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A Case against Bringing Monsters to Justice: Pinochet, Deterrence, and Personal Identity

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Abstract. This article presents a philosophical psychology case against subjecting former national leaders who allegedly committed atrocities committed while they were in power to adjudication through a criminal or civil justice system.

The two strongest arguments for subjecting former national leaders to adjudication through a criminal or civil justice system for alleged atrocities are founded on deterrence and accountability.

Deterrence suggests that adjudication will decrease the probability and/or severity of further atrocities by other leaders. However, this suggestion is problematic. For example, punishment as a possible, likely, or definite consequence of adjudication often has very unpredictable effects on observers and others who learn of the punishment. Moreover, the application of punishment as a deterrent for proscribed behavior suggests that potential perpetrators of atrocities engage in the latter through a rational and logical calculus uncontaminated or underwhelmed by the irrational, illogical, and unconscious.

Accountability suggests that individuals must experience the just deserts of their actions--i.e., must reap what they sow. This suggestion also is problematic. Even if an appropriate combination of substantive, procedural, and distributive justice can be developed, one must consider that the individual who committed atrocities may not be the person who has undergone adjudication. The individual undergoing adjudication may have little memory or inaccurate memories for the specific atrocities. The individual may feel little sense of identification with the person who committed the atrocities. In fact, from a psychological viewpoint, the individual in the present may by no means be the individual of the past and may have led a life since the period of atrocities that may be apperceived as a metamorphosis. Is holding the individual of the present accountable ever or always the same as holding accountable the individual of the past? Can we not have two different individuals--if not many different individuals--over a life span?

In the Pinochet case, problems with deterrence and accountability rationales for adjudication seem much more significant than contemporary legalistic and political concerns. These latter concerns--e.g., the appropriate jurisdiction of national judiciaries in international venues, the possibility of employing legal procedures, and violating legal intent to seek political advantage--beg questions bearing on the very subversion of the rule of law through the rule of law. Perhaps stalking the perpetrators of atrocities throughout political history is the ultimate projection--projecting the monster in each of us. (See Alford, C.F. (1997). *The political psychology of evil*. *Political Psychology*, 18, 1-17; Benjamin, R.D. (1998). *Negotiation and evil: The source of religious and moral resistance to the settlement of conflicts*. *Mediation Quarterly*, 15, 245-266; Ezzy, D. (1998). *Theorizing narrative identity: Symbolic interactionism and hermeneutics*. *Sociological Quarterly*, 39, 239-252; Hoge, W. (November 26, 1998). *British court rules against Pinochet: Government must decide on extradition*. *The New York Times*, <http://www.nytimes.com>; Klose, D.A. (1995). *M. Scott peck's analysis of human evil: A critical review*. *Journal of Humanistic Psychology*, 35, 37-66; Schiffrin, D. (1996). *Narrative as self-portrait: Sociolinguistic constructions of identity*. *Language in Society*, 25, 167-203.) (Keywords: Crime, Evil, Justice.)