

Was justice ever served? Evidentiary record will outlive Milosevic, his war crimes and the tribunal

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By Judith Armatta and Edgar Chen

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For the better part of the last four years, we sat 20 feet from Slobodan Milosevic, behind bulletproof glass, monitoring his trial and that of other war crimes suspects before the International Criminal Tribunal for the former Yugoslavia in The Hague. The death of Milosevic--only scant weeks before his trial was to conclude--means that his case is closed with no verdict. Some have been quick to label it a devastating setback for international war crimes prosecutions. We disagree. While his trial did not reach a legal judgment, it did bring a measure of justice. It forced Milosevic to spend his last years in prison defending allegations for the gravest crimes instead of living in opulent exile or sowing further turmoil. Most important, it provided crucial evidence that stands as a condemnation of his regime and which undoubtedly will bring others to justice.

Milosevic's indictment in 1999 delegitimized him as an international power broker and helped bring about his downfall. World leaders who had paid him excessive deference in their peacemaking efforts in the Balkans were forced to turn elsewhere. In 2001, when he was transferred to the custody of the tribunal, his departure from Serbia physically removed a deeply destabilizing figure who could have dragged the region into war again.

Although there will be no verdict, there still is a legal legacy. In four years of trial, enormous amounts of documentary evidence were driven into the open that otherwise would have remained hidden. In proceedings before another UN court, the International Court of Justice, Bosnia's claim against Serbia for genocide rests in part on evidence derived from cases before the tribunal--especially Milosevic's.

For example, the now-infamous "Skorpions" videotape, which depicted members of a Serbian paramilitary unit gunning down Bosnian Muslims from Srebrenica in 1995, first emerged last summer in Milosevic's trial--and though the tape was not entered into evidence in his case, its discovery profoundly reverberated in Serbia, helping to combat the culture of denial about Belgrade's involvement in the Bosnian war. That tape has already helped send the trigger-pullers to prison in Serbia and can still be used as evidence against other high-ranking suspects. Nearly every day of Milosevic's trial, we sat in the gallery and chronicled his political tirades and the alternatively moving and tedious testimonies of witnesses, from former ambassadors, ministers and presidents to policemen and farmers.

Some of the most powerful evidence came from his former associates, including the recorded words of fugitives Radovan Karadzic and Ratko Mladic, and even from Milosevic himself, his

voice captured in intercepted telephone calls. This evidence and the in-court testimony of high-level insiders effectively established that Milosevic was behind the wars in Croatia and Bosnia, providing money, men and arms.

As for its Kosovo case, the prosecution presented so widespread a pattern of killing, property destruction and expulsion that it could have occurred only with planning, coordination and orchestration at the highest levels. His was the first trial at the tribunal to tackle what happened in Kosovo--but it will not be the last.

The evidence brought forward in his case still can be used against Milosevic's top political and military henchmen, scheduled to go to trial this year. Genocide, crimes against humanity and war crimes of the scale committed in the Balkans cannot be carried out by one person. Top leaders, such as Milosevic, bear the ultimate responsibility, but they depend on so many others--the Adolf Eichmanns of the world--to carry out the mechanics of their plans.

Even though the Milosevic case was one about political and military leadership, perhaps the most unforgettable moments we observed involved ordinary persons who came face-to-face with the man accused not only of destroying the former Yugoslavia, but their lives. One witness, an elderly and frail schoolteacher from Kosovo, testified how his daughter-in-law and grandchildren had been killed by Milosevic's forces. Milosevic deftly and successfully challenged the witness on whether he actually witnessed each of the crimes with his own eyes, winning that evidentiary point.

Nevertheless, the judge allowed the witness to have the last word. With emotion, the old man began to speak, talking directly to Milosevic, whose demeanor was often one of smug contemptuousness. Quietly, the witness said that while he had been ill, he had made the effort to travel to The Hague in order to testify about "the crimes committed, the massacres against old people, children, young people." Finally, he turned to his former president and said, "I would like to ask the accused about your feelings. Do you have any feelings?" For once, Milosevic had no answer.

Unlike so many of the victims of the wars he created, Milosevic had his day in court, and he had a fair trial--and the evidence it produced will go on to convict others. Milosevic would have faced life in prison had he been convicted. But we should remember that from the day he arrived in The Hague, he spent the rest of his life behind bars.