

Pavel Durov Still Does Not Get It

By [Stephen Karganovic](#)

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After being released on bail from a French prison, Russian entrepreneur Pavel Durov made several statements which indicate that he is labouring under grave illusions about the nature of his predicament. [He described the action of the French authorities](#), which resulted in his arrest and detention on French territory, as “surprising and misguided.” He then went on to question the legal premise of his detention and subsequent indictment, which is that he could be held “personally responsible for other people’s illegal use of Telegram.”

It is disappointing to see a 39 years old sophisticated cosmopolitan adult, traumatised as he must be by his recent experiences, reasoning like a child. One should have expected a person of Durov’s wealth to secure competent legal assistance to help him understand the legal “facts of life” pertaining to his case.

There are two basic facts that the lawyer selected by Durov to represent him should have explained to his client. Incidentally, that lawyer is extremely well wired into the French establishment and the judicial system which is persecuting his bewildered *protégé*. It would not be uncharitable to say that his loyalties are dubious.

The first and most fundamental of these facts is the political nature of the case. Durov’s predicament cannot be properly understood apart from that reality. Recognition of that fact does not exclude entirely the effective use of legal arguments and remedies but it marginalises their practical impact. The second important fact that a conscientious legal professional already in the first interview would have made clear to his client is that in the real world in which Durov is facing grave criminal charges, indulging intuitive notions of justice, including the premise that a person cannot be held criminally liable for third-party acts, is a naïve and utterly misguided approach.

Pavel Durov is a highly intelligent and, in his field, very accomplished individual. But on another level he is just a computer nerd and his incoherent actions and statements are proof of that. Contrary to what he seems to think possible, and as incompatible as that may appear to be with the concept of natural justice, under specific circumstances an individual can be criminally charged for the acts of third parties. Mechanisms that make that possible already are firmly in place. We would not necessarily be wrong to characterise those mechanisms as repugnant to the natural sense of justice, or even as quasi-legal. But formally they are well established and are integral components of criminal law. Tyrannical political systems are free to invoke those instruments whenever they decide to target a [bothersome non-conformist such as Pavel Durov](#).

Whilst on the one track relentless pressure is undoubtedly being applied to the conditionally released but still closely supervised Durov to accede to the demands of deep state structures and turn Telegram’s encryption keys over to security agencies, on a parallel track the legal case against him is being constructed. It will be based on some variant or

derivative of the theory of strict liability. The exact contours of that variant are yet to be defined as the case proceeds, and everything will depend on how the defendant responds to the combination of carrots and sticks that are now being put in front of him. Since no evidence is being offered to prove that acting personally in his capacity as Telegram CEO Durov was complicit in any of the incriminating activities listed in the charge sheet, the only conclusion that can be drawn is that some version of strict liability will be the vehicle of choice to make the accusations stick. Unless he capitulates, the objective is to put him away for a long time, or at least to threaten him credibly with such an outcome in order to exact his cooperation. Strict liability is a convenient tool because it offers many shortcuts to the Prosecution. It achieves the desired effect in the absence of proof of specific intent and regardless of the defendant's mental state, thus eliminating major evidentiary hurdles for the prosecution.

Furthermore, from the beginning of the Durov case groundwork was notably being laid for the application of the Joint Criminal Enterprise [JCE] doctrine as developed by the Hague Tribunal, its category III to be precise. Even seasoned lawyers practicing at the Hague Tribunal were at a loss what to make of that legal improvisation. But their incomprehension did not prevent successive chambers from sentencing defendants to decades of prison, wholly or in part based on it.

Durov is being charged on 12 counts, including complicity in distributing child pornography, drug dealing and money laundering. It should again be recalled that it is not even alleged that Durov personally committed or intentionally participated in the commission of any of those offences. The charges stem from the accusation that Telegram's lax moderation rules allow for the widespread criminal use of the platform by others, with whom it is not claimed that Durov entertained any direct personal link or that he was even aware of their existence.

But the marvellous feature of the category III JCE doctrine, specially invented by the chambers of the Hague Tribunal to accommodate the Prosecution in situations in which it could not contrive even the semblance of a nexus between the defendant and the crimes being imputed to him, is that it does not require any of those things. A vaguely inferred commonality of purpose, coupled with the assumption that the defendant should have been able to foresee but failed to prevent the illicit conduct of the third parties with whom he is being associated by the Prosecution, and with whom he needn't have had direct communication or even personal acquaintance, serves as a sufficient link. If in the chambers' considered judgment the defendant contributed substantially to generating conditions conducive to third-party unlawful conduct, that is enough. Proof that the third parties had committed the charged acts is sufficient basis to convict and no disavowal of criminal liability is practically possible.

If in relation to the third parties the defendant is situated in a position that the court deems culpable, nothing more is needed for liability for their conduct to be imputed to him.

The system's prosecutors are eager to make those and perhaps some even more ingenious arguments to sympathetic judges. Woe to the person sitting in the dock.

That is precisely the general direction in which the Durov case is moving. In an ominous but highly indicative development, the [French prosecutors are highlighting the alleged paedophile offences of an individual user of Telegram, who for the moment is identified cryptically only as "X,"](#) or "person unknown," and who is suspected of having committed

crimes against children. The prosecution's objective is to individualise and dramatise Durov's guilt by connecting him to a specific paedophile case, the details of which can be disclosed later. If that sticks, some or all of the remaining charges in due course may even be dropped, without prejudice to the prosecution's overarching goal of incarcerating Durov for a long period of time, unless he compromises. Paedophilia and child abuse alone merit a very lengthy prison sentence, without the necessity of combining them with other nasty charges.

In that regard, equally ominous for Durov is the [activation, as it were on cue](#), of his ex-whatever in Switzerland, with whom he is alleged to have sired at least three out-of-wedlock children. Prior to his detention in France, Durov had capriciously terminated her 150,000-euro monthly apanage. This was a financial blow which naturally left her disgruntled and receptive to the suggestion of the investigative organs to come up with something to take revenge on her former companion. The woman is now [accusing Durov of having molested one of the children](#) that he had conceived with her. That is an independent and serious new charge whose potential for further mischief should not be underestimated.

Pavel Durov should stop wasting his time attempting to lecture his French captors on the wrongfulness of the persecution to which they are subjecting him. They are completely uninterested in the philosophical and legal principles to which Durov is referring. Like their transatlantic colleagues, who display juridical virtuosity by indicting ham sandwiches, with equal facility and with as little professional remorse French prosecutors are prepared to indict *bœuf bourguignon*, if that is what the system they serve demands of them. Far more than a legal strategy, Durov now needs an effective negotiating position (and perhaps also a crash course in poker) to preserve the integrity of his enterprise and to fully regain his freedom without sacrificing honour. For an excellent introduction to the Western rules based order, Durov need look no further than the woeful predicament of [Dr. Reiner Fuellmich, the German-American lawyer](#) who for months has been languishing in a German prison after being targeted on trumped-up charges for exposing the fraud of the recent "health emergency" that we all vividly recall.

Properly understood, the Durov affair should come as a sobering lesson not only for its principal but more importantly for the edification of the frivolous Russian intelligentsia who still entertain adolescent illusions about where the grass is greener and continue to nourish a petulant disdain for their own country, its way of life, and culture.

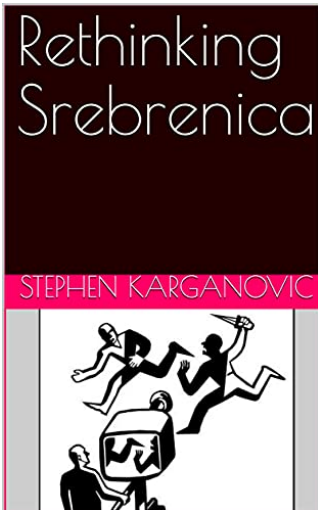
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Rethinking Srebrenica

By Stephen Karganovic

Rethinking Srebrenica examines the forensic evidence of the alleged Srebrenica “massacre” possessed by the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. Even though the ICTY created more than 3,500 autopsy reports, many of these autopsy reports were based on bone fragments, which do not represent complete bodies. An examination of the matching femur bones found reveals that there were only about 1,900 complete bodies that were exhumed. Of these, some 1,500 autopsy reports indicated a cause of death consistent with battlefield casualties. Only about 400 autopsy reports indicated execution as a cause of death, as revealed by ligatures and blindfolds. This forensic evidence does not warrant the conclusion of a genocide having taken place.

Karganovic examines the events that took place in Srebrenica in July 1995 in a wholistic manner instead of restricting it to a three-day event. The ten chapters cover:

- 1) Srebrenica: A Critical Overview;
- 2) Demilitarization of the UN Safe Zone of Srebrenica;
- 3) Genocide or Blowback?;
- 4) General Presentation and Interpretation of Srebrenica Forensic Data (Pattern of Injury Breakdown);
- 5) An Analysis of the Srebrenica Forensic Reports Prepared by the ICTY Prosecution Experts;
- 6) An Analysis of Muslim Column Losses Attributable to Minefields, Combat Activity, and Other Causes;
- 7) The Genocide Issue: Was there a Demonstrable Intent to Exterminate All Muslims?;
- 8) ICTY Radio Intercept Evidence;
- 9) The Balance Sheet; and
- 10) Srebrenica: Uses of the Narrative.

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