

# REPORT FROM THE HAGUE

An Interview with Fred Abrahams

by Angela Edman

If you do not know who Fred Abrahams is, ask Slobodan Milosevic. During his trial a few months ago, the self-representing former head of state claimed that Abrahams's book, *Under Orders: War Crimes in Kosovo*, "was used as one of the main means for the indictment." Coming out of anyone else's mouth, it would be an honor; but to Milosevic, Abrahams, a longtime senior researcher for Human Rights Watch, is just part of the western conspiracy to persecute him. This interview, delivered from The Hague, offers Abrahams's pointed analysis on aspects of the Milosevic trial, as well as explanations on the role of a human rights investigator in the still-developing international courts.

**BardPolitik** What are some of the most crucial aspects of the Milosevic case highlighted in your testimony?

**Abrahams** The first important issue was notification—whether or not the accused knew or had reason to know about the crimes that had been committed. So I testified that Human Rights Watch had sent all of its reports on Kosovo to the Serbian and Yugoslav authorities, including Milosevic himself. We sent them throughout the 1990s, especially in 1998 and 1999, by e-mail, fax, and regular mail, so we certainly sent them and they most certainly arrived, and also our reports were in the media. They were on our website, so clearly he had an opportunity to know about the accusations.

The other point was about what we had witnessed and documented. There are two ways to break that up. One is what we had seen ourselves; actual crimes that we had witnessed or the aftermath of crimes, and then what we had documented by interviewing people. In 1999, we interviewed 600 people, but throughout 1998 and 1999, we interviewed over a thousand, so we were able to present our summary findings about expulsions, killings, and sexual violence to show that there was a pattern of systemic abuse.

**BardPolitik** Can you describe a few key problems that have been occurring in the trial so far?

**Abrahams** There are a number of problems that stem from the complexity of a case this large. It's a massive criminal prosecution that has 66 counts and spans over a 10-year period. But it is further complicated by the fact that he is acting as his own lawyer, so the judges have gone to great lengths to give him his full rights, even when he bullies the witnesses. This is certainly intimidating and this is a clear problem regarding insider witnesses. Serbs who can talk about what happened inside the Serbian security structure clearly have been intimidated. There has already been one witness who has refused to testify while he was on the stand, and is being held in contempt of court. There is fear, physically and also because in confronting Milosevic they know he can bring up any information about their past. He certainly has access to intelligence files, and has brought up personal things about people's backgrounds. So this is complicated. It makes it much more difficult to prove the chain of command if you don't have insider witnesses.

**BardPolitik** Can you describe the process of information collecting for a war crimes trial?

**Abrahams** Our research in Kosovo is essentially the same as in other places. The methodology is the same, in that it requires field research: spending time in



Graves in the Djakovica cemetery. According to witnesses, Serbian forces exhumed and moved at least seventy bodies in May 1999. ©1999 Fred Abrahams/Human Rights Watch

Kosovo or in the areas around Kosovo to interview refugees. We speak with direct sources—with victims or the witnesses of abuse—and then go to great lengths to collect corroborative information like court records or autopsy reports. We try to visit the crime scenes when possible. I think this is the same for any investigation that we would do. Maybe because we knew that the tribunal was looking at Kosovo, we worked a little bit harder and were extra careful to collect as much information as possible that we thought could be used in court. But primarily the work is the same as around the world; it's done by going into the field and speaking with the victims themselves to get their stories.

**BardPolitik** Keeping in mind the Doctrine of Command Responsibility—specifically the idea that the prosecution needs to prove that Milosevic only *knew* about the atrocities that his troops were committing and failed to take action to stop them—how did Milosevic respond to the evidence regarding the e-mails, letters, and other pieces of information Human Rights Watch sent to Milosevic that documented very specifically these atrocities?

**Abrahams** He never questioned the fact that we had sent him our reports. That did not come up at all in the cross-examination. He challenged our findings by suggesting that we wrote our reports while sitting in New York. He repeatedly argued that we were sitting in our offices and concocting evidence, which was very

easy to refute, because we had spent weeks and weeks and in fact months in the field, so that wasn't a very strong point. Then he tried to argue that we were not objective; that we had overblown Serbian crimes and not reported on Albanian crimes, Kosovo Liberation Army (KLA) crimes, or NATO violations; and again, this was not very effective because we had done work on all sides of the conflict. So he then retreated into trying to undermine Human Rights Watch's credibility, again without facts.

**BardPolitik** Can you comment on the importance of international human rights watchdog organizations, such as Human Rights Watch, in contributing to the development of international justice?

**Abrahams** There are two ways such groups are contributing. One way is the work that the international justice division and other organizations do on advocacy, presenting policy ideas, and pushing governments to ratify the ICC and so on. That's not my work, but obviously that's an important part of it. From my perspective, it's more the second way: the field research and how we can contribute to cases, and I think we can contribute a lot, because, [for instance] in Kosovo, the tribunal was not allowed into Yugoslavia for a long time. During the war, with a few exceptions, they could not get into Kosovo. They could only get in after the war. So we were able to conduct investigations that they couldn't. So our documentation was very useful to

them, and I think that organizations can contribute in that way.

**BardPolitik** How important is the act of researching and publicizing facts on all sides of the conflicts, keeping the principle of neutrality in mind, to the establishment of a fair trial? I'm curious about any conflicts you may have encountered while trying to fairly research and present the different sides: the KLA, NATO, the Serbian military, and so on.

**Abrahams** Reporting on all sides of the conflict is crucial, and after the NATO bombing it was a very important decision for us to investigate civilian deaths caused by NATO, for many reasons: first of all, because there were serious allegations that we wanted to investigate—that's the primary reason—and also to make the point that we do look to look at all sides. Certainly we didn't do it just to make that point, but in the end it's crucial to look at all forces and to monitor objectively. In court this came up as a very important point. Because we had documented violations by NATO and the KLA, it gave our work on the Serbian and Yugoslav side a lot more credibility. As for the difficulties, every conflict is different, but it is complicated, so there are issues, for example, of access. If you criticize the KLA too much they could deny you access into areas of their control, or vice versa, so those are all things that are very complicated and need to be assessed. In the end, we took every effort to be as objective as possible in this regard, and I feel comfortable in the coverage of the KLA and I believe that the reports are an accurate reflection of the proportion of crimes that were committed on the ground. Working in war zones is definitely a complicated endeavor, and there are security concerns that also have to be taken into consideration. But ultimately we have to report as objectively as possible.

**BardPolitik** Can you comment on the developing field of international justice as a possibly positive aspect of globalization?

**Abrahams** I don't view international justice as an idealistic notion, because there are definitely problems with it. The UN has its complications and it's not always the

most efficient mechanism, and the tribunal has many areas where it could be improved. But I do believe that it's a very powerful mechanism for attacking abusive governments and abusive individuals, or to counteract their crimes and their assaults on humanity, so that the sovereignty of nations melts down when people egregiously abuse the rights of their own citizens. I find it to be a very empowering notion that the world community is not going to tolerate abusive behavior and is not going to tolerate such atrocious acts. We can [now] speak up as a global community with some weight, with the power of the law rather than with simply press releases or protests. I find that to be a very positive and empowering trend.

**BardPolitik** Based on your experiences at the International Criminal Tribunal for the Former Yugoslavia, what kind of precedent is the Milosevic trial setting for the International Criminal Court?

**Abrahams** Well, the most important precedent is that an acting head of state was accused of war crimes. The message there is essential and extremely powerful: namely that no one has immunity, and the most powerful people in the world can be held accountable for the things they do. I think that's the most important thing. Secondly, I hope the ICC learns from the mistakes of the tribunal. It would be another topic of discussion to talk about all the improvements that the tribunal needs to make in terms of its efficiency and its effectiveness. So I hope the ICC can learn from that and become a more effective institution.

**BardPolitik** Can you offer any predictions for the future of the Milosevic trial?

**Abrahams** Conviction.

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