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BACKGROUND PAPER

Topic: “The question of presidential immunity: the case of Donald Trump”.

International Court of Justice

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Chair and Moderator:

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Committee Background

The International Court of Justice (ICJ), which entered into force in April 1946, is the main judicial organ of the United Nations. It is the one in charge of settling, in accordance with international law, legal disputes; these disputes can be submitted to it by the States (contentious cases) or they can be requests for advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies (advisory proceedings). (International Court of Justice, n.d.).

The ICJ contributes to global peace and security, and it participates in a worldwide fight to end impunity, by being the way in which countries can resolve issues without resorting to conflict. (United Nations, n.d.). It also plays a crucial role in discussing presidential immunity, because it is the one with the power to limit the immunity of sitting heads of states, according to the principle that no person should be above the law (Brennan Center for Justice, 2025), and that a president can not have unbounded executive power or authority. (Cabral, S. 2024)

Introduction of the Topic



The application of presidential immunity has been a long controversial issue, particularly within the United States, where legal tradition has often assumed that the president is exempt from liability, legal procedures, and prosecution for acts carried out in the exercise of official duties. However, this understanding primarily reflects domestic legal interpretations and requires a clearer distinction between civil immunity and criminal immunity. (Emmons, 2025)

In the case of former President Donald Trump, debates surrounding immunity have focused on whether he is protected by civil or criminal immunity for actions taken while in office. Under U.S. law, such immunity may apply only to official acts, yet determining whether certain conduct qualifies as official or unofficial remains legally contested. This ambiguity highlights the limitations of domestic immunity frameworks. (Congressional Research Service, 2024)

This ambiguity has broader implications for constitutional governance. The scope of presidential immunity raises significant questions regarding executive accountability, the effectiveness of checks and balances, and the preservation of the rule of law. Legal scholars have expressed concern that expansive interpretations of immunity may challenge democratic accountability and the balance between executive power and legal responsibility. (Emmons, K., 2025)



Evolution of the Topic

On July 1st, the United States Supreme Court issued a divided 6–3 decision in the case involving former President Donald Trump against the United States. For the first time, the Court addressed the existence and scope of constitutionally-based presidential immunity from criminal prosecution, establishing that immunity may apply to official acts carried out while in office. (Congressional Research Service, 2024)

In its ruling, the Court was able to resolve only part of the criminal charges brought by Special Counsel Jack Smith. It determined that certain actions related to the alleged efforts to overturn the results of the 2020 election could fall within the President’s core constitutional powers. As a result, immunity was maintained for those acts, unless it can be demonstrated that such authority clearly exceeded the limits of criminal law. (Congressional Research Service, 2024)

However, the Court left other charges unresolved, particularly those involving election-related activities and interactions with private parties. These matters were set aside for individual analysis, in order to determine whether the actions constituted official presidential responsibilities or personal conduct, for which no immunity would apply. (Congressional Research Service, 2024)



External Actions

- **Expansion of immunity claims to new legal challenges:** Trump's legal team has involved the Supreme Court's broad immunity ruling to defend against new allegations.
- **Aggressive use of executive authority:** Concerns have been raised that the ruling emboldens presidents to take aggressive, and potentially criminal, actions while in office by using the levers of federal power.
- **Influence on International Legal and Democratic Norms:** The case has influenced broader international discussions on the rule of law and executive accountability, serving as a reference point in global debates over the limits of presidential immunity and the extent to which domestic legal protections for heads of state align with international legal norms.
- **New scrutiny of financial dealings:** Without the court's expansive immunity ruling, his involvement in these areas would face greater legal barriers related to conflicts of interest.
- **Impact on other federal government officials:** Legal scholars are publishing new research, analyzing how the immunity decision's ripple effects influence accountability throughout the executive branch.
- **Litigation over removal powers:** Concerning the ability to remove federal officials. This case is seen as another potential expansion of executive authority.
- **Chilling effects on oversight:** Some critics warn that the ruling creates a "chilling effect" on any attempts to prosecute a president for official conduct, as it now requires prosecutors to overcome a strong presumption of immunity. This makes it more difficult for the courts or congress to check a president's power.





Committee Focus



The International Court of Justice (ICJ), is the one which settles, in accordance with international law, legal disputes. (International Court of Justice, n.d.).

The committee's priorities include the separation between legislative, executive, and judicial powers; democratic accountability; law regulation; presidential immunity; analyzing the limits of immunity under international law; executive privilege; and to establish what the specific rules are for considering an act as official or unofficial under the law.

It aims to analyze how executive power and democratic accountability are balanced in the Donald Trump case and what their national and international implications are.

It expects to address the following questions:

- At what point does political misconduct become an international offense?
- Can abuse of executive power lead to international crimes?
- Can official acts exceed law?



Conclusion

Overall, the case of presidential immunity in relation to Donald Trump highlights a critical debate at the intersection of justice, accountability, and political power. This issue challenges the balance between upholding the rule of law and protecting the functions of high office. The question of whether a former or sitting president should be immune from prosecution underscores broader concerns about equality before the law and the integrity of democratic institutions.

The implications of this case extend far beyond the United States, serving as a precedent for how global leaders might be held accountable for potential violations of national or international law. Within the context of the International Court of Justice, this topic invites a deeper examination of state sovereignty, the limits of executive authority, and the mechanisms that ensure justice is applied universally.

Discussing this matter allows delegates to explore how immunity can both safeguard governance and, if misused, shield leaders from responsibility. It also opens dialogue on how the International Court of Justice and similar institutions can promote transparency, prevent abuse of power, and reinforce the principle that no individual, regardless of position, stands above the law. This case serves as a reminder that the pursuit of justice and accountability remains essential for the preservation of democracy and international order.



Attorney Position

Defense attorney: (Donald's Trump Attorneys)

Their goal is to prevent criminal prosecution against the president Donald Trump, by arguing that he is immune from charges related, that he took while being president.

Main legal arguments:

- Any actions that he took while in office, especially those connected to the 2020 election are considered as "official acts", from which he has absolute immunity from prosecution.
- No former United States president has ever been criminally prosecuted for acts in office, implying a constitutional tradition of immunity.
- A president must have full immunity for official acts to carry out his authority duties without fear of criminal retaliation.

Prosecution attorney:

Their goal is to make Donald Trump accountable for alleged illegal acts, related to the attempt to overturn the 2020 election.

Main legal arguments:

- No one, no matter the charge they have, should be above law.
- The acts that were committed were unofficial, personal and political acts that aimed at staying in power.
- They demand that democratic accountability is crucial to rule the law.
- Granting presidential immunity allows presidents to commit crimes without impunity.
- Presidential immunity cannot shield criminal acts.

Participation List



Defense attorney
1



Defense attorney
2



Defense attorney
3



Defense attorney
4



Defense attorney
5



Defense attorney
6



Prosecution
attorney
1



Prosecution
attorney
2



Prosecution
attorney
3



Prosecution
attorney
4

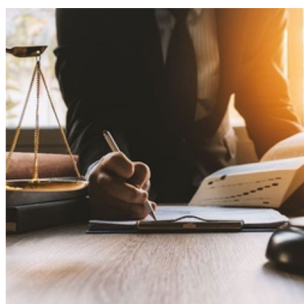


Prosecution
attorney
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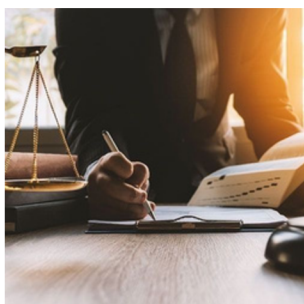


Prosecution
attorney
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Participation List



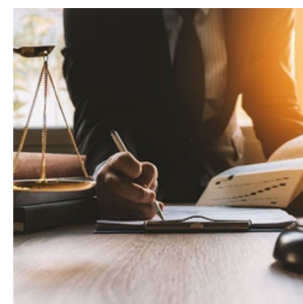
Judge 1



Judge 2



Judge 3



Judge 4



Judge 5



Judge 6



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