

# Milosevic and Sharon: when is a war criminal not a war criminal?

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In the aftermath of the Jenin massacre, some questions beg to be asked. One obvious query should, by rights, be posed by every major newspaper in the United States and Europe: Why is Slobodan Milosevic on trial, but not Israeli Prime Minister Ariel Sharon?

To raise this question is not a mark of political sympathy for Milosevic—a nationalist and pro-capitalist politician who shares responsibility for the political disaster that befell the Yugoslav people. Rather it serves as an indictment of the United Nations war crimes tribunal at The Hague, and of its successor, the International Criminal Court (ICC). The blatant double standard in the treatment of Milosevic and Sharon demonstrates that these courts are instruments of imperialist foreign policy.

If there are any objective standards of guilt involved in the decision to prosecute someone for war crimes, then Sharon should be in the dock of the ICC, which has the right to try war crimes all over the world. That he is not stands as proof that The Hague tribunal dealing with war crimes in the former Yugoslavia is nothing more than a political show trial, mounted on behalf of the United States and the other NATO powers in order to justify their war against Serbia and their ongoing military occupation of the Balkans.

The Hague's juridical credentials have already been severely undermined. The former Yugoslav president has mounted an effective defence, levelling counter-charges of crimes against peace by the Western powers due to their campaign to destabilise Yugoslavia. Fresh evidence has also emerged contradicting some of the central charges against him. The report by the Netherlands Institute for War Documentation, which implicated Dutch peacekeepers and the United Nations in the massacre of around 7,000 Bosnian Muslims in Srebrenica in 1995, found no evidence that either Milosevic or "the Serbian authorities in Belgrade had a direct role in the massacre."

Even those supportive of The Hague tribunal have been forced to question why Milosevic alone has been singled out for prosecution. In February the already existing United Nations body, the International Court of Justice (ICJ), made a ruling that has been used to delay a judicial decision on whether a prosecution can be taken against Sharon in Belgium. Under a 1993 law, Belgium gave itself the right to try war crimes committed by anyone, anywhere in the world. A group of Palestinians petitioned for Sharon to be tried for his responsibility for the massacre of 2,000 Palestinians in the refugee camps of Sabra and Shatilla, Beirut, in September 1982. But regarding an arrest warrant issued by Belgium against a Congolese official, the ICJ ruled that as a former or serving government official he "enjoys full immunity from criminal jurisdiction" and could not be tried in a foreign court. (Those supporting a prosecution of Sharon argue that the ICJ ruling on diplomatic immunity was specific to the case against the Congolese

official, and were he to have been charged with Genocide, the decision would have gone against him. The Geneva Conventions specifically state that certain serious crimes, such as Genocide, can be tried by any national court.)

In the months since the decision on whether Sharon could be tried was delayed, Sharon has added the invasion of the West Bank and the massacre at Jenin to his list of war crimes. Yet he continues to be afforded the full honours of a head of state by the Bush administration and its European counterparts, while Milosevic is detained in a prison cell.

It is highly unlikely that Sharon will face a trial like Milosevic, because there is nothing impartial about the court proceedings at The Hague or any other UN legal body. The US and European powers were exempted from prosecution by the Yugoslav war-crimes tribunal, while neither Israel nor the US even recognise the International Criminal Court's authority to try its citizens, and that court's statutes are so framed that any of the major powers has the right to veto a prosecution of its politicians or military personnel.

Yet by any reasonable criteria, not only is the case against Sharon more clear-cut than the charges levelled against Milosevic, but the specific crimes he is accused of are of greater magnitude.

Milosevic is charged with genocide, crimes against humanity and violations of the laws and customs of war in relation to the wars in Croatia in 1991, Bosnia in 1992-95 and Kosovo in 1999. The charges relating to Croatia and Bosnia were only added because the case against Milosevic with regards to Kosovo was deemed to be too weak to ensure a conviction. The actual deaths in Kosovo for which he is deemed responsible—cited in the indictment as Albanian victims of Serb gunmen-soldiers, police or paramilitaries—number 346. Sharon was already found responsible for the Sabra and Shatilla massacre by an Israeli tribunal, which then proceeded to give him a formal slap on the wrist that allowed him to continue his political career and even occupy Israel's highest office.

The claim that Serbian forces massacred 45 Albanian civilians in the Kosovar village of Racak in 1999 provided the immediate impulse for NATO to declare war Milosevic's regime. But Racak has always been the subject of controversy.

The alleged massacre is said to have taken place "on or about" January 15, 1999. The vagueness of the charge is due to the absence of any independent witnesses. Serbia has consistently claimed that the bodies were those of Kosovo Liberation Army (KLA) combatants who had died in earlier armed conflicts and were then gathered together for propaganda purposes. The European Union sent an investigating team headed by an American official and Washington uncritically endorsed the KLA's version of events as proof of a

“crime against humanity” committed on the orders of Milosevic. Less than two months later NATO planes, headed by the US, began bombing Belgrade.

A widely publicised report issued this year by a team of Finnish pathologists has given weight to the Serbian version of events at Racak. In an interview broadcast by Germany’s ARD television, Dr. Helena Ranta said she was “conscious that one could say that the whole scene in this small valley was arranged... This conclusion was included in our first investigation report, and also in our later forensic investigations, which we made in November 1999 directly in Racak.”

What then of Jenin? Here there is no doubt that Israel committed atrocities. Every television news channel, every major newspaper has published pictures of Israeli helicopters raining bombs on civilian housing and of tanks bulldozing buildings. Reporters spoke of a stench of death emanating from the ruins and of corpses lying in rows in the streets, because the Israeli Defence Force had been prevented by a court order from burying them in mass unmarked graves.

Most initial estimates were of hundreds dead, but this could not be verified because Israel refused to let in official UN investigators, while its armed forces continued to plough corpses into the ground. The latest reports speak of 54 corpses, including many who could not possibly have been combatants—such as women, children, old men, even cripples confined to wheelchairs.

In contrast to Racak, the Western powers have shown an extraordinary reluctance to charge Israel with any crime whatsoever. The UN has bent over backwards to accommodate to Israel’s demands that any inquiry be a purely fact-finding mission that would deliver no verdict and lead to no prosecutions. For its part, Washington could hardly bring itself to issue a word of criticism. Secretary of State Colin Powell made no attempt to visit Jenin personally during his diplomatic mission to Israel last month. This did not stop him from testifying before a Senate subcommittee that he had seen no evidence of a massacre in Jenin and describing the proposed UN investigation as a means of dispelling “the coarse speculation that was out there as to what happened, with terms being tossed around like massacre and mass graves, none of which so far seems to be the case.”

One must also take note of the Sharon government’s official rationale for the actions of the Israeli Defence Force at Jenin. Israel rejects charges of having carried out a massacre by claiming that only 40 or so people died and that most of these were members of Hezbollah, Islamic Jihad and or militant groups. Israel’s estimate of the number of victims cannot, to put it mildly, be taken uncritically. But it is noteworthy that its figure of Palestinian fatalities in Jenin is almost identical to the numbers killed at Racak—who were said by Serbia to be KLA combatants.

No Western politician and few journalists balk at calling Racak a massacre, whereas a large number of articles have appeared lending credence to Israel’s defence of its actions in Jenin and accepting that no massacre took place. Peter Beaumont, writing in the *Observer* April 21, cautioned the reader, “It is easy to be distracted by the presence of the bodies... By their very weight of numbers laid out on the ground—almost 30 on this afternoon—they suggested themselves as victims of a massacre.”

Not so, says Beaumont, “a massacre—in the sense it is usually understood—did not take place in Jenin’s refugee camp. Whatever crimes were committed here—and it appears there were many—a deliberate and calculated massacre of civilians by the Israeli army was not among them.”

Beaumont then makes the unfounded claim that “it is increasingly clear from evidence collected by this paper and other journalists, that the majority of those so far recovered have been Palestinian fighters from Islamic Jihad, Hamas and the al-Aqsa Brigades.”

An April 29 BBC report interviewing Amnesty International’s British military expert, Territorial Army Major David Holley, refers to 54 corpses. These include several civilians, “with possibly 20 or 30 unaccounted for” and “one or two civilians who were shot and executed” and “snipers cutting people down in the streets with clear views of civilians trying to get away from the fighting”.

But Holley still manages to assert that “massacre is a word that is too often used in these sort of situations and it doesn’t really help,” before declaring his support for Israel’s efforts to determine the composition of the UN investigative team. The BBC ran the piece under a headline that placed quotation marks around the word massacre.

Seven days after Beaumont’s article, Sharon had made crystal clear that he would not allow even the most toothless UN investigation of Jenin.

A number of additional points can be made:

The indictment against Milosevic admits that the Albanian separatist KLA precipitated civil war in Kosovo through “a campaign of armed insurgency and violent resistance to the Serbian authorities” involving “attacks primarily targeting FRY and Serbian police forces”. Yet Israel’s assertion that its incursion into Palestinian territory is a means of combating a terrorist threat is accepted as good coin, while the Serbian government’s efforts to stem a terrorist threat on its own territory is condemned as a war crime.

To date, The Hague tribunal has had no success in identifying an occasion in which Milosevic himself can be shown to have authorised or sanctioned any of the atrocities cited, which are mostly attributed to irregular Serb nationalist forces that were not under his command. In Jenin and elsewhere there is no such ambiguity. The destruction on the West Bank has been carried out by the armed forces under the direct orders of the military top brass and under Sharon’s authority as head of government.

Perhaps most telling of all, the case against Milosevic rests in the final analysis on the assertion that, whether or not his direct responsibility can be proven, his advocacy of ethnic cleansing created the political environment for atrocities to take place. But one is forced to ask, how can Sharon’s policy with regards to the West Bank and Gaza Strip be designated as anything other than ethnic cleansing?

Whether or not civilians were deliberately targeted for killing, the IDF’s systematic destruction of housing, roads, transport, electricity, water supplies, sewage—every necessity of life—is aimed at forcing ethnic Arabs to flee their lands and make them available for further military bases and Jewish settlements to be established. This fact alone testifies to the double standard employed by the Western powers and the hypocrisy of all claims by Israel’s apologists to be motivated by humanitarian considerations.



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