

Crime eclipses the colour of a collar

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“PRISON TERM TOO HARSH FOR WHITE COLLAR CRIME.” That was the headline in the letters section of *The Age* last weekend and it is a sentiment that underscores how we as a society differentiate between “bad” criminals and crimes committed by “respectable” members of society.

The letters were in response to criminal charges of lying under oath being laid against Dick Pratt, when he denied any involvement in the country’s biggest price-fixing scandal.

Pratt later made admissions in a statement of facts tendered in civil penalty proceedings and his company Visy paid a \$38million fine for what Justice Peter Heerey described as “the worst cartel to come before the courts”.

Some of the support was mustered by those with close political associations to Pratt. But there is no doubt it touched a nerve, indicating a two-tiered attitude. Or is it just a double standard?

For decades, we have been subjected to election campaigns—particularly at a state level—run on a law and order platform. Every election is the same. It is “no longer safe to walk the streets at night”, and more police need to be put on the beat to curb “violent” crime. Often these populist arguments sway public opinion, despite mountains of evidence to suggest that such crimes have not increased to any great degree and in some cases have declined.

A bank heist will dominate headlines, even if the thieves netted only a minor haul. Could you ever imagine a debate that, given the thieves broke into the vaults at night without anyone being injured or even threatened, jail would be too onerous a penalty?

Similarly, the courts are filled with people who have stolen minor amounts from their employers to feed gambling or drug habits. While these crimes consistently involve no violence and relatively small amounts of money, more often than not the perpetrators are given custodial sentences.

But when it comes to millions, even billions, of dollars being pilfered by powerful members of society, suddenly it’s acceptable to engage in a debate about whether jail is too harsh an option.

“It’s still hard to believe, in our so-called enlightened, 21st century society, that jail would even be considered,” wrote one Pratt supporter last weekend. “Jail is for people who need to be taken out of society because of acts of violence or their willingness to destroy lives, as in the case of drug dealers.”

To be fair, this is not an attitude that is unique to Australia. But it’s certainly an attitude that seems to have a stronger base here.

There has been a reluctance by politicians of all persuasions in Australia to campaign actively against white collar crime. Our politicians, instead, court the business lobby. And it’s not just conservative politicians. The ALP, sensing a natural bias against it from the business community, works hard to establish its business and economic

credentials. White collar crime almost always involves fraud to some degree. And the most serious frauds—particularly those that threaten life—are perpetrated by corporations.

The lax attitude to such crime, at a community level, is reflected in Australia at a regulatory level.

Dick Pratt's privately owned company and its competitor, Amcor, conspired to jack up the price of the packaging products, passing on huge costs to consumers and hurting the profitability of small businesses and large corporations.

But for some reason, despite numerous committees and inquiries, successive Australian governments have refused to introduce criminal sanctions for such behaviour. That puts us at odds with almost every other developed nation.

America, the home of free market capitalism, takes a dim view of this. A Qantas employee soon will be sentenced to a jail term for his part in a worldwide price fixing racket. He is likely to be the first of many in that global industry.

The Americans are far more diligent and efficient in tracking down and prosecuting corporate criminals.

In the early part of this decade, the heads of numerous companies, including Enron and Worldcom, were given hefty jail sentences for their part in fleecing investors.

Just a fortnight ago, two high flyers from Bear Sterns, the investment bank that came close to collapse this year, were led from their Wall Street offices in handcuffs. This never happens here.

For years our competition regulator, the Australian Competition and Consumer Commission, has been pushing the Federal Government to add criminal sanctions to its armory.

In 1991, John Braithwaite, a professorial fellow at the Australian National University, delivered a paper on white collar crime, arguing that Australia had become a joke on the international stage.

"Perhaps we are just more colourful than the Americans," he wrote. "The fact we have to deal with as a nation, however, is that our business regulatory institutions are 'on the nose' internationally."

Since then, our corporate regulator has had its powers enhanced. But the Steve Vizard episode—a Telstra director who admitted to using confidential information only on the proviso he not be prosecuted—has only served to highlight the inadequacies of our regulatory system.

As for Pratt, this debate is superfluous. He's been charged with lying under oath, an offence that doesn't distinguish between the colour of your collar.