

Above The Law

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We have all heard it said that “*no one is above the law*” – but is that statement true? This article will examine the various types of legal immunity, who is immune to the (legal) consequences of their actions, and will expose why some people who are granted this immunity are the worst criminals among us. I examine the reasons why these forms of immunity should be immediately rescinded because they violate the very concept of “justice under the law”, and in fact, are violations of the United States Constitution, and of human rights in a civilized society in general.

But before we get into all of that, I want to make a “common sense” observation. I will state the observation in the common vernacular so that everyone – even an imbecile – understands the heart of the matter at hand. That observation is simply this:

He who has the biggest guns, makes the rules.

Who has “the biggest guns” in the world? You guessed it; The United States. This allows us to run roughshod over sovereign nations like Iraq and Afghanistan, lets the President of the United States (George Bush, *et. al.*) construct total bullshit stories about “Weapons of Mass Destruction” that were never there, and go into that country with an invasion force to steal that country’s natural resources (oil), which happens to be the commodity his family in “the oil business” has been dealing in for generations. Where is the accountability to the law for this man and his co-conspirators to face the gavel of justice for what is essentially a war crime? The answer is that there is no accountability, and the reason for that is what is known as “[Parliamentary Immunity](#)” which holds government officials immune from prosecution while they are operating in their elected office.

[Sovereign immunity](#) and its various and sundry spin-offs, has its roots in the law of Feudal England and the premise for it is that “The Ruler can do no wrong” – I reckon that people in Feudal England were either ill-informed, stupid, or naïve – much as we are in the United States today. Public policy grounds for granting immunity from civil lawsuits to judges and officials in the Executive Branch of government survive even today. Sometimes known as *official immunity*, the doctrine was first supported by the U.S. Supreme Court in the 1871 case of *Bradley v. Fisher*¹. In *Bradley*, an attorney attempted to sue a judge because the judge had disbarred him. The Court held that the judge was absolutely immune from the civil suit because the suit had arisen from his judicial acts. The Court recognized the need to protect judicial independence and noted that malicious or improper actions by a judge could be remedied by Impeachment rather than by litigation.

In other words, if a judge or prosecutor railroads you into serving a prison sentence for a crime you did not commit, your only “remedy” is to lobby the citizens for the Judge or prosecutor’s removal from office. Since it would be next to impossible to do this from a prison cell using a manual typewriter and legal help from inmate law clerks in the prison law library, you would have to have someone on the “outside” assist you, or do it for you, or wait until you got paroled.

Even if you won the case and the official is impeached, you would have no way to be compensated for the years you spent picking up soap with your toes in the shower, because the bastard(s) are immune from civil lawsuits. Your only recourse then would be the exercise of your 2nd Amendment rights, and you risk the attendant consequences for doing so.

¹ 80 U.S. 335, 20 L. Ed. 646

Before we get too far into this, allow me to define the types of immunity, so that the reader can become familiar with the terminology.

SOVEREIGN IMMUNITY – (aka: *Official Immunity*) A nation is immune from suit in the courts of another country². At first, courts provided absolute immunity from the jurisdiction of a U.S. court for any act by a foreign state. The courts supported the view that the United States could not be sued without Congressional authorization³. This immunity applied to suits filed by states as well as individuals⁴. Those who had tort claims against the US government had no legal recourse except through an act of Congress on a case-by-case basis.

The Tucker Act⁵ authorizes Federal District Courts to hear contractual claims not exceeding \$10,000 against the United States. In 1946 Congress passed the Tort Claims Act⁶, which authorized U.S. district courts to hold the United States liable for torts committed by its agencies, officers, and employees just as the courts would hold individual defendants liable under similar circumstances. This general waiver of immunity had a **number of exceptions** which made the Tucker Act essentially worthless:

EXCEPTIONS TO THE TUCKER ACT

- Battery
- False imprisonment
- False arrest
- Malicious prosecution
- Abuse of process
- Libel
- Slander
- Misrepresentation
- Deceit
- Interference with contractual rights
- Tort in the fiscal operations of the Treasury
- Tort in the regulation of the monetary system
- Tort in combatant activities of the armed forces in wartime

A head of State such as a King, a President, or a Dictator has traditionally been immune from the law because he commands the government who “has the biggest guns”, or “more guns than the governed” (This is the real reason behind “gun control” legislation). No one protected under this immunity can be arrested and no lawsuits can be filed against a sovereign unless the sovereign allows it to happen (which is practically never).

The federal government of the United States may not be sued under this protection. Of course, a citizen may have a cause of action to bring a lawsuit, and (if they’re lucky) it may even get to trial; the citizen may even win! However, it would all be an exercise in futility because it is extremely rare for a lawsuit against the government or its officials to end up with the plaintiffs being compensated for their injuries. So a lawsuit is essentially moot, and a judgment against the government or its officials is a pyrrhic victory and an exercise in futility if it doesn’t end with some sort of compensation – or “effective remedy”.

Members of Congress and state legislators are absolutely immune from civil lawsuits for their votes and official actions. In 1998 the U.S. Supreme Court extended immunity to local legislators.⁷

² This was tried by U.S. courts in the case of *The Schooner Exchange v. M'Faddon*, 11 U.S. (7 Cranch) 116, 3 L. Ed. 287 (1812).

³ *Chisholm v. Georgia*, 2 U.S. [2 Dall.] 419, 478, 1 L. Ed. 440 [1793]; *Cohens v. Virginia*, 19 U.S. [6 Wheat.] 264, 412, 5 L. Ed. 257 [1821].

⁴ *Kansas v. United States*, 204 U.S. 331, 27 S. Ct. 388, 51 L. Ed. 510 [1906].

⁵ 28 U.S.C.A. §§ 1346 (a) (2), 1491

⁶ 28 U.S.C.A. § 1291 [1946], and 28 U.S.C.A. §§ 1346(b), 2671-2678

⁷ *Bogan v. Scott-Harris*, 523 U.S. 44, 118 S. Ct. 966, 140 L. Ed. 2d 79 (1998)

However, not all immunity is absolute. The Court ruled that President Bill Clinton had to defend himself in a sexual-harassment lawsuit that was based on his alleged actions while governor of Arkansas⁸. The reason the case proceeded is that “getting head” or sexual relations of any sort was not a part of his “official capacity” as Governor.

You will note, a cursory examination of the progression of immunity being extended to more and more people in the government as time goes on, will reveal the fact that the expansion of immunity seems to correlate with the need to protect more and more people from prosecution as criminals, and against civil lawsuits for egregious violations of civil and human rights committed “in an official capacity”, as the corruption in the government expands.

DIPLOMATIC IMMUNITY – Is granted to representatives of foreign governments (and their resident families) by the Vienna Convention Diplomatic Relations Act of 1978⁹. Article 31 of the Vienna Convention does not allow the private residence of a diplomat to be included in a civil suit. Diplomats routinely violate the laws in this country – traffic laws in particular – [watch out for “DPL” license plates] and if I had 1/10th of the money owed by diplomats for parking violations in New York City alone¹⁰, I’d own a Fortune 500 company. US citizens and businesses might as well spit upwind in a Saigon monsoon when filing civil claims against a diplomat, especially in cases of unpaid debts, such as alimony, rent, divorce¹¹, or child support *et. al.* A diplomat can commit a murder or rape, and thumb his nose at the police when they come to arrest him. The worst that can happen to a diplomat who is found committing a serious crime is that he is deported (the taxpayers pay the airfare). In very rare cases where the crime is especially egregious, the diplomat’s country may refuse to enforce the person’s immunity, or refuse to accept him back in his home country. In that case, he leaves for “parts unknown”, and is banned from re-entry into this country.

PROSECUTORIAL IMMUNITY – A State or local prosecutor cannot be arrested for any crimes he commits (such as falsifying evidence) or civilly sued for any Civil Rights violations he perpetrates upon an innocent person in the courtroom. This effectively gives prosecutors *carte blanche* to lie (or cause witnesses to lie) under oath, and gain false convictions thereby. Under Qualified immunity, prosecutors can also, with impunity, withhold exculpatory evidence¹², interfere with attorney – client communications, and can effectively bias a case by interfering with such essential, Constitutionally protected processes.

JUDICIAL IMMUNITY – A judge is not criminally or civilly liable – They cannot be arrested and they cannot be sued for any crimes or violations of the law – even the US Constitution – while they are acting “in their official capacity”. A judge can conspire with the District Attorney to exclude evidence that favors the accused in a high-profile or “sensitive” case, or a case in which he has a “vested interest” in order to gain a false conviction and public notoriety as a “tough-on-crime” judge. That same judge can walk out of the courtroom and get in his car and be arrested for DUI minutes later. Since driving a car is not an act of his “official capacity”, he can be charged, but being a member of the “good ol’ boys club” of judges, do you really think he would serve any prison time for it?

PALIAMENTARY IMMUNITY – This keeps elected government officials immune from prosecution while acting “in their official capabilities”. [Parliamentary Immunity](#) is essentially Prosecutorial Immunity *sub nom.*¹³

⁸ Clinton v. Jones, 520 U.S. 681, 117 S. Ct. 1636, 137 L. Ed. 2d 945 (1997)

⁹ 22 U.S.C.A. § 254a et seq.

¹⁰ In Feb 1995, Mayor Rudolph Giuliani of New York City forgave \$800,000 in parking tickets accumulated by foreign diplomats.

¹¹ Fernandez v. Fernandez, 208 Conn. 329, 545 A.2d 1036, 57 USLW 2115 (Conn., Jul 19, 1988) (NO. 13283)

¹² Brady v. Maryland, 373 U.S. 83 (1963) [[Article on Wikipedia](#)]

¹³ *Sub nom* [Latin] “under another name”.

QUALIFIED IMMUNITY – Prosecutors cannot be sued for having lawyers searched, or for interfering with the lawyer who is advising a client appearing before a grand jury¹⁴. One of the main goals of qualified immunity is to remove the defendant from the lawsuit as quickly as possible, thereby reducing legal costs. Justice Anthony Kennedy restated the principle that immunity is not a “mere defense” to liability but [it is] an “immunity from suit.”

Immunity from the law is not a free pass to commit crimes, however. There are several instances where some person who thinks that they are immune to prosecution actually becomes convicted of serious crimes. Usually cases that involve such persons are very costly and time consuming. Cases against people who have immunity are often undertaken because of the obvious seriousness of the charges.

Hundreds of thousands of cases for egregious criminal conduct could be brought against police, prosecutors, judges, and politicians who have (or had) ulterior motives or vested interests for violating the rights of US Citizens. This is especially true in cases where “social workers” or other “child protective” agencies walk into a home and remove a child or children from a home without probable cause, without any evidence of a crime being committed, and without any due process of law whatsoever. In fact, false allegations of “child abuse” were one of the reasons for the FBI / ATF raid on Waco and Ruby Ridge. See articles and videos posted on the following pages:

<http://www.serendipity.li/waco.html>

<http://www.Net4TruthUSA.com/ACSAAbuse.htm>

<http://www.Net4TruthUSA.com/righttopetition.htm>

It is the purpose and intent of this writer to rally support among the American people for the total abolition of Immunity from Prosecution in all of its varied forms. Immunity from prosecution = Freedom to commit crimes and Civil Rights violations with absolute impunity, which flies in the face of “justice under the law” in any meaningful context. Citizens who are wronged by the government should have an effective remedy to bring their case to bar, and to have all evidence openly demonstrated – whether the “court” deems it relevant or not; a jury of one’s peers should be the ones who decide what evidence is relevant – not a judge, prosecutor, or District Attorney who may have a personal or professional interest in prejudicing a case against a defendant.

In addition, I propose that a reverse of the current doctrine should be enforced at the Federal level; that is, any person found to have committed a crime (such as, but not excluding fabrication of evidence, withholding of exculpatory evidence, tampering with a jury, interfering with or monitoring communications or written correspondence between a lawyer and his client *etc.*) shall be arrested and charged as ordinary citizens would, and if found guilty of such violations, be FIRED from his position, lose all benefits and pension accrued, and be sentenced for those crimes, and in addition, a mandatory sentence extension to run consecutively with the sentence for the crimes committed, of **twice** the maximum sentence the defendant served or would have served – and that the punitive sentence would be served without the possibility of reprieve or parole.

In addition, the former official would become civilly liable in his private person, to civil tort actions by the person or persons he has harmed. I propose that the immunity protections that were afforded these individuals were unconstitutional to begin with, and therefore, are of no force presently, nor were they of any force in the past. Therefore with the Immunity provisions being globally rescinded in their entirety, US Citizens who were harmed by official misconduct or criminal acts, violations of their God-given Constitutional rights as Americans, or other egregious behavior by government officials, will now have *ex-post-facto* cause of action for criminal and civil prosecutions of those officials.

¹⁴ Conn v. Gabbert, 526 U.S. 286, 119 S. Ct. 1292, 143 L. Ed. 2d 399 (1999).

THE PETITION

SIGN THE PETITION: [HTTP://WWW.IPETITIONS.COM/PETITION/REPEALIMMUNITYLAWS](http://www.ipetitions.com/petition/REPEALIMMUNITYLAWS)

The Citizens of The United States of America hereby demand that the Sovereign, Judicial, Prosecutorial, Parliamentary, and Qualified Immunity Doctrines which currently shield government and law enforcement officials from prosecutions for crimes committed, and egregious conduct engaged in while “*in their official capacity*”, be immediately and henceforth rescinded in their entirety.

The United States Constitution was written on the premise that “*No man is above the law*”; a logical extension of “*All men are created equal*”. However, for the past 200 years, certain government officials and employees have been protected from prosecution and civil tort actions by various forms of “Immunity”, which serve to encourage egregious conduct and criminal behavior, because the persons so-protected know that they can act with impunity, and will not be held accountable for their actions.

The various forms of Official Immunity renders the right of the Common Man to have “*an effective remedy*” against corrupt government agents moot, and utterly and all but completely negates the likelihood of a person so violated to sue for just compensation for his / her injuries.

We recognize that a course of action to IMPEACH government officials is provided for in the law, but impeachment of a guilty government official or police officer who caused a person to be wrongfully accused and / or convicted of a crime he did not commit, or a mother whose children were [removed from the home by ACS/CPS](#) without evidence to support abuse or neglect, for example, does not compensate the wronged party for injuries suffered as a result of the official’s criminal misconduct.

We therefore demand that all such immunity be immediately rescinded, and that all men – whether in service to their government or otherwise – be criminally and civilly liable for their conduct as are private citizens who have no such government affiliations.

In addition, we demand that convictions of government officials of these crimes carry sentences three times that of the Penal Law Statutes, and if the egregious behavior resulted in a wrongful arrest or conviction of a citizen in such case, for the citizen’s “time served”, or time that *would have been* served in the case of an overturned conviction in such a case, be served consecutively by the government official with no possibility of early release, pardon, or parole.

The doctrine of “*The Ruler can do no wrong*” has no place in the American Justice System, and we, the undersigned, demand its repeal of “Immunity” in all of its forms in the law in its entirety, and its practice in US courtrooms to be outlawed.

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<http://ftp.resource.org/courts.gov/c/F3/482/482.F3d.582.06-5324.html>

http://judicialmonitor.org/archive_summer2010/generalprinciples.html

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Ten years since the Waco massacre

<http://www.wsws.org/articles/2003/apr2003/waco-a25.shtml>

The political lessons of the Waco massacre

<http://www.wsws.org/articles/1999/aug1999/wac2-a27.shtml>

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