

12-12-1997

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Recommended Citation

(1997) "Comments on Walzer's "Judgment Days": Public Accountability for the Egregious Behavior of," *International Bulletin of Political Psychology*: Vol. 3 : Iss. 19 , Article 1.

Available at: <https://commons.erau.edu/ibpp/vol3/iss19/1>

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International Bulletin of Political Psychology

Title: Comments on Walzer's "Judgment Days": Public Accountability for the Egregious Behavior of

Author: Editor

Volume: 3

Issue: 19

Date: 1997-12-12

Political Leaders

Keywords: Accountability, Criminal Justice, Revolution, Truth Commission

Abstract. This article provides commentary on Michael Walzer's "Judgment Days". Walzer's article was published in *The New Republic*, December 15, 1997, pp. 13-14.

In "Judgment Days," Walzer analyzes if, when, and how political leaders should be held accountable for egregious behavior--misbehaviors often termed crimes against humanity, war crimes, or genocide. He focuses on these questions only in the context of a change in government. Why? Perhaps because rarely, if ever, in history have political leaders had to realistically face a reckoning for such misbehavior while still wielding power. This is a history lesson that perpetrators of misbehavior have taken to heart when considering pressures to yield power.

Walzer begins by citing the lack of significant attention towards last year's fiftieth anniversary of the Nuremberg trials and towards the current United Nations (UN)-sponsored Bosnian war crimes trials. He then cites an "utterly lacking" political will to bring the "real criminals" (in Bosnia) to justice.

As to a lack of attention, he might also have mentioned the trials of so-called Japanese war criminals after World War II, as well as the current UN-sponsored Rwandan war-crimes trials. Perhaps this lack of attention relates to the Germans and the Japanese now being allies of the World War II victors. Germany is once again the most powerful country in Europe--powerful enough so that former Secretary of State Henry Kissinger has cited it as the most important rationale for North Atlantic Treaty Organization expansion. Japan, on the other hand, has the second largest economy in the world and is a crucial linchpin of the World War II victors' security interests in Asia and the Pacific. In Rwanda, the murder of hundreds of thousands of Tutsis and so-called moderate Hutus by other Hutus and a few Tutsis have been of even less interest to the mass media--the window to the world of most of the world. This reflects Rwanda's lesser import for world strategic security concerns--although in the strategic-moral calculus of international security policy, the moral may have more strategic import than traditional strategic concerns. It also, no doubt, reflects racism.

All the above mitigates against the political will and ability "to bring the real criminals" to some sort of justice. As with politics within and without many forms of government, today's enemies may be tomorrow's allies. So justice may often be tempered by realpolitik and the strategic should significantly override the moral. This sort of thinking threatens the institution and maintenance of sanctions against government misbehavior, e.g., UN-sponsored sanctions against Iraq.

Walzer continues by stating that the trials of subordinate figures "though no doubt justified, do not generate any strong sense of justice being done." This is a curious, perhaps dangerous phrase, for it suggests that justice depends on some internal moral sense or perception of the beholder--an intuitionist philosophical stance--as opposed to some socially constructed meaning from aspects intrinsic to a perpetrator's behavior that have social consequences--a naturalist philosophical stance. In the former, there may be less opportunity for discourse and the avoidance of totalistic thought that transmutes justice to injustice.

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Walzer then cites other countries wherein authoritarian (or totalitarian) regimes have fallen and poses the question of whether the victors can ever justly seek justice against the vanquished--especially the latter often being guilty of following the rules developed and supported by their rule. He does not suggest that "just following orders" is never an acceptable defense. Instead, he describes a criterion that might help decide the if, when, and how of accountability.

This criterion is pragmatism. He applies it to the public accountability afforded by a criminal trial. He states that this accountability should occur only if it is essential to establishing the new government--if that government is democratic or less brutally autocratic. This criterion is problematic, however, for if the new government is not democratic or is equally or more autocratic, there would be no accountability. Nor would there be accountability if it were supportive but not essential to a democratic or less autocratic government.

Walzer states that pragmatism relates to no moral imperative. However, by his argument it clearly does--the moral imperative of the ensuing collective welfare. Walzer also states that pragmatism as a criterion for accountability is problematic because--when it does not mandate accountability--there will be no retributive justice for its living victims, let alone the dead. Here, he admits to being sympathetic to opponents of pragmatism because at least living victims are owed satisfaction "of seeing justice done" and because justice, "if it is done well," can be an educational process for the nation as a whole--"a renunciation of the old tyrannical politics."

However, does not Walzer's sympathy bring with it an individual versus collective conflict? What the victims are owed (for the past) may conflict with what the collective is owed (for the future). Even adding what the collective may be owed for the past must be tempered by what the individual may be owed for the future. Also, what kind of education is being offered if the past must be served regardless of consequences for the future?

Walzer then critiques truth commissions as a public accountability alternative to criminal trials. Here, as in the Republic of South Africa, referrals may be made to a criminal justice system, but the commission itself has no prosecutory authority. Although he correctly notes that truth commissions effect no formal resolution of judgment and punishment, he ignores that judgment and punishment often do occur--in a very psychically and socially real sense--by the very act of public testimony. This is so even if the testimony is less than comprehensive or accurate. Denials of guilt and efforts to shift the blame are faults within truth commissions as Walzer states--but aren't they also with criminal trials? In truth commissions, accusations may be made against individuals who have no judicial means of self-defense, as Walzer states, but in criminal trials, judicial means of self-defense may serve little protection against the noxious consequences of these accusations--especially their social psychological and often political consequences. Walzer also emphasizes that a verdict and sentence can "close the argument" in a way that truth commission reports can't. Yet in both cases surely an intense public and social discourse continues.

Walzer then makes a curious distinction that public accountability--at least through criminal trials and truth commissions--may be inappropriate when the political conflict and associated egregious behavior leading up to a change in government was tribal or racial. Why should these socially constructed entities inevitably be any more problematic or any less imbued with or inductive of false consciousness than other identificatory categories, such as class or religion? In fact, given that there will be socially

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constructed categories differentiating among the sides of all violent political conflict, in essence Walzer is rendering all previous deliberations of public accountability as moot.

Walzer concludes by advocating that at least the leaders of the old regime--when that regime is less democratic or more autocratic than the new one--should be subjected to either a criminal trial or a truth commission. This conclusion and actually his entire article are based on one unstated hypothesis and undermined by another. The former is that behaviors labeled as crimes against humanity, war crimes, or genocide are indeed dire evils as opposed to merely being some of the unsavory but expected coins of the political realm that merit no extraordinary attention. The latter is that--given the former--such behaviors must be confronted wherever they appear, not just during the transition between certain types of regimes. If this latter hypothesis cannot be met, the relativism implicit in confronting egregious behavior only in certain situations may go a long way towards explaining the lack of will and sustained attention that such behaviors have received throughout history. In fact, some analysts might posit that almost all of us are guilty either through commission of such misbehavior or omission of significantly confronting it. If so, the impetus of the few who dare to confront egregious behavior will be ignored, discounted, denied or ruthlessly resisted by the rest of us in a manner befitting moral taint, developmental evil, or original sin. (See Amnesty for amnesty: Towards an international criminal court. (October 10, 1997). IBPP; Donney, P.M., & Armstrong, G.M. (1996). Effects of accountability on symbolic information search and information analysis by organizational buyers. *Journal of the Academy of Marketing Science*, 24, 57-65; Gobodo-Madikizela, P. (1995). Remembering and the politics of identity. *Psychoanalytic Psychotherapy in South Africa*, 3, 57-62; Gonzales, M.H., Kovera, M.B., Sullivan, J.L., & Chanley, V. (1995). Private reactions to public transgressions: Predictors of evaluative responses to allegations of political misconduct. *Personality and Social Psychology Bulletin*, 21, 136-148; Hamilton, A. (1995). Policing Northern Ireland: Current Issues. *Studies in Conflict and Terrorism*, 18, 233-242; Perez, J. (December 7, 1997). Blunt reason for enlarging NATO: Curbs on Germany. *The New York Times*, p. 14; Some truth about truth commissions. (February 14, 1997). IBPP; Some truth about truth commissions II. (September 12, 1997). IBPP; Walzer, M. (December 12, 1997). Judgment days. *The New Republic*, pp. 15-16.) (Keywords: Accountability, Criminal Justice, Revolution, Truth Commission.)