



# Death, Lies & Videotape

The Trial of Romania's Ceausescu

**A** grisly scene concludes the videotape: White smoke and machine gun fire fill the air. "No more shooting," a voice barks in Romanian. As the camera pulls forward, two bodies riddled by bullets come into view. The closest is Mrs. Ceausescu; blood gushes from her head. A doctor makes a perfunctory vital sign check. The camera pans to the second corpse. It is slumped back, head hidden from view. "Pull him up, so we can see him," a voice directs. It's Nicolae Ceausescu, Romania's erstwhile dictator. Curiously, there is no blood — only a red necktie brightens the macabre display.

The tape, broadcast in Romania some four months after the execution, was bootlegged out of the coun-

try and has been making the rounds among Romanian expatriates. Though it's somewhat washed out and frequently inaudible, its purpose is clear: It's the Romanian government's apology for its treatment of the Ceausescus — the trial, the sentence, the execution, the burial.

It's a remarkable artifact. Quietly doing away with the Ceausescus while the country was under counter-revolutionary attack by armies of kamikaze Securitate men might have been excusable. But trying to pass the whole thing off as a legally sufficient proceeding is a travesty. The complete lack of concern for an unbiased determination of guilt or innocence, and the marked disregard for the most basic notions

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of due process, raise troubling questions about the Romanian government's actions and motives.

The tape begins on a note reminiscent of a B-grade Hollywood movie from the 1940s — a photograph of Ceausescu appears on the screen and bursts into flames. The music turns somber and menacing as the picture is consumed by fire. The only credit matter-of-factly announces that Colonel Ion Baiu is the producer. The key grip remains anonymous.

We are in the courtroom of the Extraordinary Military Tribunal. It is a windowless room about 30 feet square, with some makeshift tables and chairs and a terra-cotta stove. A soldier in riot gear stands guard, clutching a Kalashnikov. The Ceausescus sit behind two small tables in a corner. Opposite and to their left are the ten members of the court-martial, most of them in uniform. Only the presiding judge speaks; the others take notes and fidget uncomfortably.

Two civilians in business suits ask permission to speak to the Ceausescus. They are the defense lawyers, eager to initiate the lawyer-client relationship. Curiously, they — like the prosecutor and most of the judges — wear tri-colored arm bands, signaling solidarity with the revolution. The lawyers consult with their clients for about two minutes before the presiding judge interrupts by delivering a lecture about the Ceausescu's extravagant lifestyle: "You lived in luxury and gave nothing to the people," he rants. The defense lawyers return to their seats, maintaining a distance from their clients one might from lepers.

The prosecutor stands to read the indictment, which — as best we can make out — consists of five counts: 1) genocide, the killing of more than 60,000 victims, presumably during the recent uprising; 2) subverting the power of the state

duty to defend his client vigorously, no matter who it is. In fact, he continues, "we do the defendants the honor of defending them." It is very important, he proclaims, that everyone — the defendants, the Romanian people, the world — know that this trial was lawful. "We have looked into the matter carefully and have determined that all procedural requirements have been complied with." Ceausescu has been removed as President, so he is no longer entitled to trial by the GNA. This tribunal is "perfectly legal" and "the defendants should be aware of this for all the moments of their lives left to them — however many that might be." Tweedledum is obviously a graduate of the Transylvania Academy of Tact and Charm.

He next turns to the charges: "They are guilty... they have no defense," he concludes as to the first count. "They are guilty" on the second count as well, and the court should "take into account we think they're guilty." One by one he enumerates the remaining charges and pronounces that, on the basis of the evidence he has examined, they are "also proven." He concludes with a request: The court should impose the appropriate punishment, but not as an act

clients' case, the lawyers lent the proceedings a false air of legitimacy; they enabled the Ceausescus' accusers to claim, in the words of Tweedledum, that "all procedural requirements have been complied with."

But this sorry episode raises some other, sharper questions, among them:

- What on earth did the Romanian government hope to accomplish with this mini-extravaganza? As noted at the outset, it is understandable, if deplorable, to quietly do away with a dictator in the midst of a struggle for control. A rash act in the midst of crisis might be excused; a deliberative proceeding that has the trappings — but none of the substance — of legality, is an affront to the legal order.

The Romanian government has made no excuse for the manner in which the so-called trial was conducted; it has not repudiated the proceedings as contrary to law and good conscience; it has taken no action against the perpetrators. Instead, four months after the event, it broadcast the proceedings on national television, with an introduction connoting reverence and pride.

- Why the hurry to kill off the Ceausescus? At the time, there were alarming reports of roving bands of Securitate men engaged in widespread guerilla warfare. Burned-out and bullet-riddled buildings in many cities and towns attest to a ferocious struggle. Doing away with the leader of the counterrevolutionaries may have seemed the most promising way to stop the violence. Remarkably little has been heard about these bands of evildoers since. How many were there? What happened to them? No one seems to know. It is also disturbing that the original estimate of 60,000 casualties soon proved to be wildly exaggerated. Who came up with that figure? For what purpose?

When I visited Bucharest last

*Ceausescu was  
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But the way  
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and convicted  
and punished  
sets a poor  
example of justice.*

subverting the power of the state through misuse of the army and other misdeeds; 3) destruction of the commonwealth through the demolition of cities and towns; 4) subversion of the national economy; and 5) attempted flight from the country for the purpose of retrieving more than \$1 billion secreted in Swiss bank accounts. The defendants' real crime is conspiring "to destroy the Romanian people," the prosecutor adds. He asks for the death penalty and forfeiture of all property.

The presiding judge begins to barrage the defendants with questions. Who, for example, paid "the mercenaries" to shoot at the demonstrators in Timisoara? "I gave orders not to shoot," protests Ceausescu, but he is shouted down.

Ceausescu raises a jurisdictional issue: As the President of Romania, he may be called to account only by the Great National Assembly. The presiding judge points out that the GNA has been disbanded. "I will answer no questions, except before the GNA," Ceausescu retorts.

One of the defense lawyers — Tweedledum — intercedes to make an important point: "Will the court ask Mr. Ceausescu whether he is aware that he is no longer President, having been removed from office?" This will turn out to be the fulcrum of Tweedledum's summation.

The questioning of the defendants continues fast and furious: Why did you mistreat the peasants? How much foreign currency did you hide in Swiss bank accounts? "Not a dollar," Ceausescu snaps back. "We had no bank account in any foreign country."

"Yes you did," the presiding judge insists.

"Proof," Mrs. Ceausescu calls out. "What proof do you have?"

Tweedledum makes another helpful intervention: "Will the court ask defendant Eleana Ceausescu whether she is mentally ill?" Mrs. Ceausescu objects to the inquiry, but her lawyer insists: "It's for your own good." "We've worked for the people for 40 years," Mrs. Ceausescu flashes angrily. "It's our own people. We wouldn't betray them."

The viewer suddenly realizes there's something missing. No witnesses testify, no documentary proof is presented. Aside from the presiding judge's occasional perorations, nothing resembling evidence links the defendants to any crime at all, much less those in the indictment. After about 40 minutes, the questions stop. The prosecutor makes a brief statement asserting that the charges have been proven and requesting the ultimate punishment.

No courtroom melodrama is complete without impassioned summations by the defense lawyers. Tweedledum starts off by pointing out that it's a lawyer's

of revenge, "merely as punishment in accordance with law."

Unlike his prosaic colleague, Tweedledee is definitely into histrionics. "It is difficult to know what to say about people who, even in the face of justice, refuse to recognize the crimes they have committed." Defendants ought to be punished not merely for the atrocities committed at Timisoara and Bucharest during the recent revolution, but — his voice breaking into a tremolo — for "strangling the spirit of Romania, smothering the soul of the Romanian people."

"Lies from beginning to end," Ceausescu shouts. He looks exasperated, not frightened. If the Ceausescus know what awaits them, they do not betray it.

The tribunal retires and reconvenes promptly. The presiding judge reads the verdict: Defendants are guilty as charged; they are condemned to death and forfeiture of all property.

Ever vigilant, the Tweedleduo darts forward for a brief conference with the defendants. "There will be no appeal. The sentence is final," they announce. This is a critical decision. The taking of an appeal automatically stays the execution. An appeal would unquestionably have been in the Ceausescus' interest, if only to buy time. It is unclear how much of this the defense lawyers explained in the few seconds they spent talking to their clients.

The courtroom clears, defendants being left behind under guard. Eventually they too are marched out, Mrs. Ceausescu careful to pick up her purse. We next see their lifeless bodies under the clearing smoke.

The only jurisprudential observation one can make about the Ceausescu trial is that it was a farce. It had so little in common with a legal proceeding it does not deserve to be called a trial. The tribunal was hopelessly biased, with the presiding judge often taking the role of accuser. The charges were so vague they were largely incapable of proof. There was no evidence at all, only a sustained fusillade of suggestive questions. Perhaps the saddest part was the performance of the defense lawyers, devoid of dignity and professional competence. They made not the slightest attempt to point out the glaring flaws in the prosecution's case or to plead for lenience. Indeed, few prosecutors could have done a better job of ensuring conviction and the most severe punishment.

True, the political climate in Romania at the time hardly lent itself to a vigorous defense of the Ceausescus. But lawyers normally have an option not to participate. By participating and then shamelessly undermining their

When I visited Bucharest last February, it was suggested — in whispers — that the post-coup crisis might have been manufactured to consolidate the control of the National Salvation Front and prevent challenges by rival factions. Certainly, reports we now know to be false, such as those concerning tens of thousands of casualties and poisoned water supplies, generated an air of hysteria that allowed the NSF to assume and retain power without serious challenge. It also provided a handy justification for the summary trial and execution of the Ceausescus.

Could it be that members of the NSF feared what a public trial of the Ceausescus might reveal? One thing is certain: The swift execution eliminated any possibility that the Ceausescus would implicate others in their misdeeds.

• Why didn't Ceausescu's corpse bleed? The Romanian friend who provided me with a copy of the tape reported speculation that Ceausescu died during a botched effort to torture out of him details of the alleged Swiss bank accounts. Although it is only a hypothesis, there is something ominous in the fact that Romanian expatriates acquainted with members of the current regime raise it as a realistic possibility. Because the videotape does not show us the victims alive just prior to the execution, we cannot dismiss the possibility.

Ceausescu was a bad man. He ruled his country with an iron fist, driving the economy to ruin; he made a mockery of basic human rights; he may well have salted away large sums of money for himself; he probably ordered Romanian troops to open fire on the demonstrators at Timisoara, killing many innocent people. He surely deserved to be deposed and punished for his crimes, perhaps by death. From all accounts, Mrs. Ceausescu was more than a passive observer and also deserved to be brought to account for her misdeeds.

But the way in which the Ceausescus were tried, convicted and punished is deeply disturbing. The Romanian government's failure to denounce the proceedings as fundamentally corrupt sets a poor example that ill-serves the cause of justice in that country. Indeed, by showcasing the kangaroo trial, the Romanian government has — at the least — given its imprimatur to a lynch mob. Nor, as the brutal suppression of anti-government demonstrators last June shows, was this an isolated incident. This bodes not at all well for the development of a true constitutional democracy in Romania.

*Judge Kozinski sits on the United States Court of Appeals for the Ninth Circuit. He left Romania in 1961 at the age of 11.*