



The Unfinished Trial of Slobodan Milošević: Justice Lost, History Told
N. Tromp-Vrkic

PRESS ANNOUNCEMENT

The Unfinished Trial of Slobodan Milošević: Justice Lost, History Told presents a comprehensive analysis of the record of the trial of former Serbian leader Slobodan Milošević at the International Criminal Tribunal for the former Yugoslavia (ICTY). Unlike other studies of the trial, this text relies primarily on the trial record and advances the notion that such a record, even where the trial is unfinished, is a *unique* historical source that can shape the narrative of a conflict. In *The Unfinished Trial of Slobodan Milošević: Justice Lost, History Told*, snapshots of behaviour displayed by Milošević in court and quotations of things he said while conducting his defence in combination with passages of carefully selected evidence from an immense archive familiar to few scholars, reveal the trial record as a truly invaluable source of history.

Legal approaches to the Milošević trial and the evidence presented in court revolved around Milošević's leadership and whether or not he had articulated and implemented a criminal plan. Through examination of the trial record, a theoretical framework is developed in the first chapter of this study. Subsequently, three topics are introduced that are essential to the understanding of the intricacies of competing courtroom narratives. These topics – the Leader, the Ideology and the Plan – are expanded upon in the chapters that follow.

The Leader

Long before his trial that started in 2002 there was an ongoing debate among scholars, journalists, politicians, and diplomats about the extent of Milošević's historical and political responsibility for the violent disintegration of Yugoslavia. There has been something of a near consensus among these authors that Milošević personally bore the greatest share of the responsibility for it. Still, one might argue that in Serbia's dominant political culture, which relied on strong leadership, he had been allowed to develop very extensive *de jure* and *de facto* powers. Notwithstanding his personal mark on the Serbia's war path, the trial record also contains a wealth of material about the nature of the ideology adopted by Milošević, best described for the purpose of this text as a variant of pre-existing 'Serbian State ideology,' which advocated the

formation of a state to include all Serbs, who were scattered across former Yugoslav republics. The concept of a 'Greater Serbia' is explored, with particular attention paid to Milošević's contribution to Serbian state ideology in the 1980s and 1990s – a project described by its aim and known from the time Milošević came to power as 'All Serbs in a Single State.'

When Milošević became the leader of Serbia, Serb nationalism was an existing and continuing political programme to which he offered his services. His subsequent taste for power developed rapidly and he quickly became the most powerful political figure in Serbia. Having united Serb nationalists from other republics, he was soon accepted as the *de facto* leader of all Serbs. The ideology of Serb nationalism had long inspired a Serbian State Project that required meticulous and rational planning. The advocates of this ideology – including Milošević – had to have known and accepted that its implementation would most likely, or even inevitably, lead to the commission of mass atrocities.

The Ideology

The Prosecution argued that all of Milošević's political plans derived from his attempt to create a state that would incorporate all Serbs; and further, that the history of efforts to achieve this enlargement has been marked with mass atrocities against non-Serb populations. To establish Milošević's criminal state of mind, the Prosecution presented evidence on his adoption of the ideology of 'All Serbs in a Single State.' Milošević had promoted Greater Serbia ideology without using the term, but his rhetoric in the late 1980s and the platform of his party in 1990 identified the protection of Serbs living outside of Serbia as a priority and espoused 'the right of the Serb people to self-determination.' Arguing that self-determination for Serbs would indeed expand the territory of a Serb state, the Prosecution introduced the term '*de facto* Greater Serbia' to describe the ideology espoused by Milošević.

The Plan

This study distinguishes five goals that reflect key elements of Milošević's plan to create a state that would encompass all Serbs.

Goal 1, 1987 to 1990: Centralisation of the Republic of Serbia by revoking the autonomy of Kosovo and Vojvodina

The first goal was the centralisation of Serbia, which he successfully achieved by revoking the autonomy of its two formerly autonomous provinces – Kosovo and Vojvodina. The Serbian Constitution of 1990 reflected those changes, launching Milošević to new political heights among Serbs.

Goal 2, 1990 to 1991: Centralisation of the Yugoslav Federation with the Republic of Serbia as its dominant force

The successful centralisation of Serbia was followed by unsuccessful efforts to centralise the Yugoslav Federation and secure Serb domination through control of the Communist Party and federal institutions of the Socialist Federal Republic of Yugoslavia (SFRY). Attempts to achieve this second goal however instead brought the disintegration of the SFRY, after Slovenia and Croatia declared their independence in 1991.

Goal 3, 1991 to 1995: Creation of a reduced Yugoslavia to include ‘Serb-designated territories’ in Croatia, for which purpose the *Republika Srpska Krajina* (RSK) is established

Milošević’s third goal was set in reaction to the failure to preserve a centralised SFRY. The disintegration of the Federation led to efforts to preserve a Rump Yugoslavia that would consist of all former SFRY republics save for Slovenia and parts of Croatia. This Rump Yugoslavia was projected to include ‘Serb-designated territories’ in Croatia and, to that end, attempts were made to secure those territories by force as early as mid-1990. These actions led to a full-fledged war in Croatia in 1991. In this process, Croatian Serbs proclaimed their own quasi-state entity – the *Republika Srpska Krajina* (RSK) – which was envisaged to extend to the Virovitica-Karlovac-Karlobag (V-K-K) line, a boundary that is the very representation of the Greater Serbia ideology articulated in 1941. The borders of the RSK were more or less achieved by December 1991.

Goal 4, 1992 to 1995: Formation of the Federal Republic of Yugoslavia (FRY), a federation including Serbia and Montenegro, with contingencies in its

Constitution for later absorption of other Serb territories; thus, the *Republika Srpska* (RS) is created in BiH

The failure to achieve a Rump Yugoslavia with the inclusion of BiH led to the fourth goal. A referendum on independence held in BiH in February 1992 made it clear that a majority of the population there was in favour of independence. Adjusting to the loss of BiH, the republics of Serbia and Montenegro constituted the Federal Republic of Yugoslavia (FRY) in April 1992. The FRY Constitution allowed for other territories to join in. At the same time, Bosnian Serbs, following the example of Croatian Serbs, formed their own quasi-state in BiH – the Republika Srpska (RS). Unlike the formation of the RSK, which was achieved after several months of fighting, the formation of the RS took more than three years to realise and led to mass atrocities against non-Serbs. Eventually, the peace agreement for BiH that was signed by all parties in December 1995 allowed the RS to maintain its territorial autonomy despite the fact that the commission of crimes, including genocide, established its borders.

Goal 5, 1998 to 1999: Continuation of efforts to dominate Kosovo (goal 1), in the face of rising opposition from the majority ethnic Albanian population, resulting in full-scale war in 1999

The fifth goal Milošević sought to achieve was related to Kosovo. The Kosovo conflict escalated into an armed conflict in 1998, exposing Milošević's failure to keep Kosovo under Serbian rule even after revoking its autonomy in the 1990 Serbian Constitution. The eruption of violence between the Kosovo Liberation Army (KLA) and Serb armed forces in 1997 was used by Serbia to justify a violent campaign against the Kosovo Albanian population that attempted to alter the ethnic composition of Kosovo in favour of Serbs. By the end of December 1998, Milošević's determination to keep Kosovo in Serbia on his terms resulted in war and violence that was eventually brought to a stop by NATO military intervention. NATO's defeat of Serbian armed forces led to Serbia's loss of Kosovo as of 10 June 1999 and eventually to Milošević's downfall in October 2000.

Fall of the Leader

The 10 years of Milošević's reign resulted in more than 100,000 dead and many more displaced. And while Bosnian Serb leaders Radovan Karadžić and Ratko Mladić were indicted by the ICTY in July 1995, Milošević was given a second chance by the international community. Indeed, some saw Dayton as marking his metamorphosis from the "Butcher of the Balkans" into a peacemaker.

The Prosecution contended that, by supporting a policy *ostensibly* cooperative and focused on peace, Milošević managed to avert or end military interventions against Serb forces without actually shifting his own his goals. His acceptance of the Dayton Peace Agreement, the Prosecution argued, simply masked his criminal motivation to formalise Serb war gains. And, although Milošević came away from the Dayton negotiations with a victory on the domestic front, he grew obsessively concerned about his status and power and showed increasing intolerance toward fellow party members over time.

Milošević believed he could afford a domestic standoff given his newly acquired patronage by the West. Like many other politicians with extensive and autocratic powers, Milošević fell into the trap of self-isolation, relying on a shrinking circle of associates. As he became more authoritarian and exceedingly alienated from reality, he made a series of fatal mistakes in his dealings with the international community over Kosovo, and his military approach in the province reversed all credit he had earned at Dayton. The evidence presented in court of his apparent belief that he could remake the demography of Kosovo and then govern it from Belgrade, exposed the irrational and unrealistic side of Milošević's political strategy.

The NATO military intervention followed, and Serbia lost Kosovo. By 2000, Milošević was extremely isolated and out of touch. At the end of his presidency, a series of political murders against his former allies were perpetrated, reflecting his desperate efforts to retain power as his political base crumbled. Once in The Hague, Milošević refused to see the consequences of his political actions, expressing contempt for the court, the Prosecution, and the international community, and framing himself and his family as victims of a "savage" smear campaign. He never demonstrated that he understood the extent of suffering he had inflicted through the violence of war, but played the role of a wronged politician, enthusiastically if not always skilfully defending himself. When, on several occasions, his legal strategy was

shown to be obviously flawed Milošević curiously went forth as if nothing had happened.

Despite his grandstanding in the courtroom, by the time Milošević ended his political career, he was seen as a poor political and military strategist. A decade of violence had not brought the results that Serbian state ideologues had hoped for; and by 1995, Serb territories in Croatia had been abandoned by Serb forces and a majority of Croatian Serbs had emigrated to Serbia, Kosovo, or the Republika Srpska. In 1999, when international agreements stipulated that Serbian forces must leave Kosovo, that territory was lost to Serbia as well. The only war gain that Serb nationalists can still claim is the existence of the Republika Srpska as a separate political entity in Bosnia and Herzegovina.

This ‘gain’ – immensely significant in the minds of Serbs – demands careful consideration; for the Republika Srpska could not have been created without mass atrocities, including genocide, that were committed by Serbs against the Bosnian Muslim population particularly, in carefully targeted areas that had previously featured populations of mixed ethnicity. Bosnian Serb military and political leaders have been tried for these crimes and several have been convicted, but the records of their trials are only a part of the story. Nothing has been recorded in any of these trials about the role of Serbia, the Serbian political leadership, and Serbian armed forces in the genocide in BiH, and little has been exposed about their role in other offences connected to the creation of the Republika Srpska, such as in crimes against humanity.

And so, Milošević remains the only Serbian leader who has been indicted and tried for the crime of genocide (in Srebrenica and elsewhere). The record of the Milošević trial therefore contains evidence of great value for historians and other researchers, showing how the Republika Srpska was in fact forged. And, it was indeed forged into being – by red hot criminal violence in territories that belonged to other ethnic groups, who were targeted for no other reason but their ethnicity. This was the manifestation of genocidal intent by leaders, played out by intermediate commanders and foot soldiers who committed these crimes. *The Unfinished Trial of Slobodan Milošević: Justice Lost, History Told* underlines the potential transformative social value of the Milošević trial in exposing evidence and generating public debate about the role of Serbia, its state institutions, and its officials in post-Yugoslav violence.

