

Fraternal Twin Court Cases Point to the Death of Justice Worldwide



By Paul Engel

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- An ICC prosecutor seeks arrest warrants for leaders of both Israel and Hamas.
- Judge Merchan concluded a biased case with biased jury instructions.
- Does anyone else see that these cases have a common theme?

Late May in the United States is usually a time of cook-outs, the beginning of summer, and remembrance as we memorialize those who gave their lives in service to this country. Later May 2024 however, should be remembered for another death: The death of courts of justice.

First it was the International Criminal Court. Prosecutor Karim Khan, who sought arrest warrants for the leader of both Hamas and Israel, alleging he had reasonable grounds to believe they had criminal responsibility for war crimes. Second, barely a week later, Judge Merchan concluded his biased case against Donald Trump with biased instructions to the jury, which found Mr. Trump guilty on all 34 counts. After some consideration, I realized that these cases are so similar, they could be fraternal twins.

There's been enough time since both of these cases made the

news for me to really think about them. Not just the facts of the cases, but what they mean for our future. I was startled when I realized how related these two cases were, and just how much our reactions to them should be similarly parallel.

Punishing Political Opponents

Let's face it, modern Israel has rarely gotten a fair shake when it comes to international organizations. What Mr. Khan did really shouldn't surprise anyone who's been following how Israel has been treated in the United Nations and the International Criminal Court (ICC).

The process for obtaining arrest warrants at the ICC may seem strange to many Americans. A panel of judges will review the evidence and determine if it supports the issuance of the warrants. This is not that different from our grand jury system, except it's judges who will make the decision, not everyday citizens. In the U.S., when a grand jury finds sufficient evidence for a trial, they issue a true bill, allowing the prosecutor to proceed with the trial, bypassing some preliminary hearings. Since the ICC has no power to actually enforce a warrant though, I believe they are dependent on the nations who signed the Rome Statue to do so.

Mr. Khan is seeking these warrants in reaction to both the Hamas attacks on Israel on October 7th of last year, and Israel's reaction. This is rather like issuing arrest warrants both to the mugger for an attack and their victim for defending themselves. While this is not what Donald Trump was charged with, New York State did have a law when I lived there where they could charge the victim of a violent crime for defending themselves if they had the opportunity to retreat and did not do so, even in their own home.

Donald Trump, on the other hand, was convicted of a misdemeanor whose statute of limitations had expired by claiming it was in furtherance of a federal election crime the

U.S. Department of Justice refused to prosecute. While Mr. Khan's request for arrest warrants have come less than a year after the initiating offense, the City of New York "sat" on their criminal allegations until an upcoming presidential election would be impacted by the trial. It's rather hard to look at either situation and not see a political agenda.

Political Bias

Part of the political bias shown in both courts can be seen around the evidence considered. For example, the [New York Times reported in April of this year that the number of aid trucks entering Gaza had doubled to over 400 per day](#), but the United Nations disputes that. [The Associated Press reported that one of the major land crossings into Gaza was closed due to Hamas rocket attacks, and another by Israeli incursions](#). Yet Mr. Khan seems to blame only Israel for the humanitarian situation in Gaza. Even determining how much aid is entering Gaza is difficult. For example, Israel's Coordination of Government Activities in the Territories states that 133 trucks of humanitarian aid, two tankers of fuel, and four tankers of cooking gas passed through the Kerem Shalom crossing in a single day. For that same day the United Nations Relief and Works Agency for Palestine Refugees (UNRWA) claims only nine aid trucks passed through the crossing. All of the reporting I could find focused on "Israel's incursion" into Gaza and its cities. The fact that this was in response to Hamas' October 7th attack on Israel, the cruel and inhumane attacks on Israeli civilians rarely seem to be mentioned. Also, all of the blame for the conditions in Gaza seems to be laid at the feet of Israel, not Hamas, while ignoring it's tactics of hoarding fuel and other supplies, and storing fuel and ammunition in and around hospitals, schools, and other civilian complexes. This biased news, not to mention the apparent biases of UNRWA and other U.N. organizations, may be what Mr. Khan is using to attempt to find some moral equivalence between Israel's attempt to find and eliminate a

criminal organization with the stated goal of their destruction, and the claims of genocide by palestinian supporters. Little attention seems to be given to the inhumane and cruel criminal attacks Hamas not only performed, but recorded and reveled in.

Similarly, the evil portrayal of Donald Trump and any future administration he may lead, may have led to the justification of the attitude of "Stop Trump at any cost" we saw in his New York City trial. From the difficulties of finding unbiased jurors to the treatment of defense objections and the refusal to allow defense expert witnesses related to the alleged crime, the alleged business records were in furtherance of the biased jury instructions. In fact, the entire trial seemed more about getting Trump for something than the actual administration of justice.

In both cases, the courts' political opponents were painted as evil by using biased reporting, on biased information, from biased witnesses. All in all, it was an attempt to justify the treatment of the accused.

Impact Beyond the Court Rooms

Probably the greatest impact will have nothing to do with the courtrooms where these cases were heard.

Israel, like the United States, is not a party to the Rome Statue that created the International Criminal Court. That means that neither Israel nor the United States is obligated by treaty to enforce any warrant from the ICC. However, there are currently 124 countries that are parties, including Australia, Canada, France, Germany, Japan, Mexico, United Kingdom, and the mythical State of Palestine. That means, if I understand the Rome Statue correctly, should Mr. Khan get his warrant, those named would be subject to arrest if they were to enter any of the 124 party countries.

While any state in the Union can petition another state to

extradite a criminal from another state, they must be a fugitive from justice for Article VI of the Constitution to require the accused be handed over to the claiming state.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

[U.S. Constitution, Article IV, Section 2](#), Clause 2

In other words, in order for the governor of New York to demand of the Governor of Tennessee that I be delivered to New York, I must have fled from justice in New York in the first place. This decision in New York gives me one more reason why I should never return to the city of my birth or the state I lived in for most of my life. For those who follow the Constitution Study from the Empire State, along with my friends and family members who still call New York home, I hope you understand why I have no plans to return.

You may be saying to yourself, "Paul, as long as you obey the law, why wouldn't it be safe for you to return to New York?" For the very same reason Donald Trump was convicted, for doing something in furtherance of a federal election crime that the federal government doesn't even recognize. I have written and spoken repeatedly on what the Constitution says about how we elect the President of the United States, along with how both Congress and the states have corrupted that process. Can you not imagine the State of New York determining that such language is "disinformation", and in that attempt, "conspired to promote or prevent the election of any person to a public office by unlawful means", just as they did with Trump's payment in exchange for a non-disclosure agreement? I know I'm a small-fry and almost no one knows who I am, but do I really want to take that chance? Do I want to support a state that has fallen so far from its duty to secure our rights?

That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,

[Declaration of Independence](#)

It wasn't just Alvin Bragg or Judge Juan Manuel Merchan who turned justice on its head in New York City; it was twelve men and women who participated as well. I was not in the courtroom to see the evidence or hear the testimony, neither was I in the jury room during deliberations. However, if 60 of the first 96 jurors in the pool admitted they could not be impartial, how many did not admit to their biases?

Conclusion

I think there's a lot we can conclude from these two cases. First, the similarities. Both appear to have serious political biases as their root. That doesn't mean there isn't some truth to their arguments. From what I've found out, Israel has gone to extreme lengths to prevent civilian casualties. They've contacted civilians in Gaza, warned them about imminent military actions, published safe zones where civilians can stay and safe routes to get there. That's not to say Israel has been perfect in their actions. The recent fire at a tent camp is still being investigated, along with other accusations. Similarly, the accusation that Donald Trump falsely listed a pay-off as a legal expense may be true, even if the statute of limitations has expired. The accusations of different standards at the U.N., the ICC, and American courts have been going on for decades. However, both Khan's request for an arrest warrant of a western official, and the prosecution of a former president, not to mention the presumptive nominee of a major political party, are unprecedented, and I believe portend bad things in our future. The politicization of our criminal justice systems places not only the United States, but the entire western world, on par with the banana republics we so often chastise.

Similarities aside, there are some differences as well. While any ICC arrest warrant is meaningless in Israel, the conviction of Donald Trump does have many implications, both legal and political. Should Trump be sentenced to jail time, how will the Secret Service, which not only has a duty but the legal power to protect the former President, handle this new territory? There is already a move in Congress to terminate Secret Service protection for anyone convicted of a felony, however by the time any such legislation would pass, it would be ex post facto if applied to Donald Trump, and therefore unconstitutional. In the light of recent events though, does anyone believe that actually matters anymore?

Trust in our institutions has been falling fast. Based on the reactions to the Trump conviction, it appears whatever faith people had is either completely gone or eroding at an astounding rate. If Mr. Khan gets his warrants, especially in the light of reports of Hamas members in UNRWA and the ongoing animosity toward Israel in many U.N. agencies, it seems that trust in the western world may be harder to find than a unicorn. While my lack of faith in their so-called justice system has led me to avoid the State of New York, I'm considering other states to avoid as well, as I do not see this 'slouching toward Gomorra' changing course any time soon. To those of you who are looking toward a Donald Trump election victory to save us, I remind you of the words of George Washington:

The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation, on the ruins of public liberty.

[Washington's Farewell Address 1796](#)

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