

## **Arbour's Preemptive Strike**

**Author:** IWPR

The timing of the Milosevic indictment was indeed calculated -- to head off any diplomatic deals that might try to undermine the work of the Tribunal.

For almost three years, Prosecutor Louise Arbour has faced one irritating question at every press conference and every interview: Why has she not indicted Yugoslav President Slobodan Milosevic, and when was she planning to do it?

After she announced, on Thursday May 27, that Milosevic and four other high officials were indicted for crimes against humanity and violations of the laws and customs of war, one of the first questions journalists asked was: Why now?

Quite simply, Arbour said, because the Office of the Prosecutor now holds sufficient evidence that will withstand examination before the Tribunal once the indicted are brought to The Hague. The timing of the indictment, she said, was dictated only by the quality of that evidence, not any political motives.

Arbour also admits that the indictment is far from complete. It does not necessarily represent the final word on the responsibility of the five indicted political and military leaders. This is because the indictment against "Milosevic & Others" only covers the period of the last five months of this year.

The prosecutor openly proclaims that some of the indicted leaders could be held responsible for certain earlier events, not only in Kosovo but also in Croatia and Bosnia and Herzegovina. The investigation, therefore, continues--as do the Kosovo crimes.

The indictment is therefore likely to be widened and deepened at a later stage, particularly if Arbour and her team are allowed access to the sites of crimes in Kosovo. If the present readiness of the Western governments to throw open their intelligence archives to the Tribunal continues, the case could go into the Balkan wars from the first half of the decade.

If this is the case, why did Arbour not wait until she completed her investigation of the political and military leadership of Serbia and Yugoslavia, rather than raise an "incomplete" indictment put together in haste?

Arbour does not hide the fact that the prosecutor's office tried to process the available information as quickly as possible. But this speed does not appear to be motivated by an interest to increase pressure on Milosevic, as Belgrade charges.

Arbour was in fact in a hurry to pre-empt any political deal over Kosovo in which the interests of justice would be sacrificed at the altar of Realpolitik. US envoy Richard Holbrooke took this approach in his agreement with Milosevic last October.

Announcing the indictment, Arbour admitted that she had been "very concerned that these accused--alone or with the assistance of others--might succeed factually in putting themselves outside of the reach of the law, go somewhere, disappear.

It was a source of concern that I thought was serious enough, that required us to deploy a particular effort

in the office to lead this investigation to completion as quickly as possible."

Arbour obviously took seriously rumours of recent weeks that Milosevic was seeking a guarantee of immunity from international criminal prosecution--or even a "golden exile" in South Africa or some other country--in exchange for his assent to a political solution for the current crisis.

This is why Arbour requested Judge David Hunt, who confirmed the indictment, to issue an international arrest warrant, as well as a court order requesting all states to search for and freeze any assets of the accused, to prevent them from being used for the purpose of evading justice. Judge Hunt accepted Arbour's request, and the court order has already been circulated internationally.

From last Thursday, as Arbour noted, the world has become much smaller for Slobodan Milosevic and the four co-accused. For those politicians who may have been thinking of a political deal at the expense of justice, Arbour's fait accompli has also given them one less option to consider.

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