

The Case Against Milosevic

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Slobodan Milosevic is accused of orchestrating many atrocities, but prosecutors have found it hard to build up a case against him

A combination of Milosevic's guile, desperate realpolitik and nervous Western intelligence agencies has made life difficult for those prosecuting the former Yugoslav president for war crimes.

The "Butcher of the Balkans" is not charged with genocide nor for notorious atrocities in Croatia and Bosnia-Herzegovina in the early 1990s.

The international war crimes tribunal indicted Milosevic in 1999 for crimes committed during the Kosovo conflict the same year, six years after the court's creation.

Chief Prosecutor Carla Del Ponte says she is preparing to widen the indictment against Milosevic to include events in Croatia and Bosnia. But those who suffered from his terror keep asking - why has it taken so long?

Milosevic covered his tracks well and left few fingerprints, keeping an artificial legal wall between himself and the army, police and paramilitaries executing his orders. The Belgrade regime, Milosevic would tell diplomats, was not directly involved in the "civil wars" raging in breakaway republics.

Separate Serb armies were supposedly fighting for their "hearths" in Croatia and Bosnia. The tribunal saw this as a smokescreen, but has acknowledged that proving the "chain of command" in court is not so easy.

Evidence showing command responsibility is "neither self-evident nor as easily available" as the public perceives it to be, Louise Arbour, the former chief prosecutor for the tribunal, told IWPR in a 1998 interview. "What on paper or by law may appear to be a command structure, may not be so in reality."

The tribunal will have to prove that Milosevic enjoyed unofficial, overwhelming power and that Yugoslav legal protocol was a mere fiction.

In its indictment of Milosevic and four of his deputies, The Hague describes Milosevic as exerting official and de facto military and police control in Kosovo.

As head of the Supreme Defence Council during a state of war, Milosevic had legal authority over the Yugoslav army as well as police and security forces nominally under Serbian republican control, the indictment states.

The indictment also identifies Milosevic as "exercising extensive de facto control over numerous institutions" involved in mass deportations and massacres in Kosovo. And it clearly prepares the ground for expanding charges to include atrocities in Croatia and Bosnia.

Tribunal officials have complained privately and publicly that Western governments funding the

international court have been less than forthcoming in sharing vital intelligence material and have failed to assist in the arrest of indictees still at large in the Balkans.

In the trial of a senior Bosnian Serb general accused of ordering the massacre of Bosnian Moslem men and boys in Srebrenica, tribunal prosecutors used US satellite photos of mass grave sites. But prosecutors have had to rely on the Bosnian government military for crucial radio intercepts.

Political analysts say the harsh reality is that the tribunal has to be grateful for whatever information that is passed on by Western intelligence agencies. . "When we behaved ourselves[cooperated], information was passed on, when we were not [cooperating] we did not get any," Arbour once told a reporter.

Divulging sensitive data could prove embarrassing for some governments, especially if it appears that action could have been taken to prevent massacres of civilians. Moreover, Western powers have sometimes been unhappy about the tribunal's outspoken demands for NATO troops to arrest war crimes suspects.

Not long ago, diplomats desperate to end the fighting in the former Yugoslavia invited Milosevic to European capitals for peace talks. Talk of charging Milosevic with war crimes faded quickly after 1992, when the former acting US secretary of state Lawrence Eagleburger, referred to Milosevic as a "probable war criminal".

At a Paris signing ceremony for the Dayton peace accords, the Serbian leader shook hands with ex US president Bill Clinton and his French counterpart Jacques Chirac. Foreign ministries described Milosevic as a powerful figure that could not be ignored.

The most wanted war crimes suspect became Radovan Karadzic, the Bosnian Serb leader who Milosevic annointed as his frontman on the eve of the war in Bosnia. Karadzic remains at large despite appeals from the tribunal for his arrest.

With Milosevic sabotaging the Bosnian peace agreement and fueling fresh violence in Kosovo and Montenegro, exasperated Western governments shifted their stance and began hinting at a possible war crimes indictment, particularly since new evidence against Milosevic had emerged.

After a meeting with former US secretary of state Madeleine Albright last autumn, chief prosecutor Carla Del Ponte expressed her satisfaction with American cooperation and soon after promised to extend Milosevic's indictment.

Human rights activists believe Albright helped the prosecutor strengthen evidence supporting charges of ethnic cleansing and massacres in Croatia and Bosnia.

If the new Belgrade government transfers Milosevic to The Hague now, he will face three counts of crimes against humanity for unlawful deportation, murder and persecution on political, racial or religious grounds; and one count of violating the laws or customs of war during the Kosovo conflict.

His indictment for crimes committed in Croatia and Bosnia is believed to be imminent.

Two of Milosevic's former colleagues are already in custody at the tribunal detention centre in The Hague - Momcilo Krajisnik and Biljana Plavsic. The former senior Bosnian Serb politicians pose a serious threat to

their old boss and could deliver damning testimony, particularly Plavsic who never made a secret of her contempt for Milosevic.

After the arrest of Milosevic in Belgrade over the weekend on domestic charges of abuse of power and embezzlement, the prospect of a trial in The Hague is now a real possibility if not a likelihood.

If and when Milosevic ends up at the tribunal, it will face the daunting challenge of convincing his victims that it is not too late for justice to be done while persuading a sceptical Serbian public that its evidence and procedures are beyond suspicion.

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