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**Is this a show trial, or the beginning of a new kind of justice?**

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JEREMY VINE:

We're joined now by Judge Richard Goldstone from Cape Town, who was the chief prosecutor at the International Criminal Tribunal when it was set up. Also here in the studio, Dr John Laughland, author of a book on The Hague tribunal and a lecturer on human rights law. Judge Goldstone, when you were preparing this case originally did you ever think you would see today, when it actually came to trial.

JUDGE RICHARD GOLDSTONE:

CHIEF PROSECUTOR, 1994 - 1996, INTERNATIONAL CRIMINAL COURT, YUGOSLAVIA

I did. We started way back five-and-a-half years ago investigating people at the top. We regarded that as our most important brief and mandate. People ask me, literally daily, will you ever get people like Milosevic, and my response was that we will get that sort of person when it's in the interest of their people to hand them over and that's what happened.

VINE:

Dr Laughland, whatever your views of the rights or wrongs of what's happening here, there's something extraordinary about it, of this high-ranking politician being brought to account?

DR JOHN LAUGHLAND:

AUTHOR, "THE INTERNATIONAL CRIMINAL TRIBUNAL"

It's certainly extraordinary in that sense, but I think what's more extraordinary is the fact that so much publicity has been given in these last few days to the war in Bosnia, whereas three months ago the war in Bosnia or Croatia did not figure in the indictment. These indictments for Bosnia and Croatia have been cobbled together at the last minute because The Hague tribunal has realised that its case against him for Kosovo, which was of course the reason why he was brought to The Hague in the first place, is full of holes and essentially might not lead to a conviction. We're in this extraordinary position where we've had ten years of Balkan wars and only in the last three months, ten years after Vukovar, seven years after Srebrenica, have indictments been brought forward for these major wars.

VINE:

Judge Goldstone, is the case cobbled together?

GOLDSTONE:

I have no inside information and nor would Dr Laughland, but I have no doubt that the cases which are being presented have been collected over many years of very hard and difficult investigations and work. I question very strongly the implication that this has been cobbled together because the prosecution was in any problem over the Kosovo trial. I think the events over the next few weeks will establish whether that view has any merit in it or not.

VINE:

Are you leaning towards a view, Dr Laughland, that Slobodan Milosevic has no case to answer?

LAUGHLAND:

I certainly take the now apparently rather eccentric view that a man who is not convicted is innocent. I point out that the level of media coverage of these alleged crimes would be impossible in any normal trial - an injunction would have been put against them and they would be considered prejudicial to a fair trial.

VINE:

But you're satisfied there's a case there, are you?

LAUGHLAND:

There might be a case there, but what I'm extremely unhappy about is the fact that NATO's attacks on Yugoslavia, which lasted for 78 days in the spring of 1999, have been declared outside the court's jurisdiction, so we are going to be in the totally looking-glass situation, an utterly perverse situation, of discussing, for instance, the Kosovo war, but also the Bosnian and Croatian wars, without any reference to the role played by Western powers in the break-up of Yugoslavia and not even to the attacks on Yugoslavia in 1999 which were criminal under any normal reading of international law. Despite that criminality, the case NATO has to answer will not be dealt with.

VINE:

That makes the proceedings look a bit unbalanced, Judge Goldstone?

GOLDSTONE:

No, this is a facile argument from Dr John Laughland, with the greatest of respect, in two respects. Firstly, the NATO bombing took place after all the crimes with which Milosevic has been charged had taken place. But more importantly, the NATO bombing was marked by a unique attempt on the part of the NATO powers, on the part of the generals and the

admirals concerned, to avoid killing civilians, to avoid injuring civilians, and thereby to avoid committing war crimes. The extraordinary small number of civilians that were killed in 78 days of bombing is ample testimony to that in comparison to the intentional crimes - the murders, the rapes, the expulsions - that took place in the former Yugoslavia. Any errors that may have been made by NATO paled into insignificance. Thirdly, the tribunal in no way ruled any war crimes that may have been committed by NATO outside the jurisdiction. It held that there was no sufficient evidence against individuals to warrant further investigation.

LAUGHLAND:

That is completely untrue. As far as the war crimes that NATO committed are concerned, the prosecutor ruled in 2001 that crimes against peace were not inside its jurisdiction. I am astonished to hear Judge Goldstone talk about the hundreds and maybe thousands of civilian casualties of NATO's bombing as an insignificant number, particularly when the number of civilians who it is alleged were killed in Kosovo by the Yugoslav authorities is only 500.

VINE:

It was the prosecutor Carla Del Ponte who said "It is not about NATO. It is not our task, not part of our brief, just as we can't decide on general responsibilities of countries or international organisations. It is our task to pinpoint possible individual responsibilities." That was the distinction.

LAUGHLAND:

You could say the leaders of NATO, like Bill Clinton and Tony Blair, bear the same kind of individual responsibility that Milosevic has. It is important for people to understand the significance of this refusal to judge NATO. A lot of reference is made to Nuremberg. The primary crime of which the Nazis were accused and convicted were crimes against peace, the crime of planning and executing an aggressive war. It is quite clear to me, to me anyway, that in the jurisdiction of Nuremberg, the NATO leaders are guilty.

VINE:

Judge Goldstone, looking at the wider repercussions of this, do you think we may get to a situation where dictators in other countries are afraid to travel?

GOLDSTONE:

Absolutely. It is happening already. There've been a number of episodes, significant cases already where former leaders have had to rush away either to their home countries or to countries where they are receiving political asylum - Mengistu Haile Mariam of Ethiopia comes to mind,

President Suharto comes to mind. Other people have been in that position and I think that is a huge advance.

VINE:

That would be an advance wouldn't it?

AUGHLAND:

I remember, Jeremy, you talking to Robin Cook a while ago and you asked him about the International Criminal Court. When you said would British leaders be indicted as a result of its creation, he replied very angrily that this court had not been created to bring British Prime Ministers or American Presidents to book. Clearly, any situation, any structure like The Hague court, which is tilted only to Third World dictators and not to people in the West, must be unfair and unjust.