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Terrorism and the Law: Show Trials and Why the Show Must Go On

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Title: Terrorism and the Law: Show Trials and Why the Show Must Go On

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Abstract: The author discusses the nature and meaning of terrorism trials during the United States' war on terror.

Since 9/11 in the United States (US), a significant Issue for public discourse and private deliberation has been the legal adjudication of terrorism cases. Should alleged perpetrators and supporters of terrorism have their day in court? If so, should that day occur in military or civilian proceedings? Regardless of so-called natural rights, human rights, and civil rights and liberties, what degrees of freedom and what sorts of perquisites should be granted or be assumed to be available to the accused, the alleged, those believed to have perpetrated, and those who did perpetrate regardless of accusation, allegation, and belief?

Overtly, discourse and deliberation focus on facilitating (1) facts supporting, substantiating, instantiating, and constituting the specifications of terrorism charges and (2) results for the various perpetrators linked to findings about these facts. However, something even more important may be going on. The choice and nature of the trial may have much more to do with the nature of a society than the behavior of the real, accused, alleged, or believed perpetrator. It may well be that all trials are for show and are, indeed, a show with all the justice awarded to Meursault in *The Stranger* of Camus and Josef K. in *The Trial* of Kafka.

Why is this? Perhaps, all people have beliefs about the nature of right and wrong and what is right and wrong. These beliefs allow some people to have power over other people and over themselves. These beliefs even allow some people to willingly participate in their own lack of power and/or their disempowerment. (In both these sentences, as well as below, power denotes having the motivation and ability to modulate the disparity between the ideal and the real—e.g., who one is and who one wants to be; what one has and what one wants.) Depending on whether there is a trial and what is said and done in and towards a trial, in what order, by whom, and with what results, beliefs about power and the multiple aspects of power are affected.

Through these effects of and on power, one may maintain, increase, or decrease control or not over one's material assets. One may maintain, increase, or decrease control or not over one's behavior and one's internal psychological processes. The same applies to how one may or may not affect the material assets, behavior, and internal psychological processes of others. With such a multiplicity of power dynamics, it might be a wonder that any individual is meted out something called justice based on putative effects on retribution, deterrence, or rehabilitation in any but the most serendipitous fashion.

Yet, acting with emotional shock, as if trials are about anything but the winners and losers of power—and the very nature of power—permeates not just trials but formally labeled show trials. For example, in the *National Post* of April 3, 2010, George Jonas cogently alludes to a series of show trials including Jesus before both Caiaphas, the Jewish high priest and, then, Pontus Pilate, Judaea's procurator; the 17th-century Salem witch trials; pro-Communist, Stalinist trials of the 1930s; and anti-communist testimonies under oath led by US Senator Joseph McCarthy in the early 1950s. One could add to these

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trials the various Christian Inquisitions of Medieval times; some adultery-related trials involving public officials (e.g., former US President Bill Clinton); and some child-sex abuse trials involving the putative phenomena of repressed memory and of Satanic cult (See "Suits by Adults for Childhood Sexual Abuse: Legal Origins of the 'Repressed Memory' controversy by Mary Williams in *Journal of Psychiatry and Law*, Summer 1996).

One might infer from Jonas's comments that he is against the production of such trials, as if there were or could be an alternative. But attacking the justness of such trials, seeing such trials as both show and just, and attacking or praising those people who view the trials as show and/or just are all the same mirror image. This mirror image wrongly reflects the possibility of an alternative to power as the essence of the trial (see Jacob Heilbrun's critique in the Winter 1991 Issue of *World Affairs* of Walter Duranty concerning the latter's New York Times dispatches on the 1937 Moscow purge trials).

This reflection is but an apotheosis of false consciousness for the deluded and street-wise alike. (Here, the false consciousness of Friedrich Engels as described in his July 14, 1893 Letter to Mehring is being broadened to include not just the proletariat but all people. False consciousness as construct is also broadened to be based not just on relationships of economic production between classes but on all relationships bearing on power including what Marx termed the superstructure in *A Contribution to the Critique of Political Economy* (1859). Other ways of explaining and understanding the reification of a just alternative to trials and show trials might include a dialectical process leading to the realization of the Ideal Spirit in some neo-Hegelian philosophy of history (cf. Hegel's *Phenomenology of Spirit* (1807); as an example of slave morality (cf. Nietzsche's *Genealogy of Morals* (1887); as a rhetorical tool of power worthy of sophists such as Gorgias (see Scott Consigny's *Gorgias: Sophist and Artist* (2001); as an earnest ideological foundation of psychological health disseminated by psychological humanists such as Carl Rogers (cf. *Client-centered Therapy: Its Current Practice, Implications, and Theory* (1951); or as delusional or magical thinking (cf. respectively Brendan Maher's "Delusional Thinking and Cognitive Disorder" in *Integrative Physiological and Behavioral Sciences* (July-September 2005) and Eugene Subbotsky's "Magical Thinking in Judgments of Causation: Can Anomalous Phenomena Affect Ontological Causal Beliefs in Children and Adults" in the *British Journal of Developmental Psychology* (March 2004)).

With the terrorist as Meursault, the show trial metes out death, objectively for murder, subjectively for not properly mourning one's mother, and—if the prayers of the condemned man are answered—with "howls of execration." With the terrorist as Josef K., the show trial metes out an execution with the knife thrust deep and turned twice into the heart, "like a dog," with ineluctable inevitability, and for something as unknown as one's very existence. With the terrorist as agent in the current war on terror, the only thing that's inevitable is that the show must go on. [Comments may be sent to bloomr@erau.edu].

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