

“Day of the Endangered Lawyer”? How about “Day of the Law-Abiding Judge”? Or “Day of the Honest Press”?



by Lev Tsitrin

I learned about the just-passed [“Day of the Endangered Lawyer”](#) from an article by a fellow-Russian, Jasmine D. Cameron who is “the senior legal advisor for Europe and Eurasia with the American Bar Association’s Justice Defenders Program,” Writing about far-away places – Afghanistan, Belarus, Azerbaijan, Tanzania, Iraq, and Russia, she thusly summarized the problem: “One of the tools that authoritarian governments now use with greater frequency to restrict and pressure members of civil society and opposition figures is to target the lawyers who represent them in the legal system. The rationale behind this tactic is simple – opponents of autocrats often succeed in pressing their cases in a judicial system, but once a regime manages to sideline principled attorneys – not to mention independent judges themselves – and stacks its official and private-sector legal institutions with government-controlled “pocket” lawyers instead, access to legitimate representation dwindles and rule of law becomes fundamentally compromised.”

Unless I am misreading this, Ms. Cameron suggests that what lawyers argue before the judge matters to the outcome of the case. Perhaps it is so in Afghanistan, Belarus, Azerbaijan, Tanzania, Iraq, and Russia she writes about. But this is certainly not the case in the US federal courts. Unless your case attracted media attention (and only a tiny percentage of cases do), it simply does not matter how good (or to borrow a word from Ms. Cameron, how “principled”) your lawyer is – a judge will simply replace in the decision the argument that does not fit into the predetermined outcome with the bogus argument of judges’ own concoction, the judge shielding himself when sued for fraud with a self-given (in *Pierson v Ray*) right to act from the bench “maliciously and corruptly” – a “procedure” in which “rule of law becomes fundamentally compromised,” as Ms. Cameron put it, indeed.

There is more than one way to skin the cat – or to decide the case arbitrarily. In Afghanistan, Belarus, Azerbaijan, Tanzania, Iraq, and Russia, they do it by substituting lawyers; here in the US, it is done by substituting lawyers’ argument. The net result is essentially identical;; the “rule of judges” replaces the “rule of law.”

Oddly, the very same press that will scream about the “Endangered Lawyer” in Afghanistan, Belarus, Azerbaijan, Tanzania, Iraq, and Russia refuses to touch the illegal, “corrupt and malicious” judging done right here in the US. Having read Ms. Cameron’s piece, I sent a submission to the publication that posted it, [Just Security](#) (“an online forum for the rigorous analysis of security, democracy, foreign policy, and rights”) but no luck, it got rejected. When I asked whether the refusal was due to the reluctance to cover judicial fraud, the reply was that there are a number of factors involved in acceptance or rejection, and those determinants are not disclosed to the authors.

The mainstream press does not want to cover our “corrupt and malicious” judiciary that doubles as lawyers for the party

judges want to win – nor do the organizations ostensibly dedicated to fighting for justice – like the above-mentioned *Just Security* (or like the Brennan [Center for Justice](#) which – who would have guessed? – “works to reform, revitalize, and when necessary, defend our country’s systems of democracy and justice”; or [ACLU](#) which, it tells us, “continues to fight government abuse and to vigorously defend individual freedoms including speech and religion, a woman’s right to choose, the right to due process [!!!], citizens’ rights to privacy and much more. The ACLU stands up for these rights even when the cause is unpopular, and sometimes when nobody else will.” Isn’t judiciary fraud a prime instance of “government abuse,” ACLU?) To all those organizations, judicial fraud does not matter one bit – I can assure you from my attempts to contact them.

I wonder whether the “American Bar Association’s Justice Defenders Program” has, in addition to its Europe and Eurasia section so ably represented by Ms. Cameron, a US section that looks at how “we the people” are being swindled out of justice right in American courts by federal judges who simply ignore what lawyers say, and fabricate their own legal and factual argument on which they base their decisions. How can the mainstream press, and the organizations like ACLU overcome the taboo on looking into how judges make their decisions? Perhaps it would help to create a “Day of the Law-Abiding Judge,” a “Day of the Honest Press,” “A Day of Forthright NGO”? Clearly, a “Day of the Endangered Lawyer” alone is nowhere near enough to guarantee justice in US “justice” system.

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