 185-207). Chicago: University of Chicago Press.
- Foucault, M. (1980). *Power and Strategies*. In C. Gordon (ed.), Power/Knowledge: Selected Interviews and Other Writings (1972-1977), Michel Foucault (pp. 135-145). New York: Pantheon Books.
- Foucault, M. (1980). *The History of Sexuality*. In C. Gordon (ed.), Power/Knowledge: Selected Interviews and Other Writings (1972-1977), Michel Foucault (pp. 183-193). New York: Pantheon Books.
- Foucault, M. (1980). *The Eye of Power*. In C. Gordon (ed.), Power/Knowledge: Selected Interviews and Other Writings (1972-1977), Michel Foucault (pp. 146-165). New York: Pantheon Books.
- Foucault, M. (1980). *Truth and Power*. In C. Gordon (ed.), Power/Knowledge: Selected Interviews and Other Writings (1972-1977), Michel Foucault (pp. 109-133). New York: Pantheon Books.
- Frank, M. (1989). *On Foucault's Concept of Discourse*. In T. Armstrong (ed.), Michel Foucault: Philosopher, (pp. 99-116). New York: Routledge Publishers.

- Gamson, W.A., Croteau, D., Hoynes, W., & Sasson, T. (1992). *Media Images and the Social Construction of Reality*. Annual Reviews in Sociology, 18, 373-393.
- Glasbeek, H., & Tucker, E. (1999). *Death by Consensus at Westray?* In C. McCormick (ed.), The Westray Chronicles: A Case Study in Corporate Crime (pp. 71-96). Halifax, Fernwood Publishing.
- Goff, C. (2001). *The Westray Mine Disaster: Media Coverage of a Corporate Crime in Canada*. In H.N. Pontell & D. Shichor. (eds.), Contemporary Issues in Crime and Criminal Justice: Essays in Honor of Gilbert Geis (pp. 195-212). New Jersey: Prentice-Hall Inc.
- Halifax. Department of Labor. (1992). Westray Disaster: Ministerial Statements to the Press and House of Assembly/By Leroy Legere. Halifax: Department of Labor.
- Herman, E.S. & Chomsky, N. (1989). Manufacturing Consent: The Political Economy of the Mass Media. New York: Pantheon Books.
- Hynes, T. & Prasad, P. (1999). *The Normal Violation of Safety Rules*. In C. McCormick (Ed.), The Westray Chronicles : A Case Study in Corporate Crime (pp. 177-135). Halifax : Fernwood Publishers.
- Jobb, D. (1999). *Legal Disaster : Westray and the Justice System*. In C. McCormick (Ed.), The Westray Chronicles : A Case Study in Corporate Crime (pp. 163-182). Halifax : Fernwood Publishing.
- Jobb, D. (1994). Calculated Risk : Greed, Politics and the Westray Tragedy. Halifax : Nimbus Publishing.
- Jones, R.A. (1996). Research Methods in the Social and Behavioral Sciences (2<sup>nd</sup> ed.) Sunderland, Mass.: Sinauer Associates Inc.
- Liberal Party of Canada. (1992). Westray Mine Disaster: Documents of the Liberal Opposition. Ottawa: Liberal Party of Canada.
- Lofquist, W.S. (1997). *Constructing "Crime": Media Coverage of Individual and Organizational Wrongdoing*. Justice Quarterly, 14(2), 243-263.
- Lynch, M.J., Stretesky, P. & Hammond, P. (2000). *Media Coverage of Chemical Crimes, Hillsborough County, Florida, 1987-97*. British Journal of Criminology, 27(2), 16-29.
- Lynch, M.J., Nalla, M.K. & Miller, K.W. (1989). *Cross-Cultural Perceptions of Deviance: The Case of Bhopal*. Journal of Research in Crime and Delinquency, 26(1), 7-35.

- Maguire & Sandage (2002).
- McCormick, C. (1995). *The Westray Mine Explosion: Covering a Disaster and a Failed Inquiry*. In C. McCormick (ed.), Constructing Danger: The Mis/Representation of Crime in the News (pp. 197-221). Halifax: Fernwood Publishing.
- McMullan, J. (2003). Power, Truth, Newsmaking and the Westray Mine Explosion (unpublished report).
- McMullan, J. (2001). *Westray and After: Power, Truth and News Reporting of the Westray Mine Disaster*. In S.C. Boyd, D.E. Chunn & R. Menzies (eds.) [Ab]using Power: The Canadian Experience (pp. 130-145). Halifax: Fernwood Publishing.
- McMullan, J., & Hinze, S. (1999). *The Press, Ideology, and Corporate Crime*. In C. McCormick (ed.), The Westray Chronicles: A Case Study in Corporate Crime (pp. 183-217). Halifax, Fernwood Publishing.
- Molotch, H., & Lester, M. (1978). *Accidental News: The Great Oil Spill as Local Occurrence and National Event*. In M.D. Ermann & R.J. Lundman (eds.), Corporate and Governmental Deviance: Problems of Organizational Behavior in Contemporary Society (pp. 297-308). New York: Oxford University Press.
- Morash, M. & Hale, D. (1987). *Unusual Crime or Crime as Unusual? Images of Corruption in the Interstate Commerce Commission*. In T.S. Bynum (Ed.), Organized Crime in America: Concepts and Controversies, (pp. ??). New York: Oxford University Press.
- Randall, D.M., Lee-Sammons, L., & Hagner, P.R. (1988). *Common Versus Elite Crime Coverage in Network News*. Social Science Quarterly, 69, 919-929.
- Randall, D. (1995). *The Portrayal of Business Malfeasance in the Elite and General Media*. In G. Geis, R.F. Meier & L.M. Salinger (eds.), White-Collar Crime: Classic and Contemporary Views (3<sup>rd</sup> ed.) (pp. 105-115). Toronto: The Free Press.
- Reiner, R. (2002). *Media Made Criminology: The Representation of Crime in the Mass Media*. In M. Maguire, R. Morgan and R. Reiner (Eds.), The Oxford Handbook of Criminology, (pp. 376-415). London: Oxford Press.
- Richard, P. (1997). The Westray Story: A Predictable Path to Disaster: Report of the Westray Mine Public Inquiry. Halifax: Westray Mine Public Inquiry.
- Richards, T. (1999). *Public Relations and the Westray Mine Explosion*. In C. McCormick (ed.), The Westray Chronicles: A Case Study in Corporate Crime (pp. 136-162). Halifax: Fernwood Publishing.

- Rouse, J. (1994). *Power/Knowledge*. In G. Gutting (ed.), The Cambridge Companion to Foucault (pp. 92-114). Cambridge: Cambridge University Press.
- Scraton, P., Jemphrey, A. & Coleman, S. (1995). No Last Rights: The Denial of Justice and the Promotion of Myth in the Aftermath of the Hillsborough Disaster. Liverpool: CC Alden Press.
- Scraton, P. (1999). Hillsborough: The Truth. Edinburgh: Mainstream.
- Scott, M.B. & Lyman, S.M. (1970). *Accounts, Deviance, and Social Order*. In J.D. Douglas (ed.), Deviance and Respectability: The Social Construction of Moral Meaning (pp. 89-119). New York: Basic Books.
- Surrette, R. (1998). Media, Crime and Criminal Justice: Images and Realities. Belmont: California: West/Wadsworth.
- Swigert, V.L. & Farrell, R.A. (1980). *Corporate Homicide: Definitional Processes in the Creation of Deviance*. Law and Society Review, 15, 161-182.
- Sykes, G. & Matza, D. (1998). *Techniques of Neutralization: A Theory of Delinquency*. In F.P. Williams & M. McShane (eds.), Criminological Theory: Selected Classic Readings (pp. 273-281). Cincinnati: Anderson Publishing.
- Tucker, E. (1995). The Westray Mine Disaster and Its Aftermath: The Politics of Causation. CJLS/RCDS, 10(1), 92-123.
- Tunnell, K. (1998). *Reflections on Crime, Criminals, and Control in News Magazine and Television Programs*. In F. Bailey & D. Hale (Eds.), Popular Culture, Crime and Justice (pp. 111-122). Belmont: West/Wadsworth.
- Tombs, S., Whyte, D. (2001). *Reporting Corporate Crime Out of Existence*. Criminal Justice Matters, 43, 22-23.
- van Dijk, T.A. (1993). *Principles of Critical Discourse Analysis*. Discourse and Society, 4(2), 249-283.
- Westray Response Committee (N.S.) (1997). Westray: A Plan of Action: Government's Response to the Report of the Westray Mine Public Inquiry. Halifax: Westray Response Committee.
- Wright, J.P., Cullen, F.T., & Blankenship, M.B. (1995). *The Social Construction of Corporate Violence: Media Coverage of the Imperial Food Products Fire*. Crime and Delinquency, 41(1), 20-36.