

# Televise Trump's trials!



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Guest columnist

Jury selection is complete in the criminal trial charging former president and current presidential candidate Donald J. Trump with feloniously covering up his cash payment to an adult film star for her silence about his adulterous, pre-election sexual affair with her, as well as for covering up others' payments to women to suppress negative stories about him.

Whenever Trump is involved, there inevitably follow — by his choice — conflicts of race, discrimination, policing, prosecution, law, lawyering, money, culture, civility, truth, history and even the nature of democracy.

As O.J. Simpson's recent death has reminded us, so, too, were there similar clashes and confrontations in his murder trial 30 years ago.

There is currently, however, a major difference in the trials of these two defendants: Americans are unable to watch Trump's trial

real-time on television, the most powerful medium for meaningful, unadulterated, individual evaluation.

Future trials of Trump threaten the same debilitating media deficiency.

The literature is voluminous on cameras in the courtroom. Personally, I come down on the side of televising Trump's trials. I do not here wade through the legal weeds of how to accomplish this openness except to say that it is possible. I will try, however, to provide reasons for televising his trials beyond their sheer historic momentousness.

The real question is, why not broadcast his trials? Mere past reluctance, in this media age, leaves us bereft.

Consider the way news coverage proceeds now without live, real-time television access. (I refer to the proceedings after the jury is sworn and am less concerned about the tedious jury selection process.)

What we get are Trump's one-sided bloviations outside the courtroom, after court, or when court is in recess. Thereafter, a reporter is often called upon to "tell us what it was like inside the courtroom."

It is a poor substitute. We don't see for ourselves facial expressions, body language, conflicts, hesitations, voice inflections, reactions, mood or tension. Missing, in other words, are all the clues we humans use to evaluate truth-telling, or its opposite. The palpable back-and-forth question-and-answer flow is lost.

It is like trying to broadcast a stroke-by-stroke tennis match on the radio; it isn't done, because it cannot be done adequately.

While a picture is worth 10,000 words, courtroom sketches are a poor substitute for dynamic action. Sketches only capture an instant in time compared to the full give-and-take of a continuous process of building a case, or attempting to demolish it, through sequential witnesses, lines of questioning and cross-examination.

These are the very things that will inform the electorate and give voters the chance to be the real essence of democracy. And snippets can be rebroadcast for those unable to watch in real time.

Are there downsides to televising? Past televised trials have shown we can easily protect juror anonymity. What about showboating lawyers, judges, witnesses?

I was a trial judge from 1979 until retirement in 2019. I never had occasion to be televised (or even been asked), but I was already performing my duties in many instances before a courtroom full of dozens of people. "Performing" on TV would have been, it seems to me, not so different. If we are performing for anybody, it is the appellate courts (TV or no TV), because we trial judges fiercely want not to be reversed for legal error, much less intemperance. And it is the same for the lawyers who must concentrate on persuading the decision-making judge and jury.

As for witnesses, they can tell the truth, but also lie, prevaricate, forget, evade, hedge, distort, dodge, exaggerate, fabricate, garble and more. But these are the very things we want to be able to discern first-hand; they are not exacerbated by being televised and can sufficiently be controlled by the presiding judge.

Bring it on! On television! We'll all be better for it.

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