

## Historical Revelations from the Milošević Trial

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### Abstract

Controversy over Serbia's<sup>1</sup> role in the decade of wars in the former Yugoslavia continues. The trial of Slobodan Milošević unearthed significant new material in documents and testimony, despite the trial's premature end with Milošević's death. While there was no legal resolution, evidence revealed at trial provides a rich resource for historians to further examine some of the major controversies arising from the disintegration of Yugoslavia and the decade of wars that ensued. This article will highlight evidence relevant to the following issues: Was Serbia opposed to disintegration and war or did Milošević seek it in his quest for power? Were the wars in Croatia and Bosnia-Herzegovina civil wars in which Serbia was not involved except to provide humanitarian aid and negotiate for peace or was Serbia a primary protagonist? What was Serbia's role, if any, in the Srebrenica genocide?<sup>2</sup> Was Serbia, NATO or the Kosovo Liberation Army (KLA) responsible for war and ethnic cleansing in Kosovo? While the trial of Milošević did not attempt to establish Serbia's or the FRY's responsibility, actions taken by Milošević

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<sup>1</sup> I use 'Serbia' or 'Belgrade' in this article as shorthand for the former Federal Republic of Yugoslavia (FRY), consisting of Serbia and Montenegro, unless the context requires otherwise. Milošević was president of Serbia and de facto head of the FRY from its inception until July 1997 when he became president of the FRY.

<sup>2</sup> Some issues will reach a final judicial decision in other trials at the International Criminal Tribunal for the former Yugoslavia (ICTY) and in domestic courts in the region. See for example, trials of Momčilo Perišić, Jovica Stanišić and Franko Simatović, Vojislav Šešelj, Radovan Karadžić, and Ratko Mladić. The ICTY convicted former JNA Chief of Staff General Momčilo Perišić of aiding and abetting the murders and forcible transfer of Bosnian Muslims in Srebrenica, among other crimes and sentenced him to 27 years in prison. He was acquitted of aiding and abetting extermination in Srebrenica, however, as the Chamber held the evidence was insufficient to establish beyond a reasonable doubt that he knew his assistance to the VRS would likely result in the systematic killing of thousands of Bosnian Muslims. ICTY, *Prosecutor v. Perišić Judgement* (IT-04-81-T), 6 September 2011. Serbia's involvement in the wars in Croatia and Bosnia, including Srebrenica, is a focus of the *Stanišić & Simatović* trial. The trial of *Sainović, et al.* convicted top FRY officials for the ethnic cleansing campaign against Kosovar Albanians in Kosovo.

as Serbia's president and de facto leader of the FRY necessarily implicate them as political entities.

**Keywords**

Bosnia-Herzegovina, Croatia, ethnic cleansing, genocide, International Criminal Tribunal for the former Yugoslavia, Kosovo, war crimes trial

**Serbia's role in the disintegration of Yugoslavia and initiating the wars that followed**

In the controversy over who or what bears primary responsibility for the decade of wars in the former Yugoslavia, one hypothesis is that Croatia's secession from the Socialist Federated Republic of Yugoslavia (SFRY), together with its national extremism and reducing its Serb population to minority status were the precipitating factors. The other major hypothesis is that Milošević's desire for power and pursuit of a 'Greater Serbia' was the primary cause. A third hypothesis, not incompatible with the first two, is that Milošević and Croatian leader Franjo Tuđman colluded in a plan that led to the wars in Croatia and Bosnia-Herzegovina. Evidence at trial provided support for the view that the wars would not have happened without Milošević's power grab. That does not mean other factors were not at play.

As many insider witnesses testified, Milošević sought power above all else. Ante Marković, Yugoslavia's last Prime Minister, broke a twelve-year silence when he testified for the prosecution. Milošević obstructed his reforms, he said, because they were "an obstacle [...] in his surge for absolute power in Yugoslavia" (Ante Marković, Prosecution Exhibit 569). Borisav Jović, formerly Milošević's close ally and Serbia's representative to the federal Presidency of Yugoslavia, concurred: "If viewed in the context of achieving program objectives or sacrificing some to retain power, the advantage would be given to retaining power rather than achieving program objectives" (TR 18 November 2003: 29176; Statement of Borisav Jović 16 November 2003: para. 129). This was evident when Milošević changed plans as the situation changed – first, to rule a unified Yugoslavia, then to lead all Serbs in one state, and finally acceptance of a Serb entity within Bosnia-Herzegovina (Budding 11 April 2003: 02910222-01910231; TR 1 October 2002: 10522; TR 20 November 2002: 13094, 13091, 13111-13112; TR 30 October 2002: 12454-12461).<sup>3</sup>

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<sup>3</sup> Prosecution's Expert Report by Audrey Budding, "Serbian Nationalism in the Twentieth Century: Historical Background and Context," 11 April 2003: 02910222-01910231; Testimonies

Tuđman's goal was an independent Croatia. On October 7, 1991, after the Croatian Serbs had taken significant territory through fighting, Croatia's independence was recognized by the international community. The evidence suggests that Milošević led Tuđman to believe this territory would eventually be returned or replaced with half of Bosnia-Herzegovina.<sup>4</sup>

Fighting between Croatian Serbs and Croat authorities began in 1990 more than a year before Yugoslavia dissolved, as Croatia downgraded the status of the Serb minority, Serbian propaganda inflamed Serb fears of resurgent Croat fascism, Croatian authorities disarmed Serb police in Serb dominated areas, Belgrade armed the Serb population, and Serb autonomous districts were proclaimed. Prosecution star witness Milan Babić testified that much of Serb action followed a plan by Milošević and others to create conditions for Croatia and Slovenia to leave Yugoslavia, while the part of Croatia with a Serb majority would remain. The Serbs also hoped to annex portions of Croatia where Serbs were in a local minority.

In the early days, Babić was leader of the Croatian Serbs and Milošević's right hand man in Croatia. He was intimately involved in the plan to wrest Serb territory from Croatia proper – until he eventually ran afoul of Milošević who orchestrated his removal from power. Babić's testimony was confirmed by an intercepted telephone conversation in July 1991 in which Milošević tells Karadžić, "You see, [Slovenia and Croatia] want to step out and are carrying out these things exactly the way we planned it" (TR 19 November 2002: 13046). When Milošević attempted to deny he and Karadžić had made any such plans, former Yugoslav Army (JNA) General Miloslav Đorđević took the witness stand and confronted him: "On June 27, 1990, you discussed how to

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of Stjepan Mesić, TR 1 October 2002: 10522 (In 1991, Milošević was no longer interested in a federal or confederal Yugoslavia, but in a Greater Serbia); Milan Babić, TR 20 November 2002: 13094 (Milošević promised that the JNA would protect Croatian Serbs and that they had the right to remain in a state with all Serbs); 13091 (Milošević and Karadžić changed their plan for a Greater Serbia, deciding to return Serb territories in Croatia to Croat authorities); 13111-13112 (Milošević indicates he has agreed that Croatian territory claimed by Serbs will go to Tuđman); Slobodan Lazarević, TR 30 October 2002: 12454-12461 (Serbia pulls out forces and abandons the Krajina Serbs under attack by Croatia in Operation Storm, August 1995). In December 1995, Milošević agreed at Dayton, Ohio, to recognize Croatia and Bosnia (including a Bosnian Serb entity, the Republika Srpska) as separate states. Serbia designated itself the Federal Republic of Yugoslavia, consisting of the Republic of Serbia and the Republic of Montenegro. Kosovo and Vojvodina remained a part of Serbia.

<sup>4</sup> See n. 3 above and testimonies of Hrvoje Sarinić, 21-22 January 2004; Milan Babić, 18 November, 9 December 2002; Stjepan Kljuić, 15 July 2003, discussed, respectively, in Armatta (2010): 201, 162, 212-213.

get rid of Slovenia and half of Croatia. That is the truth” (TR 11 March 2003: 17618). That Milošević and Karadžić were also planning for war in Bosnia-Herzegovina was revealed in another intercept (Prosecution Exhibit 353; TR 23 October 2003: 28033-28038).

In early 1991, Milošević lost interest in Croatia according to several witnesses. Croatian politician Stjepan Mesić testified that Borisav Jovic told him, “We’re not interested in Croatia. We’re not interested in the Serbs in Croatia. What we are interested in is Bosnia-Herzegovina, that is to say the 66 percent of Bosnia-Herzegovina which was Serb land” (TR 1 October 2002: 10559). Hearing this, Mesić proposed a meeting with himself, Jović, Tuđman, and Milošević to discuss a resolution, but it never came about. Instead Tuđman and Milošević met for a tête-a-tête at Tito’s old hunting lodge at Karadorđevo in March 1991. No one else was privy to their talk, though the fact of the meeting is widely known. Mesić told the court that until that day Tuđman supported a unitary Bosnia-Herzegovina governed as one entity. “But after that particular meeting, he [...] had a whole about turn in his opinion. And quite obviously Milošević convinced him that Bosnia-Herzegovina could be divided up. [...] And then [...] this was put into practice” (*Ibidem*: 10560).

Ante Marković confronted both leaders. They independently confirmed the agreement, he told the court. Marković warned that any attempt at division would result in a blood bath. They ignored him. British politician Lord Paddy Ashdown, Stjepan Kljuić, Croatian member of the Bosnian presidency, and Miroslav Deronjić, Bosnian politician and close ally of Radovan Karadžić, also testified about the meeting and the intent to divide Bosnia-Herzegovina.

Babić described a meeting in which Milošević produced a map of Yugoslavia and drew a line with his thumbnail down the middle of Bosnia-Herzegovina, stating, “Tuđman needs Bihać. He needs a road between Benkovac and Drniš too.” Babić was stunned. “It meant quite the opposite to what he had been saying up until then, that the SAO [self-declared Serbian Autonomous Region] Krajina had the right to remain in Yugoslavia and that the JNA would protect it. [...] [H]aving said this, it was quite obvious that it would be Croatian territory [...]” (TR 20 November 2002: 13111-13112).

Ante Marković related a curious incident at a November 1991 meeting of republic presidents in The Hague at a time when the JNA was shelling Dubrovnik and Vukovar that provides support for the existence of the Milošević/Tuđman agreement and deserves further inquiry:

I confronted Milošević with the shelling of Dubrovnik, and I demanded that it be stopped, and his reply was: “Who would be crazy enough to do that?” Then I repeated

the same question to Milošević in front of Tuđman, and he repeated his reply and added: 'If that was the case I would know about it and stop it.' To my surprise Tuđman replied: "You heard what Milošević said." I drew the conclusion that Tuđman accepted the shelling of Vukovar and Dubrovnik as something favourable for the Croatian strive [sic] for independence, and Milošević de facto admitted that he controlled the army (Prosecution Exhibit 269; see also, TR October 23, 2003, pp. 28038-28039).<sup>5</sup>

In May and August 1995, Croatia undertook two military operations (Flash and Storm) that reclaimed all Croatian territory earlier conquered by the Serbs. Neither Serbia nor the RS intervened on behalf of the Croatian Serbs. In the end, Milošević agreed to a map that left Serbs in an independent Croatia and an independent Bosnia-Herzegovina in order to secure a cessation of fighting and reduced sanctions against the FRY.<sup>6</sup>

### **Serbia's involvement in the Croatia and Bosnia-Herzegovina wars**

Milošević was charged under two theories of liability: 1) participating in a joint criminal enterprise to forcibly remove non-Serbs from parts of Croatia and Bosnia-Herzegovina, and 2) having de facto command over those who committed crimes during the Croatia and Bosnia-Herzegovina conflicts. In defense, Milošević claimed that the wars in Croatia and Bosnia-Herzegovina were civil wars; Serbia, and he as its president, had nothing to do with them.

As noted above, Milošević's goal was power. In the vacuum left by Josip Broz Tito's death, the dwindling authority of the communist party, and the rising nationalism throughout Eastern Europe, Milošević saw his chance. He secured both political and personal power through demagogic speeches, taking over the League of Communists of Serbia which gave him power over political and military appointments, orchestrating the collapse of the Yugoslav League of Communists, taking control of Kosovo and Vojvodina and their representatives on the federal presidency which gave him veto power in that body, securing autocratic control over Serbia, and militarizing its police force into his private army.

As Borisav Jović put it in his contemporaneous account, *Poslednji dani SFRJ: Izvodi iz dnevnika (The Last Days of the SFRY: A Diary)* (Belgrade: Politika, 1995), "He held absolute authority with the people and the party.

<sup>5</sup> Statement of Ante Marković.

<sup>6</sup> "Dayton Peace Agreement for Bosnia-Herzegovina," signed in Paris on 14 December 1995.

[...] He was the main actor of everything that came to pass during that time” (Prosecution Exhibits 0037-3546 (BCS); 0302-2817-0302-3215 (English). He was the leader of all Serbs, whether in Serbia, Croatia or Bosnia-Herzegovina, and his goal was to unite them in one state under his leadership, a goal he pursued under the nationalist slogan “Only Unity Saves the Serbs.”

In 1990, Milošević took steps to control the powerful Yugoslav army (JNA), a feat he accomplished no later than February 1992, according to General Aleksandar Vasiljević, former head of military intelligence. As Borisav Jović testified: “In the end of 1991, we [Milošević and Jović] decided to retire a number of generals and admirals to reform the Army according to the political vision we had of the new Yugoslavia” (Statement of Borisav Jović, November 16, 2003: para. 153) By summer 1991, he had sufficient influence over Army Chief of Staff Blagoje Adžić and Minister of Defense Veljko Kadijević to remake the JNA into an army of the Serb nation (*Ibidem*: para. 85). Milan Babić testified about a meeting with Milošević in mid-July 1991 in which Milošević spoke about where he would deploy the army, leading him to the conclusion that “he really was in control of the army” (TR 19 November 2002: 13056).

Jović revealed the existence of the clandestine “Group of Six,” showing that a conspiracy involving Milošević and top military leaders was operating at least by August 1991.<sup>7</sup> As was true throughout his career, Milošević manipulated events behind the scenes to expand his control. The Group of Six allowed him to circumvent the Yugoslav presidency where he had power to block decisions but not to act affirmatively. It excluded Bosnians, Croats, Slovenes, and Macedonians, but included Serbs and federal military leaders, and was solely engaged in advancing the interests of the Serbs. Jović described the group’s purpose: “This was a consultative group which, after this discussion, had the ability in a way, the moral obligation, to carry out in a synchronized manner what we had agreed upon with the authorities where they worked” (TR 20 November 2003: 29420). In other words, they discussed issues, reached agreement, and implemented that agreement in their spheres of power, all without the knowledge or consent of the legitimate government of the SFRY.

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<sup>7</sup> All members of the Group of Six were alleged members of the joint criminal enterprise in the indictment against Milošević. They were Montenegro’s president (Momir Bulatović), its representative on the federal presidency (Branko Kostić), Serbia’s president (Milošević), its representative on the federal presidency (Jović), the federal minister of defense (Kadijević), and the JNA chief of staff (Adžić).

Milan Babić testified that Milošević controlled local Serb fighting forces in Croatia as well as the JNA. Serbia essentially set up, then commanded an army in Croatia (the Army of Serbia Krajina, VSK). Milošević used the Serbian State Security Service (SDB), directly under his control, and the JNA to accomplish it, Babić said.

In addition to sending arms, the JNA transferred officers to head units of the “new” army. According to Babić, “The commanders of the army were appointed by the President of Serbia, [...] Slobodan Milošević – and it was financed, logistics support was given from Yugoslavia [...]” The SDB trained local militia, volunteer units (many from Serbia proper), regular police, and groups belonging to the local police. Milan Milanović, deputy defense Minister of the rebels in Eastern Croatia, testified that Serbia sent three to four thousand troops, as well as SDB members to organize local fighters there. Together with the JNA, they cleansed the region of most non-Serbs in the first few months of war.

General Miloslav Đorđević stated that, for a short time in 1991, he staffed a secretive coordinating office that facilitated the staffing, supply, financing, and organization for Serbia’s forces operating in Croatia. It was illegal for Serbia to do this, whether as one republic of the SFRY on the territory of another republic, or later, as one state on the territory of a foreign state.

After Croatia was recognized as an independent state by the international community, the Vance Plan required withdrawal of federal forces. Jović testified that Milošević feared the JNA would be considered an occupying army in Bosnia-Herzegovina once its independence was recognized, and the international community would demand withdrawal. To avoid “leaving the Serb population unprotected” they hatched a plan to dissolve the JNA and ostensibly create a new fighting force, the Bosnian Serb Army (VRS), just as the VSK had been created as a Serb army in Croatia (Statement of Borisav Jović, 16 November 2003: para. 104). The JNA transferred weapons and equipment as well as officers and soldiers to the Croatian and Bosnian Serbs as it left the territory. As one witness described it, soldiers merely changed insignia on their uniforms.<sup>8</sup>

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<sup>8</sup> Oral testimonies at trial. Testimony of B-1493, April 9, 10, 2003; Testimony of B-127, July 16, 22, 2003; Testimony of Osman Selak, June 12, 13, 2003; “Military Analysis Team Expert Report Case IT-02-54-T, The SFRY Armed Forces and the Conflict in Croatia – JNA Activity in BiH and JNA (VJ) Support to Bosnian-Serb Forces,” December 16, 2003; Testimony of military expert Reynaud Theunans, January 26-28, February 10, 2004; Testimony of prosecution financial expert, Morten Torkildsen, April 10, 11, 2003.

In appearance, the JNA morphed into three separate armies, but in essence it remained one huge interconnected military apparatus largely under Milošević's control.<sup>9</sup> The apparently 'natural' separation of the JNA into constituent nationalities allowed Milošević to claim, as he had in Croatia, that he had nothing to do with the conflict in Bosnia-Herzegovina; it was a civil war rather than the result of a well-planned strategy. But as UN special envoy Michael Williams testified, there was no indication that the JNA/VJ "relinquished its parenting role," since there was a continuing rotation of VJ officers through the VRS and the VSK (TR 24 June 2003: 22955).

According to the military expert Reynaud Theunens and a document that the prosecution produced, the VJ and VRS maintained a unified air surveillance system after the JNA's withdrawal from Bosnia-Herzegovina and throughout the war. Theunens testified that the "VJ provided ammunition, fuel and other supplies to operate this equipment [that the JNA had left behind]. VJ material support to the VRS was critical during this period as the RS had almost no independent war production capability, and imports from other sources were non-existent" (Military Analysis Team Expert Report: filed December 16, 2003: para 29) The VJ general staff and the VRS main staff agreed on a plan for ongoing resupply from Belgrade to the RS, code-named "IZVOR" (source), which regulated delivery for the rest of the war. Mladić, in formerly secret records, detailed Serbia's support for the VRS, as discussed below

Another significant witness, Zoran Lilić, former president of the FRY and close Milošević ally, confirmed that Belgrade paid salaries and benefits of VRS and SVK personnel at an annual cost of 8 million Euros. He characterized the payments, which continued to be made until March 28, 2001, as humanitarian assistance to support the families of former JNA troops who remained in Bosnia-Herzegovina and Croatia after the JNA was dissolved. They did not retire, however, but instead served in the armies of the Bosnian and Croatian Serbs. This "transfer" was accomplished through the creation of the clandestine 30<sup>th</sup> and 40<sup>th</sup> Personnel Centers within the VJ, disclosed for the first time in the FRY Supreme Defense Council minutes produced by Lilić. Not only did the personnel centers distribute salaries and benefits, they were responsible for promotion, retirement, and transfer of officers in the VRS and VSK.<sup>10</sup>

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<sup>9</sup> The *Perišić* trial chamber ruled that the VRS cooperated with the VJ but was independent of it (Perišić Judgement: para. 1772).

<sup>10</sup> Minutes of the FRY's Supreme Defense Council establish that that body made final decisions on promotion and retirement. See generally, "Stenographic Records of the Sessions of the FRY Supreme Defense Council:" <[www.sense-agency.com](http://www.sense-agency.com)>.

When Milošević asked if the VJ general staff played a command role over the main staffs of the VRS and VSK, Lilić responded, “That is simply impossible,” then added the significant qualification, “if all normative and legal decisions were abided by” (TR 18 June 2003: 22757). In fact, through the 30<sup>th</sup> and 40<sup>th</sup> Personnel Centers Milošević controlled the officers who controlled the armies of the RS and RSK.<sup>11</sup>

The most dramatic evidence of Serbia’s involvement in the Bosnia-Herzegovina and Croatia wars was produced unwittingly by a flamboyant Serb paramilitary. Dragan Vasiljković, known as Captain Dragan, came from Australia to join the war effort. The SDB sent him to Croatia where he trained local volunteers and led them in fighting Croatian forces. When Captain Dragan fell out with Babić and the Belgrade regime, he established the Captain Dragan Foundation to raise money for Serb veterans and their families. In order to qualify, applicants had to identify their military unit, specify the nature of their physical disability, how, where, and when it was caused, and the form had to be certified by the soldier’s former commander. Vasiljković turned 67,000 records over to the prosecution. The data placed thousands of Serbian citizens fighting on Croatian and Bosnian soil, many under the direction of Serbian officers. The evidence cut at the heart of Milošević’s defense that Serbia was not involved in the Croatian and Bosnian conflicts. When the relevance finally dawned on Captain Dragan in court, he shouted at the prosecutor, “You tricked me!” (TR 21 February 2003: 16746).

Captain Dragan also authenticated a videotape of a 1997 celebration of the Serbian paramilitary group known as the “Red Berets.” The prosecution asserted it was an arm of the SDB formed to fight in Croatia in 1991. Milošević denied it, claiming they were not established until after the wars in 1996. The video showed a complete lineup of the SDB with Milošević thanking Red Beret members for their contributions. The SDB special operations chief, Franko Simatović, announced that five thousand members of the Red Berets fought in the Croatian Krajina and they had twenty-six training centers in Croatia and Bosnia-Herzegovina. Simatović’s boss, SDB chief Jovica Stanišić, turned to Milošević and said, “Everything we have done so far, we did under your control and with your authorization” (Prosecution Exhibit 390).

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<sup>11</sup> Though finding that Perišić exercised de jure superior control over VJ military personnel in the 30<sup>th</sup> and 40<sup>th</sup> Personnel Centers by virtue of his position as VJ chief of staff, the Trial Chamber found that he did not exercise effective control over the 30<sup>th</sup> Personnel Center or the VRS at the time of the Srebrenica massacre. That does not mean, however, that Milošević also lacked control (Perišić Judgement: paras 1767, 1769).

Milošević and his top Bosnian Serb allies, Karadžić and Mladić, also provided evidence of Serbia's involvement on behalf of Bosnian Serbs. In 2001, before Milošević came to The Hague, he was arrested by Serbian authorities for misappropriation of public funds, specifically customs receipts. To counter the accusation, he declared in a written statement that the money was used to fund the RS and RSK armies. Designed to exonerate him of one crime, it incriminated him in another, much more serious one: knowingly providing financial, logistical, and material support for a criminal purpose – the forcible removal of non-Serb populations from large areas of Croatia and Bosnia-Herzegovina.

At the tribunal Milošević admitted having sent the customs money to the RS and RSK, but maintained it was for humanitarian assistance. A statement by Karadžić contradicted him: “Without Serbia nothing would have happened, we don't have the resources and would not have been able to make war.” Karadžić's statement was found in a transcript of the RS Assembly session of May 10-11, 1994, a tiny portion of the ten thousand pages of RS Assembly meeting transcripts that the prosecutor obtained from Karadžić's former secretary and the RS Ministry of Justice.<sup>12</sup> The transcripts showed Milošević's concrete support for the RS war in Bosnia-Herzegovina and his intimate involvement in RS policy making. Most transcripts were from closed sessions of the Assembly, not intended for the public, and were disclosed for the first time at Milošević's trial.

At a session on August 28, 1995 Karadžić acknowledged, “[G]entlemen, you must know that we have created a structure that depends on Yugoslavia and that is tied to Yugoslavia in pay, pensions, use of arms and ammunition, etc., and though we have paid for a good part of it, we have received a good part.” Several months later, Mladić told the Assembly that the JNA and VJ supplied nearly 90 percent of identified VRS military needs. In April 1995 Karadžić confirmed that the JNA provided the RS with officers for its army and was involved in setting it up. “We asked [the JNA] for Mladić and said that they should set up the headquarters as they saw fit, we wouldn't interfere.” Jovo Mijatović stated at a session in May 1993, “We accepted nearly all officers from the Federal Republic of Yugoslavia.”

Assembly president Momčilo Krajišnik explained the goal of an enlarged Serbian state to the Assembly on August 11, 1992: “I personally think that the Serbian Republic of BH is a temporary state that will exist until the situation

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<sup>12</sup>) “The Assembly of Republika Srpska, 1992-95: Highlights and Excerpts, Dr. Robert J. Donia,” submitted by prosecution August 1, 2003.

allows all Serbian lands to unite.” He continued, “This is not an agreement just among us, but among us and Serbia, and us and the Krajina, etc.” These statements by Bosnian Serb leaders stood in sharp contrast to Milošević’s argument that he never sought more than equality for Serbs within their political jurisdictions. He denied pursuing a policy for an enlarged Serbian state. Not only did the Bosnian Serb statements contradict his position; his own statements at the time did so as well.

In a May 9, 1993 speech before a closed Assembly, Milošević argued passionately for the recalcitrant Bosnian Serbs to accept the Vance-Owen Peace Plan to end the war and, thereby, the sanctions which were crippling Serbia’s economy. The RS objected because the plan did not meet its goal of being joined to Serbia in a single state. Milošević’s own words testified to Serbia’s support for the RS and emphasized the continuing connection between the RS and Serbia if the plan were adopted:

Since you are an Assembly, you probably know that we made a united system of money transfer [...] that we are going to stabilize the entire unified area of economy, in which those Serb lands shall belong economically, culturally, educationally, and in every other aspect. [...] [D]o not tell us that you feel abandoned. To us who felt your worries all the time. And we did not only mentally feel them, but we solved them and helped with all our powers and with all our capacities, for the cost of great sacrifices of the 10 million people of Serbia. We shall continue to help you, that is not disputed.

Though the Bosnian Serbs rejected the plan and Serbia imposed an embargo against the RS, Serbia continued to supply them with military arms and equipment.

Evidence was more than sufficient to establish Serbia’s support for the Bosnian Serb war effort. Milošević’s role in directing it is less clear, as Karadžić and Mladić refused to comply with Milošević’s directives on certain important matters, most notably the Vance-Owen Peace Plan discussed above. One of Milošević’s witnesses, journalist Franz-Josef Hutsch, testified about his interview with Mladić, in which the general asserted that Serbia was not involved in taking Srebrenica. Hutsch quotes him: “Don’t you think we Serbs could solve our own problems in Bosnia?” (TR 12 October 2004: 32960) Lilić also said that Milošević did not have control over the Croatian or Bosnian Serbs, while admitting he exercised “a great deal of” influence over them” (TR 17 June 2003: 22614). International envoy Lord David Owen testified that Milošević’s power over the Bosnian Serbs waxed and waned. He acknowledged the rift after they rejected the Vance-Owen Plan. Both Karadžić and Mladić rejected the Contract Group Plan despite Milošević’s repeated efforts to gain their acceptance. Yet the embargo Serbia imposed never stopped the

supply of military supplies and equipment necessary for the Bosnian Serbs to fight the war.

General Sir Rupert Smith, head of the UN Protection Force (UNPROFOR), described the way in which Milošević exercised power over Mladić. “All power was absolute and whoever had it exercised it absolutely. General Mladić had his own place to exercise power and only when it interfered with the business of Mr. Milošević and Serbia did he get interfered with or controlled” (TR 9 October 2003: 27323). Since Milošević did not halt military aid to the VRS, it can be inferred that he did not oppose its military operations.

When there were problems with the Croatian or Bosnian Serbs, international diplomats sought out Milošević – another indication of Milošević’s power or influence over the RS. Dr. Michael Williams, aide to special UN envoy to Yugoslavia Yasushi Akashi, described an incident where the VRS had detained a UN aid convoy on its way to Goražde, one of the UN designated safe areas. When UN officials complained to Milošević, he “got ill tempered with Karadžić and told him to instruct his people [...] to remove the obstacles as soon as possible,” which he did (TR 24 June 2003: 22934). In 1993, General Philippe Morillon successfully intervened with Milošević when the VRS was preventing humanitarian aid from reaching Srebrenica. A year later as Bosnian Serb forces laid siege to Gorazde, UN mission members feared a massacre of civilians if they were to take the area. Again, Williams went to Milošević who restrained the VRS from taking the enclave. Williams and others such as international negotiator Carl Bildt believe he could have done the same for the safe area of Srebrenica in 1995 if he had wanted. At that time, however, it served his interest to secure control of the few remaining Bosnian enclaves surrounded by Serb controlled territory in order to reach a peace agreement. Another example of Milošević’s control over or influence with Mladić occurred in 1995 when Milošević secured the release of 400 UN peacekeepers Mladić had taken hostage, according to Smith.

If Milošević’s power over the Bosnian Serb leaders was reduced after their rejection of the Vance Owen Peace Plan and the Contact Group Plan, he had regained it by July 1995 at the time of the genocide in Srebrenica, according to prosecution witnesses. On July 15, the day after organized mass killings began, Mladić attended a meeting with Smith, Bildt, Milošević, and others. According to Smith, Milošević was clearly in charge of Mladić. He directed the general to sort out a solution with Smith on recovery of Dutch Bat and access to prisoners, and Mladić immediately complied (though he could not provide access to the prisoners who were mostly dead by this time). A month later, General Wesley Clark and Richard Holbrooke met with Milošević to discuss plans for negotiations to end the war. Clark testified that in response

to his question whether the team should deal with him or the Bosnian Serbs, Milošević replied, “With me, of course” (TR 15 December 2003: 30372). He assured the team he could deliver a peace agreement the Bosnian Serbs would sign.<sup>13</sup>

It was a tricky business for Milošević to contend that he did not control the Bosnian Serbs, while at the same time asserting categorically that he could secure their agreement on a peace deal. During a break in the August 17, 1995 meeting, Clark approached Milošević and asked, “Mr. President, you say you have so much influence over the Bosnian Serbs, but how is it then, if you have such influence, that you allowed General Mladic to kill all those people in Srebrenica?” Milošević responded, “Well, General Clark, I warned Mladić not to do this, but he didn’t listen to me” (*Ibidem*: 30373). Clark explained it was very clear he was asking about the massacre. In the end, of course, Milošević went to Dayton and negotiated on behalf of the Bosnian and Croatian Serbs. And, as he said at his trial, “My efforts were crucial” (TR 18 June 2003: 22722). At the conclusion of negotiations Milošević, not the Bosnian Serbs, initialed the agreement.

### **Serbia and the Bosnian genocide**

The prosecution charged Milošević with genocide and complicity in genocide as either a member of a joint criminal enterprise or by virtue of (de facto) command responsibility. The genocide charge was not limited to Srebrenica, but covered the entire four year campaign against Bosnia-Herzegovina. Only two other indictments are as broad: those against Karadžić and Mladić. Perišić was charged with persecution for his part in the Srebrenica genocide, similar in all respects except there is no requirement that the accused have a specific intent to commit genocide.<sup>14</sup> Among other charges, Stanišić and Simatović are being tried for murders committed by the Scorpions, a unit of the SDB, in Bosnia-Herzegovina at the time of the Srebrenica genocide (ICTY 10 July 2008). As a result, Serbia’s role in genocide in Bosnia-Herzegovina is likely to

<sup>13</sup> As the Trial Chamber in *Perišić* points out, it took over three months for Perišić, acting for Milošević, to convince Mladić to turn over two French pilots he was holding so the signing of the Dayton Peace Agreement could go forward (*Perišić* Judgement: paras. 1378-1384).

<sup>14</sup> The *Perišić* Trial Chamber found that the VJ Commander knew his actions supporting the VRS provided practical assistance to commit the crimes of murder, inhumane acts and persecutions, but they could not find beyond a reasonable doubt that he anticipated the systematic killings at Srebrenica (*Perišić* Judgement: paras. 1638, 1647).

remain obscure from a legal standpoint. Further investigation and analysis by historians, however, will benefit from evidence introduced at the Milošević trial and the trial court's preliminary assessment of it.<sup>15</sup>

Milošević's defense to the genocide charges was that Serbia was not involved in the war in Bosnia-Herzegovina and he knew nothing about what happened in Srebrenica until July 15 when he learned of it in a meeting with Carl Bildt, Yasushi Akashi, Thorvald Stoltenberg, General Sir Rupert Smith, Mladić, and others. He suggested that the VRS attacked the UN safe area to demilitarize it, relating that he had heard the Bosnian Army 28<sup>th</sup> Division was attacking Serb forces and villages from the enclave. He offered no evidence to support it.

Some of the most significant evidence linking Milošević to the Bosnian genocide was not discovered until the trial was well underway. Nearing the end of the prosecution's case, a search of the MUP building at the RS headquarters in Pale produced documents showing a paramilitary unit operating under Serbia's state security service was fighting on the Trnovo front in Bosnia-Herzegovina on June 30, July 1 and July 24, 1995, a period covering the attack and massacre at Srebrenica. That unit, known as the Scorpions, executed six Bosniak men and boys – which they videotaped for posterity. The prosecution obtained the video and showed it in court. The trial chamber refused to admit it into evidence because "It did not have a significant bearing on the individual criminal responsibility of the Accused. Nor would it significantly affect the outcome of the trial."<sup>16</sup> It was curious for the court to judge that the Scorpion tape, showing alleged Serbian paramilitaries, whose boss, SDB chief Jovica Stanišić, reported directly to Milošević, executing six Bosnian Muslims in Bosnia-Herzegovina around the time of the Srebrenica massacres had little bearing on whether Milošević could be connected to those killings.<sup>17</sup> Unless, of course, the court found that existing evidence was sufficient to establish Serbia's participation in the Srebrenica genocide. (Armatta 2010: 423) Evidence already accepted by the court included an RS police order

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<sup>15</sup> Evidence disclosed at the Milošević trial has also benefited the prosecution in other cases, such as *Perišić* and *Stanišić and Simatović*. These trial records are available for historians as well.

<sup>16</sup> "Decision on Application for a Limited Re-Opening of the Bosnia and Kosovo Components of the Prosecution Case," 13 December 2005: para. 37.

<sup>17</sup> The prosecutor has charged SDB leaders Stanišić and Simatović with responsibility for the murders of the six Bosnian Muslims, providing the Tribunal another opportunity to examine and rule on at least one aspect of Serbia's involvement in the Srebrenica genocide. The trial, begun in 2008, is ongoing at the time of this writing.

given the day after Stanišić had a conversation with Karadžić about Srebrenica. Police expert Dr. Budimir Babović summarized: “According to this order, the company [from MUP of Serbia] took part in combat operations at the Sarajevo front and was assigned to *the independent unit which was ordered to go to the Srebrenica protected area*” (Babović 2 April 2003: para 160: Emphasis added). The order was dated July 10, 1995, two days before the mass executions began.

Arguably the most significant document introduced at trial was hidden from public view at the request of the Serbian government. Throughout the trial, the prosecution battled with Serbia over access to its archives. In spring 2003, more than a year after the trial began, Belgrade turned over records of the FRY Supreme Defense Council.<sup>18</sup> According to Chief Prosecutor Carla Del Ponte, “The records [of the SDC] show that Serbian forces, including secret police, played a role in the takeover of Srebrenica and in the preparation of the massacre there.” (Del Ponte 2008: 357) The tribunal permitted Belgrade to keep this information confidential (Armatta 2010: 315, 316). The trial chamber in the *Perišić* case recently declassified minutes of the SDC meetings and an English translation is available on the Sense website.<sup>19</sup> The posted translations do not support Del Ponte’s assertion. However, additional records, such as personnel files, that have not been released, may do so.<sup>20</sup>

The prosecution argued that Milošević should have foreseen that genocide of the Bosnian Muslims would occur in any attempt to carry out a transfer of ethnic populations in Bosnia-Herzegovina. In fact, Mladić warned of it in a remarkable statement to the RS Assembly on May 12, 1992: “People and peoples are not pawns nor are they keys in one’s pocket to be shifted from there to there. [...] Therefore, we cannot cleanse nor can we have a sieve to sift so that only Serbs would stay, or that the Serbs would fall through and the rest leave. [...] I do not know how Mr. Krajišnik and Mr. Karadžić would explain this to the world. People, that would be genocide.”<sup>21</sup>

While Mladić recognized the danger of genocide if an ethnic cleansing policy were carried out, he willingly implemented it in a particularly brutal

<sup>18</sup> The SDC consisted of Milošević, President of Serbia, Zoran Lilić, nominal President of the FRY, and Momir Bulatović, President of Montenegro.

<sup>19</sup> The chamber trying Momčilo Perišić reclassified the SDC minutes as public documents on March 24, 2011. On April 18, 2011, the chamber instructed the Registrar to release the documents to Bosnia-Herzegovina, Sense News Agency, and the Humanitarian Law Center in Belgrade at their request.

<sup>20</sup> E-mail communication from Chuck Sudetic, co-author of Del Ponte’s memoir, October 26, 2011.

<sup>21</sup> “Prosecution Submission of an Expert Report of Dr. Robert J. Donia Pursuant To Rule 94bis,” 1 August 2003: 02989172.

manner. Mladić and his forces' reputation caused international interlocutors to fear for the civilian population if Srebrenica were taken in 1993 and Goražde in 1994. On both occasions, diplomats leaned on Milošević who restrained Mladić. That he recognized the potential danger of Bosnian Serbs taking Srebrenica and was able to stop them in 1993 raises an inference that Milošević knew a takeover of the safe area in 1995 would be disastrous and suggests he could have stopped Mladić. That he failed to do so supports the proposition that the takeover served his interests, an adjustment of the map to enhance the Serb position in negotiations.

As noted above, after the Srebrenica genocide, Milošević told General Clark that Mladić would not listen to him when he told him to not conduct a killing operation in Srebrenica. At the same time, he insisted international diplomats should negotiate with him, not the Bosnian Serbs, assuring them he could deliver a peace agreement.

Another place to look for indications that Serbia was involved in genocide is the Milošević trial chamber's "Decision on Motion for Judgement of Acquittal" following the close of the prosecution's case (IT-02-54-T: 16 June 2004). In this procedure, the court reviews the prosecution's evidence and determines whether it is sufficient, *if believed*, to support the charges beyond a reasonable doubt. If not, the court will dismiss the charge. The Milošević trial chamber decided in the prosecution's favor on the genocide charge, including the broader campaign at the beginning of the war in 1992 as well as the Srebrenica massacre, which the ICTY had decided already in the *Krstić* case constituted genocide.

A complete review of the evidence cited by the trial chamber in support of its decision is not possible here. Readers are directed to the court's decision and the author's analysis of it in her book (Armatta 2010: 316–321). In summary, the court found the following evidence tied Milošević to the Bosnian genocide: Milošević's leadership position, advocacy of Greater Serbia, logistical and financial support to the RS, close relationship with and authority and influence over RS leaders, insistence on being informed and knowledge of everything that happened, de facto control over the JNA through his influence with the Yugoslav presidency and the JNA'S top brass, finances, and appointment of officers, representation of Bosnian Serbs in all negotiations, and intimate knowledge of events and crimes in Bosnia-Herzegovina.<sup>22</sup>

Milošević devoted little time to defending himself against the crime of genocide, turning his attention to it shortly before his case was scheduled to

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<sup>22</sup>) For a discussion of Milošević's knowledge and actions after the Srebrenica genocide, see Armatta (2010): 311.

end. As it was, his witnesses lacked credibility. Vladislav Jovanović, former FRY foreign minister, testified that he and Milošević had learned about Srebrenica's takeover on July 13 – from the newspapers. Yet the UN Security Council passed a resolution on July 12 condemning the Bosnian Serbs' offensive against the protected enclave. It defies logic to believe that the foreign minister and president of the RS's chief supporter would have first read about this major event in the newspaper.<sup>23</sup> In fact, the prosecutor produced a stack of cables from undisclosed sources (likely foreign governments and UN personnel) to the FRY government, providing information on the RS attack on Srebrenica and its civilian population. Jovanović said he could not recall them.

Jovanović tried to insulate himself and Milošević from the Srebrenica events by claiming that Serbia and the FRY had broken off relations with RS leaders at the time of the boycott in 1994 and had had no contact with them since. Yet several sources asserted that Mladić was with Milošević at times during the VRS attack on Srebrenica.<sup>24</sup>

Milošević did not concede that a massacre had happened at Srebrenica. Instead, he called Vojislav Šešelj, his one time propagandist, to testify. Šešelj declared that when he was deputy prime minister he investigated the Srebrenica allegations and concluded the massacre was staged, French and other western intelligence agencies were behind the killings, and not even 1,200 men were executed. His sources were the SDB and military intelligence reports.

The crime of genocide requires the highest standard of proof of all international crimes. It is the most difficult to prove, as perpetrators rarely leave clear, unambiguous evidence of their intent to do away with all or a significant part of a protected group or to knowingly support another's intent to do so.<sup>25</sup> While circumstantial evidence can be used to establish intent to commit genocide, it must be the only inference that can be drawn from the evidence.

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<sup>23</sup> The Trial Chamber in *Perišić* noted that the VJ commander received contemporaneous information on the take-over of Srebrenica by the VRS. Further, the Chamber found that “Perišić was aware of the VRS’ discriminatory intent and criminal conduct in Srebrenica and else-where in BiH.” It concluded that “Perišić knew of the high probability that crimes would be committed against this population as a consequence of the VRS attack on Srebrenica” (*Perišić* Judgement: paras. 1541, 1579). Still, the evidence failed to establish beyond a reasonable doubt that Perišić could have anticipated genocide, the Chamber decided. (*Ibidem*: para. 1647).

<sup>24</sup> See for example, testimony of David Harland, September 18, 2003. Also, the Trial Chamber in *Perišić* found that “the VRS sent reports to the VJ General Staff on a daily basis at least until 19 September 1995” (*Ibidem*: para. 1419). What the VJ General Staff knew Milošević also knew.

<sup>25</sup> Protected groups include national, ethnical, racial, or religious groups.

Excluding all other possible reasons is an almost impossible standard to meet, particularly because the ICTY statute provides that murder directed against a civilian population and committed with intent to persecute on political, racial, or religious grounds constitutes a crime against humanity if it is widespread and systematic. Without a clear indication of genocidal intent, circumstantial evidence tending to prove genocide will support a finding of persecution as well, thus precluding a finding of genocide.

Given that Milošević was the only official from Serbia or the FRY to be tried for genocide by the ICTY, Serbia's involvement in genocide is unlikely to be clearly established by the Tribunal – all the more reason for historians to examine the issue in greater depth.<sup>26</sup>

### **Responsibility for war and ethnic cleansing in Kosovo**

According to the prosecution, Serbia took the opportunity provided by NATO bombing to fully implement Operation Horseshoe, a plan to drive the majority of Kosovar Albanians out of the province. Milošević insisted that the movement of people and destruction of property was caused by bombs, by collateral damage during conflict with the KLA, by the KLA itself, or by Serbia's efforts to protect its citizens by moving them out of harm's way.

Milošević rose to power in the late 1980's by exploiting grievances of the Serb minority in Kosovo. While Milošević ended Kosovo's autonomy, eliminated Kosovar Albanians from public employment, gave control of local institutions to Serbs, and turned Kosovo into a police state targeting Kosovar Albanians, Serbs remained a minority – 10 to 15% of Kosovo's population. Milošević had failed to come through on his most important pledge. By 1996, citizens in Serbia proper were restive as well. Milošević had supported and lost two wars, caused international sanctions against the FRY, and destroyed the economy. In the winter of 1996-97, Serbs took to the streets for three months to protest his reversal of local elections won by the opposition. To retain power Milošević needed to change the ethnic balance in Kosovo. He also needed a conflict to unify the majority of Serbs behind him.

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<sup>26</sup> Caveat: Stanišić and Simatović have been charged with persecution for the murders in Trnovo of six Bosnian males from Srebrenica. While the Chamber will not decide whether the two SDB agents are guilty of genocide, a finding of guilt for the Trnovo murders would establish that Serbia was involved to some extent in the Srebrenica genocide.

More than a year before NATO's intervention, Milošević began his ethnic cleansing operation in Kosovo by the forced displacement of 300,000 to 400,000 Kosovars from their homes. British politician Lord Paddy Ashdown testified about two trips he made to the region in 1998 where he viewed military action against Kosovar Albanian villages that was "indiscriminate, systematic and of a nature to terrorize and drive out the civilian population" (TR 15 March 2002: 2360). When a small number of Kosovar Albanians took up arms and attacked police, Milošević had a reason to crack down – and he did so with excessive force. NATO chief General Wesley Clark testified that he had confronted General Vlastimir Đorđević, head of the Public Security Division of the Serbian Ministry of Interior (RDB). When Đorđević admitted that the KLA consisted of only 410 people, Clark remonstrated with him: "I said that you've forced [...] 350,000, 400,000 people out of their homes; you're trying to destroy the province to get at 400 people. He said, 'We were within two weeks of killing them all. Why did you stop us?' and I said, 'Because you're targeting a civilian population and it's creating a humanitarian catastrophe for your own people'" (TR 15 December 2003: 30389). In addition to displacing civilians, Serbian police attacked families of suspected KLA members. In early 1998 they killed an entire family of 83 people, save an 11-year-old girl. Evidence showed that the army had sent twenty thousand additional troops to Kosovo, one-third of its capacity.

The displacement of Kosovar Albanians increased pressure from members of the international community that led to the threat of military intervention and an eleventh hour accord in October 1998 in which Milošević agreed to draw down his troops. He did not give up his plan to reverse the ethnic population distribution in the province, however. He merely took the time to regroup (as did the KLA, but it was not a party to the Accord). He continued to increase and deploy forces within Kosovo from November 1998 to March 1999, until he had effective control of the province, according to two Kosovo Verification Mission (KVM) monitors who testified, General Karol Drewienkiewicz and Colonel Richard Ciaglinski. After the KLA killed three police officers in January 1999, Milošević unleashed an attack against the village of Račak, killing ten KLA soldiers and forty-two civilians. Račak was a turning point in the international response to Serbia's escalating violence.

Milošević maintained that Račak was an antiterrorist operation in which all those killed were KLA. For the most part he called witnesses without first-hand knowledge of events, relying instead on people who would say whatever they had been directed to say, regardless of how nonsensical it was, as when a police officer with a reputation for torture said that liquidation meant locking

people up. They described a scenario worthy of the Keystone Cops: police investigating an alleged police massacre of civilians without ever interviewing police, and an investigating judge who said that investigation was not part of her job. Milošević's witnesses contradicted themselves, lost their memories in court, or simply said they knew nothing.

The trial's consideration of Račak provided an opportunity to clear up a widely believed misrepresentation that independent forensic expert Dr. Helena Ranta had concluded the event had been staged and not the result of a massacre. The misrepresentation was finally put to rest when Ranta appeared at trial and categorically stated: "There were no indications of people being other than unarmed civilians" (TR 12 March 2003: 17727).

Račak made clear that Milošević was intent on pursuing a resolution to problems in Kosovo through violence, not negotiations. It was the only way he saw to change the ethnic balance in the province and thus retain power. The population that supported the insurgency had to be moved out. Whether or not international negotiators understood Milošević's intention by viewing the buildup of forces and escalation of violence, they opted for further negotiations rather than give NATO the go-ahead after the clear violation of the October Accord in Račak. KVM General Drewienkiewicz testified that the Yugoslav side continued a massive military buildup in Kosovo while it participated in the peace process. In fact, on February 13, 1999, five weeks before NATO dropped the first bomb, the Yugoslav military command issued an attack order (produced in court) that included a direction to keep the media and the KVM out of the combat zone. Negotiations were merely buying Milošević time. He had already decided on war.

There continues to be disagreement over whether an initial settlement was reached at the Rambouillet talks or whether the Serbs were merely handed an ultimatum – one that was unacceptable. According to Ambassador Wolfgang Petritsch and Veton Surroi, both participants in the negotiations, agreement was reached on political issues, though not the military annex. Petritsch, the European Union's chief negotiator, testified that when he met with Milošević and his team in Belgrade on March 8, support for the agreement had evaporated: "It was Mr. Milošević who didn't like [the political agreement] and he decided not to continue the path of negotiation" (TR 2 July 2002: 7235). Shortly thereafter, in Paris, the Serbs opposed both the political agreement and the military annex.

The ambassador testified that if Milošević had signed the Rambouillet accords, Kosovo would have remained part of Serbia. "The Contact Group and the negotiators took special care regarding the sovereignty and territorial integrity of Yugoslavia. It was written into the Accords on three occasions to

make it clear beyond any doubt” (*Ibidem*: 7273).<sup>27</sup> As for the military annex, it would not have resulted in an occupation of Serbia as Milošević claimed. It was a restatement of the Dayton Accords which already gave the Stabilization Force (SFOR) unrestricted passage throughout the FRY for logistical purposes.

Some of the most persuasive evidence in the trial originated with former Milošević loyalists who had opposed war in Kosovo. They included General Momčilo Perišić, army chief of staff, Zoran Lilić, former FRY President, General Aleksandar Dimitrijević, the KVM’s VJ contact, and Jovica Stanišić, head of the SDB.<sup>28</sup> Stanišić had sought out Baton Haxhiu, an award-winning Kosovar journalist, to find a way to avoid civil war, Haxhiu testified. The SDB chief told him that Serbia would never grant Kosovo the status of a republic within the FRY, but he continued, “I will personally see to it that you have your university and academy [of Arts and Sciences – both of which Milošević had eliminated]. But as to the status of Kosova Republic, forget about that. There are nationalist people around Milošević who will invoke [sic] a war if you ask for that” (TR 23 May 2002: 5413-5414). Another dissenter was General Perišić. The prosecution introduced a letter Perišić sent to Milošević in July of 1998, in which he strongly objected to use of the army outside official channels against the KLA without an official declaration of a state of emergency or designation of the KLA as a terrorist organization.<sup>29</sup> Internal dissension led Milošević to establish an alternative chain of command reporting directly to him while circumventing the army’s “doves.” It also led to the replacement of Stanišić, Perišić, and others opposed to the war option.

On the eve of war, Milošević’s intent was revealed in a discussion Colonel Ciaglinski had with Yugoslav Army Colonel Milan Kotur who showed him a map where offensives against the KLA were planned. Kotur added, “And when we have finished dealing with the KLA, we will remove all Albanians from the territory of Kosovo forever” (TR 16 April 2002: 3225). In October 1998 Milošević himself suggested to NATO Generals Clark and Klaus Naumann that the problem of a numerically dominant Albanian population would be resolved in the spring of 1999.

Other evidence in the trial indicated Serbia’s intent was to rid Kosovo of the KLA. In fact, Serbia did not distinguish between KLA members and civilians.

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<sup>27</sup> A discussion of the Accord’s provisions for increased Serb representation in Parliament and a final status agreement can be found in Armatta (2010): 72-73.

<sup>28</sup> Only Lilić testified at the trial.

<sup>29</sup> According to Lilić, Generals Dimitrijević, Martinović, Samardžić, and Grahovac were also removed from office in late 1998 and 1999 because they were unwilling to deviate from law and the constitution (TR 17 June 2003: 22614).

More often, Serb forces targeted civilians directly as the pattern of destruction and testimony of survivors show. Police General Obrad Stevanović wrote in his war diary on February 16, 1999: “Together with the Pristina Corps, the finishing touches are being put to the plan for a broad anti-terrorist operation in the period between the possible air strikes and the entry of ground forces” (TR 2 June 2005: 46350). According to a document signed on March 9, 1999 by Bogoljub Janičević, chief of police of Uroševac, the campaign actually got under way in Kačanik over two weeks before NATO air strikes began on March 24, 1999: “Starting at 0530 on the 8<sup>th</sup> of March [...] members of the Uroševac Secretariat of the Interior (SUP) and Gnjilane special police units, together with members of the VJ, launched an operation to clear the villages of Straza, Ivaja, Gayre and Kotlina, Kačanik municipality, of the terrorist gangs which have carried out terrorist operations in this area” (TR 22 September 2005: 44631–44632). The operation cleared the villages of their civilian population as well.

Over a hundred witnesses – survivors, soldiers, diplomats, and foreign observers – testified to the deportation, forcible transfer, and murder of thousands of Kosovar Albanians. Former paramilitaries and soldiers related being ordered to kill Kosovar Albanian civilians, burn their property, and drive them out of their homes. The deportations and property destruction, often accompanied by massacres, followed a pattern, whereby villages were surrounded and fired on, residents were ordered out and sometimes killed, property was looted and houses burned, and finally residents were forced to join a long march of refugees out of the province. The attacks occurred close in time. Serbian forces routinely destroyed identity documents and license plates of Kosovar refugees, showing an intent to prevent their return. Islamic religious and cultural sites associated with Kosovar Albanians were deliberately targeted by Serbian forces, who damaged or destroyed more than one-third of all mosques.<sup>30</sup> Undercutting Milošević’s defense that NATO bombing or the KLA caused the massive refugee flow and was responsible for most civilian deaths, an expert study showed there was no correlation.<sup>31</sup>

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<sup>30</sup> Andras Riedlmayer, an international expert on the Balkan heritage of the Ottoman Empire, testified about the study he conducted in 1999 in which he found significant widespread damage and destruction to Islamic religious and Albanian cultural structures. His expert assessment concluded it was caused by ground forces, not air strikes. “Destruction of Cultural Heritage in Bosnia-Herzegovina, 1992-1996: A Post War Survey of Selected Municipalities,” submitted by the prosecution March 13, 2003.

<sup>31</sup> The study was conducted by Dr. Patrick Ball under the auspices of the American Association for the Advancement of Science and the American Bar Association’s Central and East European Law Initiative (Ball 3 January 2002).

The forced removal occurred in blitzkrieg fashion, in a pincer movement across Kosovo that funneled Kosovar Albanian refugees to the borders. Half the population, nearly a million people, crossed into Albania and Macedonia, the majority within the first two weeks of the war. Hundreds of thousands more were displaced internally. Most murders of civilians also occurred in the first weeks of war. While people can move en masse spontaneously, Serbian authorities had organized transportation – providing buses and adding trains between Kosovo’s capital and the border – which demonstrated advance planning (Armatta 2010: 112). General Clark testified that, based on his judgment as a soldier, “[It] could not have happened without the coordination of the VJ and the MUP [Ministry of the Interior], and based on what I’d seen of the army, it had to have happened with high-level command and control because this was still a disciplined force” (TR 15 December 2003: 30409).

Zoran Lilić told the court that NATO bombing was not expected to last more than a few days. After two weeks Milošević approved Lilić’s suggestion to seek out his diplomatic contacts. In Bonn he achieved success when he met with Chancellor Helmut Kohl of Germany and returned with a proposal for an end to air strikes. In exchange Milošević had to accept a UN mission in Kosovo to include representatives from a NATO state that was also a permanent member of the UN Security Council. Milošević agreed at first but changed his mind the next day. In court the accused insisted that he had accepted the plan until he finally exasperated Lilić: “Please stop saying you had agreed to what I had suggested.” When Milošević asserted that he had ended the conflict in the best way to protect Serb interests, Lilić retorted, “There are fewer Serbs in Kosovo now than in the prisons of The Hague” (TR 19 June 2003: 22862; Armatta 2010: 76).

More than a few defense witnesses claimed that the Kosovars (and the foreign media) stage-managed the exodus of nearly a million people and their injuries to look as if they had been forcibly expelled. Mitar Balević, member of the Socialist Party of Serbia from Kosovo, testified:

The columns of Albanians that I came across in Priština, for instance, were such that they did not look to me as if they were refugee columns at all because they were going by slowly past the railway station, the bus station, carrying small bags. They didn’t look the way that Serb columns looked. So these columns to me appeared to be sort of construed, manufactured columns, staged columns to look like refugees (TR 8 February 2005: 35827).

Two members of the Macedonian Emergency Medical Team, Mirko Babik, a technician, and Goran Stojčik, a driver, accused CNN of orchestrating scenes

of suffering to provide a sensational view for the camera. Stojčik claimed that journalists from CNN threw a child into the mud to make him cry, as TV crews rushed to tape the scene. He and Babik also described an alleged incident where young men borrowed a stretcher, on which they placed a crumpled, agonized young man. After he was videotaped he got up from the stretcher, showing that he was uninjured, they said (Armatta 2010: 356, 357).

Army Colonel Vlatko Vuković testified that most of the refugees left the country so it would seem as if a humanitarian catastrophe had occurred, justifying the NATO attack against his country, but his war diary contradicted his testimony. On March 25, 1999, he wrote: Villages Bela Crkva were blocked and cleaned, or cleansed.” March 26: “We are continuing cleansing in cooperation with the MUP until 12.00.” March 27: “At 09:30 cleaning began in three directions.” March 28: “In the course of the day around 2,000 people went in the direction of the border crossing Čafa.” March 29: “In the course of the day around a thousand people went in the direction of the border crossing Čafa Prušit.” March 30: “cleaned Rogovo with Brigade 3 and part of 72<sup>nd</sup> Special Brigade” (TR 1 November 2005: 46115-46129). While Vuković maintained they were cleansing the villages of terrorists, in fact, testimony from survivors showed that women, children, and noncombatant men were driven out of these villages and forced across the border.<sup>32</sup>

The destruction of certain civilian structures and killing of unarmed civilians has, in several instances – both at trial and in the media, been blamed on NATO.<sup>33</sup> At trial the prosecution did not contest that NATO bombing destroyed some civilian facilities and killed some civilians, though they did not concede that it did so intentionally. Milošević claimed NATO was the culprit for ethnic cleansing, massacres, and widespread property destruction.<sup>34</sup>

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<sup>32</sup> See testimony of Sabri Popaj and Isuf Zhuniqi, for example, discussed in Armatta (2010): 385-387.

<sup>33</sup> See for example, “Our 1999 intervention in Kosovo offers an even starker cautionary tale. The NATO bombing campaign helped topple Slobodan Milošević and midwife an independent Kosovo. But by raising the stakes for both Milošević and his Kosovo Liberation Army foes, the West’s intervention probably inspired more bloodletting and ethnic cleansing in the short term, exacerbating the very humanitarian crisis it was intended to forestall” (Douthat 21 March 2011: A.23).

<sup>34</sup> NATO’s responsibility was only relevant to counter charges in the indictment that Milošević was responsible for ethnic cleansing, killings, and property destruction. NATO was not itself on trial.

Rather than call witnesses with direct knowledge of events, Milošević introduced videotapes of interviews with them, preventing cross-examination by the prosecution. On one video the voiceover describes a visit by a Canadian parliamentarian, Svend Robinson, who was opposed to the NATO bombing campaign. He was said to have visited the site of a bridge near Luzani where fifty people were killed by NATO bombing, as well as visiting two families who lost members to “NATO aggression.” The prosecution produced a statement from Robinson, contradicting what he was reported to have said:

Driving into Kosovo [...] from Belgrade and then from Priština to the Macedonian border was a terrible experience. Village after village was totally empty of any life, with houses burned and roofs destroyed. They were like ghost towns. While the Serb officials blamed this all on the KLA or NATO bombing, it was clear that many of the villages had been ‘ethnically cleansed’ of Kosovar Albanians who had fled to neighboring countries or into the mountains (TR 28 February 2005: 36762).

Videotapes of interviews with Albanian survivors following the war were also mistranslated for the court. In one, a woman allegedly says, “The children awake at night calling ‘mama, mama.’ I have nothing to give them. They are afraid of aeroplanes.” In fact, she did not mention airplanes.<sup>35</sup> In another, the transcript has the interviewee saying that members of the KLA attacked and forced him to leave his home. Accurately translated, the man does not mention the KLA (*Ibidem*: 35353).

NATO was widely reported to be responsible for the attack on the Dubrava Prison leaving more than 100 mostly Albanian prisoners dead. NATO admitted attacking the prison (which they had reason to believe was used as a military installation) for two days. Milošević claimed the attack lasted three days. Survivors testified that after two days of NATO bombing, police ordered all prisoners into long lines on the sports field. Eight hundred prisoners obeyed, while well over a hundred hid inside the buildings. Not more than five seconds later the police lobbed grenades and fired bazookas, hand rockets, semi-automatic rifles, and machine guns at the exposed prisoners. The next morning police tossed grenades into hiding places, killing more prisoners. Ninety-seven prisoners died in the massacre; many more were wounded.

Serbian authorities called in the media to view the bodies. Journalists reported that they appeared to be civilian casualties from NATO bombing.<sup>36</sup>

<sup>35</sup> Cross-examination of Barry Lituchy (TR 24 March 2005: 35355).

<sup>36</sup> One reporter who was not fooled was Jacky Rowland, a reporter for the BBC, who testified that some of the bodies did not have wounds consistent with bombing (TR 28 August 2002: 9031-9032).

Milošević called Radovan Paponjak, head of traffic police in Peć, and General Obrad Stevanović. Paponjak produced a report of the incident made three years later, stating that nearly one hundred prisoners were killed by NATO bombing over a period of three days.

Cross-examining General Stevanović, the prosecutor revealed a report by the prison warden found among the defense exhibits. Aleksandar Rakočević wrote that a special police unit took over the prison on May 22 (the alleged third day of the NATO attack), ordering prison guards to withdraw. He continued, “We do not know what they were doing there, but we could hear detonations.” He sent the report to the Serbian Minister of Justice, Minister of the Interior, President, and the Head of the State Security Service, with a “read this” notation. Rakočević reported NATO attacks on two days, not three. On the third day, he wrote, “From 5.00 in the morning, pursuant to an order of the Ministry of the Interior, the prisoners of Dubrava were at the mercy of MUP special units staff” (TR 1 June 2005: 40312). Milošević’s defense team apparently overlooked the warden’s report when they gave exhibits to the prosecution, as required by ICTY rule.

NATO bombing provided a cover for Milošević’s planned ethnic cleansing operation that he had been preparing for at least a year. Presented with an option by Helmut Kohl to end the war less than two months after it started, he chose not to. Just as it cannot be proved that NATO intervention inspired more bloodletting and ethnic cleansing as some claim, it cannot be proved but is quite possible that NATO intervention prevented another genocide.

## **Conclusion**

Milošević’s insistence on representing himself, refusal to answer the charges, and disrespect for the court and its truth-seeking process did a disservice to the cause he professed to espouse. Rather than counter the prosecution’s evidence with credible evidence, he chose witnesses for their loyalty and willingness to follow a script. Their testimony was based on hearsay as many of them were not firsthand observers. Written evidence was manufactured well after the fact, often in contemplation of trial, and offered in place of contemporaneous documents. Milošević or his supporters suborned perjury through bribery or threats, demonstrated most notably in the testimony of Dragan Vasiljković. Milošević was creating fiction, another chapter in the Myth of Milošević. While that in itself is an interesting subject for historical analysis, it provides an obstacle for exploring the issues raised in this article. The prosecution’s evidence practically stands or falls on its own.

Intercepts and testimony from Milošević's inner circle show that he was a significant factor in the disintegration of Yugoslavia and the wars that followed. Milošević tried to conceal his hand through complex subterfuges, making it difficult to hold him responsible for crimes committed in the Bosnia-Herzegovina and Croatia wars. Yet, the prosecution produced substantial evidence that he was the driving force behind those wars. Milan Babić's testimony goes a long way towards establishing Belgrade's controlling hand and material support in the war in Croatia. The RS assembly minutes and Milošević's own admission to the FRY police demonstrate Belgrade's support for the war in Bosnia-Herzegovina. To the extent Milošević had ultimate control of resources necessary to the Serb war effort, he had power that he refrained from using. Still, it is likely Milošević's power only went so far with Mladić and Karadžić, evidence their rejection of two peace agreements. More definitive evidence may be forthcoming in the trials of Karadžić and Mladić.

The prosecution's evidence tends to show that Serbia was involved in the Srebrenica genocide, but not to what extent. According to the former ICTY chief prosecutor, the SDC minutes recently made public establish that Belgrade was involved in planning and executing the massacre. At a minimum we can hope they will throw light on this murky issue.

Though the majority of Milošević's witnesses testified about Kosovo, they did little to counter the prosecution's evidence that it was Milošević whose actions precipitated war –to unify Serbs behind him through a war against “terrorists” and NATO and by removing Kosovar Albanians from the province. Milošević produced no credible evidence that Kosovar Albanians fled the province for any reason other than being forcibly expelled by Serb forces. Virtually uncontested, the prosecution's evidence should put to rest allegations that Kosovar Albanians were driven out of the province by NATO bombs.

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