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# **The Crimes Of Greed Vs The Crimes Of Government**

**If Enron's Skilling Gets 24 Years In Prison,  
How Many Should Bush And Cheney Get?**

By Paul Craig Roberts

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During my professional lifetime, liberals and the left-wing have focused on failures and misdeeds of the private sector, while libertarians and conservatives have focused on the failures and misdeeds of the public sector or government. It turns out that both sides are right.

The Enron case and the other accounting scandals of this new century are testimony to misdeeds driven by private sector greed, just as the unjustifiable war in Iraq is testimony to the abusive behavior of government.

Justice demands that we be always on guard against a prosecutor's case. However, the devastation wrought by fraud committed by a few at the top of Enron seems real. Thousands of employees lost jobs and pensions, and shareholders took a large hit.

We now know that fraud on the part of the Bush administration launched the ill-fated Iraqi war. The war's financial and human cost dwarf the Enron catastrophe. The out-of-pocket cost of the war to date is \$337 billion, with steep future costs for veterans' care and replacement of military equipment. Approximately 3,000 US troops have been killed, and Department of Veterans Affairs documents show that 100,000 veterans of Iraq and Afghanistan have been granted disability compensation. Estimates of Iraqi civilian "collateral damage" range from 30,000 to 655,000 deaths. America's reputation has been shattered, and the prospects for

terrorist "blow-back" are higher.

The most important difference between these two fraud cases, however, is in accountability. The Enron executives have been brought to justice with prison sentences, multi-million dollar fines, and, in one case, by death from a heart attack brought on, perhaps, by the stress of prosecution.

Even if the Bush administration and the rubber-stamp Congress are held accountable in next month's election, the ringleaders of the war are unlikely to be brought to justice. Polls indicate that the November election--if votes are honestly counted, an uncertainty with the electronic voting machines--will hold Bush and the Republicans accountable by ending one-party rule.

A number of commentators have noted that with the Democrats as complicit in the war as the Republicans, a change in party control over one or both houses of Congress is not exactly accountability.

But the problem is larger than that.

When government officials are held accountable, they are merely voted out of office and not generally prosecuted. They do not suffer the same severe punishments as their counterparts in the private sector.

Enron destroyed jobs, not people's lives, and the financial cost was inconsequential compared to Iraq. The disparities in accountability and punishment for misdeeds in government and private sectors are striking.

So far in history no private sector interest has been able to achieve power over a population comparable to the power wielded by Stalin or Hitler, and no private sector power has been able to set aside civil liberties as Bush has done. The liberal-left notion that government is our protector from the private sector is as naive as the libertarian-right view that all wrong resides in the government. The common denominator of wrong is the fallibility of man.

The Founding Fathers gave us a government infused with sufficient power to deliver justice to a people who believe in justice, but structured to be incapable of enslaving the people. The government's powers were separated, dispersed, and tied down with the Constitution and Bill of Rights. Law was made a shield of the

innocent rather than a weapon in the hands of government.

This Blackstonian concept of law was gradually eroded by the Benthamite conception. In a nutshell, Jeremy Bentham's argument is that once democracy had triumphed over monarchy, people no longer had reason to fear government which was now the product of self-rule. Bentham argued that Blackstonian concepts constrained government from using its power to do good, and that the restraints should be removed in the interests of the greatest good for the greatest number.

Over time Benthamite law gained in strength as various ideologies or interests in power chaffed at restraints on their agendas and as wars and the Great Depression, and now "terrorism," created crises which accumulated power in government, as Robert Higgs has demonstrated.

A government that has set aside habeas corpus and the rule against self-incrimination is the last place one should look for protection.

A Future of Freedom Foundation conference will echo this theme next June. The underlying theme of the conference, as the organizer, Jacob Hornberger, explained to me, is that "blow-back" to US Middle East policy "resulted in the 9/11 terrorist attacks, which then led to the post-9/11 assaults on civil liberties."

I agree with Hornberger that the way to deal with terrorism is to change the policies that provoke it. What the Bush administration has done is to institutionalize elements of a police state as protections against terrorists so that it doesn't have to change its policy in the Middle East. There is no gain in being made more secure from terrorism by being made less protected against the police power of government. One threat simply replaces another, or is added to another.

However, if Hornberger believes that the assault on our civil liberties began with 9/11, he hasn't a clue as to how serious the problem is. The year before 9/11 Lawrence M. Stratton and I published a book, which we titled "How The Law Was Lost" and which the publisher titled "The Tyranny of Good Intentions." By law, we meant the Blackstonian concept of law as a shield of the people, which is enshrined in the Bill of Rights. We show in our book that our civil liberties have been so eroded that many are "dead-letter" rights.

The Bush administration's recent detainee and torture legislation merely took some

of these dead-letter rights off the books. Even if the Supreme Court puts the rights back on the books, they have been eroded by legal precedent and neglect.

Both left and right have fallen into Benthamite thinking in order to better chase after the particular devils in their agendas. "Law and order conservatives," for example, are inclined to regard certain civil liberties as "coddling criminals" and thoughtlessly take the side of police and prosecutors against civil liberties. Both left and right are prepared to deny First Amendment rights to the other side, and political correctness makes it impossible to debate many issues or to acknowledge many problems. The left has long campaigned against the Second Amendment, an essential civil liberty. When a problem is pointed out, people demand a program of action as a solution. However, not every problem has a policy solution. When people no longer understand that civil liberties are more important than political agendas, they have lost sight of the belief system that protects them. Beliefs are more important than institutions.

As Michael Polanyi noted many years ago, if people believed in Stalinism, democracy would uphold Stalinism. If people believe in Bentham over Blackstone, there will be no civil liberties regardless of political accountability.

Paul Craig Roberts wrote the Kemp-Roth bill and was Assistant Secretary of the Treasury in the Reagan administration. He was Associate Editor of the Wall Street Journal editorial page and Contributing Editor of National Review. He is author or coauthor of eight books, including *The Supply-Side Revolution* (Harvard University Press). He has held numerous academic appointments, including the William E. Simon Chair in Political Economy, Center for Strategic and International Studies, Georgetown University and Senior Research Fellow, Hoover Institution, Stanford University. He has contributed to numerous scholar journals and testified before Congress on 30 occasions. He has been awarded the U.S. Treasury's Meritorious Service Award and the French Legion of Honor. He was a reviewer for the *Journal of Political Economy* under editor Robert Mundell. He can be reached at: paulcraigroberts@yahoo.com

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