

# Due Process

By Albert S. Frank, LL.B.

A friend of mine once told me he opposed capital punishment, but if anyone ever killed one of his family members, he would happily hire a gangster to kill the offender.

An equally peculiar attitude appears in Barbara Amiel's recent column (To Preserve Justice, Let Pinochet Go Free, Nov. 13).

Ms. Amiel suggests she would not have supported the Nuremberg trials, in which several prominent Nazis were tried at the end of the Second World War. It would have been better if, as Sir Winston Churchill first opined, the Nazi leaders had simply been "hunted down and shot" and, as Ms. Amiel adds, "without any pretence of due process".

The Nazis knew their murder of millions of unarmed men, women, and children was contrary to the norms – and presumably the laws – of civilized humanity. They simply believed, like many lesser criminals before and since, that they would get away with it.

But if they deserved to be “hunted down and shot,” how could it be wrong to hold trials, and only punish those who are convicted, and execute only the worst of them? Those who did escape execution because of the trial process certainly would not have preferred to be hunted down and shot.

Moreover, the trials at least offered the chance to teach the world a little more than the idea that losers deserve to die.

The quest for justice sometimes requires procedural innovation. This is a time-honoured part of the evolution of the law, and it is not about to stop now. The question is whether or not any given innovation is wise.

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The above article originally appeared as a letter to the editor in the November 20, 1998 issue of the ***National Post***.

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Research has NOT been done to see if this article is still good law. Also, this is general information that might not apply to your particular situation.

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