

“No One Is Above the Law.” Really Mr. Biden?

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After the jury came in with its verdict that Donald Trump was guilty of a scheme and coverup to illegally influence the 2016 election, the Biden campaign issued a statement saying that the judgment demonstrated that “no one is above the law,” not even a former President. The overwhelming truth is that the majority of criminal laws are not a deterrent to the serious violations of law committed by sitting presidents of the United States.

This includes the incumbent Joe Biden, especially with regard to foreign and military decisions.

At least five long-standing federal laws explicitly condition the shipment of weapons to foreign countries. It is legally impermissible for the U.S. government to provide weapons to countries that violate human rights or use these weapons offensively. Day after day, Joe Biden has become a co-belligerent with Netanyahu's genocidal war crimes and mass slaughter of innocent children, women and men. He has violated all five of these federal laws. (See my February 16, 2024 column: [Biden & Blinken – Rule of Illegal Power Over Rule of Law](#)).

As the military, diplomatic and political enabler of the Israeli government's siege, with the unconditional shipment of weapons of mass destruction, along with civilian bombardment and starvation of defenseless Palestinians in Gaza, Biden is violating the UN Charter and other treaties that past Administrations have signed and that have been ratified by the U.S. Senate. Biden and other presidents act like they are above these and other laws.

One president after another has spent monies not appropriated by Congress, has defied subpoenas issued by Congress, launched wars undeclared by Congress, sent deadly weapons to nations that obstruct the delivery of U.S. humanitarian aid, and that do not protect civilian populations under foreign military rule. All violations of federal law.

Donald Trump in 2019 brazenly stated the lawlessness in one sentence: “ I have an Article II, where I have the right to do whatever I want as President.” Trump got away with defying over 125 Congressional subpoenas, and with violating the criminal statute known as the *Hatch Act* by using the White House and other federal property to promote his re-election campaign. Then of course there was the January 6 insurrection, and the likely delay of his trial until after the election, if at all.

Joe Biden shuffles around unappropriated monies, continues to allow the violation of a 1992 federal law requiring the Pentagon to provide Congress with an audited military budget, and is constantly sending unlawful armed incursions into other weaker countries with impunity.

To make matters easier for presidents, there is the Justice Department’s Office of Legal Counsel memo, from decades ago, that asserts there can be no criminal prosecution initiated against a sitting president.

As attorney Bruce Fein, who worked in the Office of Legal Counsel, has said repeatedly, this baseless opinion has no legal force and should be rescinded. (See, [Letter to Attorney General Merrick Garland, May 31, 2024](#)).

The courts have shielded presidents from accountability for perpetuated crimes committed either by the White House or by the president’s administration. For example, citizens have no “standing to sue,” to challenge in court a variety of Executive Branch abuses says the Supreme Court, not even members of Congress. As for presidential violations of the Constitution and federal laws by launching illegal wars or armed attacks abroad, the courts dismiss such cases, saying they raise “political questions” outside the jurisdiction of the courts.

Being allowed to get away with crimes is what constitutional law specialist Bruce Fein calls “a way of life at the White House.” Obstruction of justice or deliberate non-enforcement of seriously violated laws marks every presidency. Trump just boasted about what he inherited and intensified it.

Again, presidents operate in a system of considerable sovereign immunity, and law that either can’t or has not breached this shielded impunity. They really are above the criminal laws. Only the very difficult political penalty of impeachment by the House of Representatives and conviction by two-thirds of the Senate can only evict them from office, after which they are free to enjoy life, and receive huge lecture fees and large book advances.

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