

## Bolton and the Balkan tribunal

By [Jeffrey T. Kuhner](#)

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In-depth Report: [THE BALKANS](#)

The International Criminal Tribunal for the former Yugoslavia was initially created to punish those who perpetrated war crimes in the Balkan wars of the 1990s. It was never intended to become a politicized, antidemocratic tribunal aimed at intimidating opposition journalists in the region. Yet this is exactly what has happened.

Carla Del Ponte, the ICTY's chief prosecutor, recently indicted four journalists in Croatia — Ivica Marijagic, Markica Rebic, Domagoj Margetic and Stjepan Seselj — for "contempt of the tribunal." These journalists' alleged "crime" was that they published the identity and statements of a protected witness in the 1998 case of a Bosnian Croat general. The ICTY stipulates the maximum punishment for such an offense is a fine of 100,000 euros and seven years in prison.

The tribunal prosecutor's office is seeking to justify these outrageous indictments by claiming the witness' statements were given in a "nonpublic," secret proceeding. Hence, by publishing those statements these journalists supposedly violated the witness' protection guarantees of the tribunal.

However, it is the tribunal's responsibility, not that of the Croatian or international media, to ensure secret witness testimony is not leaked. More importantly, freedom of the press and the public's right to information trumps any claims the tribunal may have about witness protection. It is the role of journalists in a free society to hold public officials accountable for their actions and to reveal sensitive, even privileged, information in order to inform the public.

These indictments are a direct assault on Croatia's democracy and its independent media. This is why Mrs. Del Ponte's actions have aroused the attention of Republicans on Capitol Hill, as well as leading U.S. press watchdog groups.

"We are concerned about the tribunal's activities in regards to the indictments of these journalists and we are watching it closely," said Alex Lupis, Europe program coordinator for the Committee to Protect Journalists. Based in New York, the CPJ is America's largest organization devoted to monitoring and protecting global press freedom.

"We think the tribunal should focus on indicting and prosecuting war criminals rather than going after journalists," he said. "There is a legitimate need on behalf of the tribunal to protect secret witness testimony but this is not the best way to go about it."

Mr. Lupis stressed the CPJ opposes the ICTY having "broad jurisdiction over journalists." He urged the tribunal not to "overstep its authority. ... Journalists should be allowed to do their work without criminal penalties," Mr. Lupis said.

Leading Republicans maintain these indictments may trigger a movement in Congress to cut off funding for the ICTY. "This is something we will be looking into," said an official on the House International Relations Committee, who spoke on the condition of anonymity. The official went on to describe the indictments as "outrageous," especially since the ICTY, as an offshoot of the United Nations, is partly financed by U.S. taxpayers. Surely, Americans are

not pleased their hard-earned money is being used to help put journalists in jail.

This is not the first time Mrs. Del Ponte has abused her prosecutorial powers. Numerous Croatian journalists have complained her office has often sought to intimidate them in order to prevent any negative press coverage of the tribunal.

They claim officials close to her have threatened to use their influence with governmental authorities and prominent editors to have reporters fired, demoted or muzzled.

Lord Acton, the great 19th-century British classical liberal, famously said: "Power corrupts, and absolute power tends to corrupt absolutely." This is clearly the case with Mrs. Del Ponte. She has become corrupted by power: She is now engaging in antidemocratic, thuggish behavior. She is seeking to silence all opposition to the ICTY within the Croatian media. Someone needs to remind her she is not a former Hapsburg governor of a backward Balkan province, whose mandate is to crush internal rebellions. Her mandate is to pursue genuine war criminals; it is not to intimidate and silence journalists.

Republicans would be wise to finally rein in Mrs. Del Ponte. Her conduct warrants not only closer congressional scrutiny, but an official investigation. Moreover, John Bolton, President Bush's nominee as U.S. ambassador to the United Nations, has made no secret of his dislike for the ICTY. He advocates winding down the tribunal and transferring most cases to local courts.

Once confirmed, Mr. Bolton faces numerous challenges in trying to reform the U.N. Removing Mrs. Del Ponte and having these indictments dropped should be near the top of his list.

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