

# ANNEXES



1.  
Documentation on Human Rights Violations • 301
2.  
Kosovo—Facts and Figures • 319
3.  
The Rambouillet Agreement—a Summary • 320
4.  
The Ahtisaari-Chernomyrdin Agreement—a Summary • 324
5.  
UN Resolution 1244 • 325
6.  
The Commission's Work • 331
7.  
End notes • 342
8.  
Literature on Kosovo and the Crisis • 364
9.  
Acronyms • 367
10.  
Index • 369

## ANNEX I ★ DOCUMENTATION ON HUMAN RIGHTS VIOLATIONS

During the course of its work, the Independent International Commission asked ABA/CEELI to set up a team of experts to compile data on violations of human rights and humanitarian law before, during and after the NATO campaign. The team was set up and organized by executive director Mark Ellis, ABA/CEELI. The members of the team were Scott Carlsson, director of the Kosovo and War Crimes Documentation Project for ABA/CEELI; Charles Rudnick, assistant dean of International Law at the Chicago-Kent Collage of Law; Randy Clark, the Chicago-Kent Collage of Law; Wendy Betts, assistant director of the Kosovo and War Crimes Documentation Project for ABA/CEELI (hereafter called the Team). The Commission extends its warm thanks to ABA/CEELI and its Team.

This annex is the report of the Team. It sets forth supporting documentation for chapter two, Internal Armed Conflict: February 1998–March 1999; chapter three, International War Supervenes: March 1999–June 1999; and chapter seven, Humanitarian Aid and Media.

The section on *Gathering Evidence* provides a comprehensive list of organizations whose public and non-published information were reviewed by the Team in support of its findings on human rights violations prior, during and after the conflict. Particular focus is placed on the difficulties of obtaining precise quantification of human rights violations prior to NATO's air campaign.

The section on *Violations of Human Rights and Humanitarian Law in Kosovo*, sets out a detailed review of the human rights violations, particularly those perpetrated during the period of March 24, 1999 and June 10, 1999. The section includes a discussion of the methodologies used by the Team in documenting the number of killings during this period.

Finally, in the section on *A Need For A New Approach for Documenting Human Rights Violations*, the Team calls for the coordination of NGOs and government entities in adopting a common and comprehensive set of standards that would enhance human rights data collection. This includes the development of an atrocities documentation database in the form of software that would be shared free of charge with interested parties. This will allow disparate groups to gather data in a format suitable for larger analyses with greater accuracy.

### **Gathering Evidence**

The Team reviewed either public or non-published information from the following organizations: Albanian Human Rights Group, Albanian Center for Human Rights, The Center—Peace Through Justice, Center for Peace and Tolerance, Council for Defense of Human Rights and Freedoms, Humanitarian Law Center, Kosovo Helsinki Committee, Mother Theresa Society, Serb Helsinki Committee, American Bar Association Central and East European Law Initiative (ABA/CEELI), Amnesty International, Berkeley Center for Human Rights, Committee for the Protection of Journalists, European Roma Rights Center, Human Rights Watch, International Committee of the Red Cross, International Crisis Group, International Organization for Migration, Interrights—International Center for the Legal Protection of Human Rights, IPLS/American Association for the

Advancement of Science, Lawyers Committee for Human Rights, Medicins Sans Frontiers, Physicians for Human Rights (PHR), Society for Threatened Peoples, Federal Republic of Yugoslavia Federal Foreign Ministry, Kosovo Diplomatic Observer Mission (KDOM), Organization for Security and Co-operation in Europe (OSCE)/Kosovo Verification Mission (KVM), United Nations Children's Fund (UNICEF), United Nations High Commissioner for Refugees (UNHCR), United Kingdom Ministry of Defense, US Federal Bureau of Investigation (FBI), Albanian Prosecutor, International Criminal Tribunal for the Former Yugoslavia (ICTY), US Department of State, US Department of Defense. While some relevant organizations did not respond to the Team's requests for information, the Team is confident that the missing data would not alter the clear trends identified in this Chapter.

A wide variety of reports have been issued by many international, governmental, and non-governmental organizations. Most of the information is narrative. However, several organizations conducted statistical studies including, Physicians for Human Rights; American Association for the Advancement of Science (AAAS); Centers for Disease Control; and a cooperative effort between the ABA/CEELI, Human Rights Watch, PHR, AAAS, and the Center for Peace Through Justice.

The findings of these reports support many of the conclusions drawn from the descriptive accounts. However, the statistical studies employed techniques, such as scientific sampling, which added rigor to and countered many of the biases often associated with the collection of narrative information. In addition, the methodology used in these analyses allows for projections as to the scale of abuses Kosovo-wide, whereas most narrative descriptions highlight representative cases.

To address the criticism that much of the information regarding human rights abuses in Kosovo exaggerated the situation, the Team gathered data from a wide variety of sources. While giving weight to all viewpoints, the Team analysis of this information has attempted to avoid relying on materials that contained significantly unsubstantiated claims or which clearly contradicted a preponderance of other reliable evidence. Where differences emerged on specific points among reliable sources, they have been noted in the report and annex.

As noted above, the Team has made a serious effort to collect and analyze all data relevant to human rights violations in Kosovo. During the buildup to the armed conflict, there were a variety of human rights abuses. However, it is important to note here that an accurate and comprehensive tabulation of the number of killings is difficult if not impossible to establish for the period preceding 1998. During this May–August period of escalation, a precise quantification of the violence against civilians is inhibited by the lack of detailed, verified data was not readily available.

With that in mind, the Team also notes that the human rights organizations assembling such data were, by and large, not focusing on statistics as a primary goal. Rather, they were interested in portraying the nature and variety of human rights abuses present to galvanize public opinion. To accomplish this goal, they chose the narrative approach, which puts a human face on the tragedy as it unfolded. This approach is undoubtedly important and useful.

A consistent theme among major human rights monitoring organizations was the

need for greater rigor in the collection and presentation of Kosovo data. Beginning in 1997, the International Crisis Group (ICG) commented on the need for more precision in the presentation of human rights data. The ICG noted with regard to a report by CDHRF:

[O]f the 2263 overall cases of "human rights" violations in the period from July to September 1997, they cite 3 murders, three "discriminations based on language" and 149 "routine checkings." By collating minor and major offenses under the same heading, the statistics fail to give a fair representation of the situation.<sup>1</sup>

Similarly, Amnesty International devoted an entire report to highlighting the need for additional rigor concerning the documentation of the July conflict in Rrahovec/Orahovac.<sup>2</sup> According to Amnesty, the goal of the report was to:

look[ ] at the conflicting reports, said to be based upon the testimonies of witnesses, by journalists, human rights monitors and others, and the arguments over the truth behind the events in the latter half of July, arguments which have raged in a climate of significant misreporting, unverified published data and deliberate disinformation promoted at times by both sides of the conflict and their supporters.<sup>3</sup>

This Amnesty report, published in August 1998, closed with a series of recommendations, including a specific admonition that the Serb authorities should cooperate with ICTY investigations and prosecutions and permit long-term OSCE observers within Kosovo itself.<sup>4</sup>

In future settings of this type, the Team hopes that both narrative and statistical reporting will be developed more in tandem as suggested at the end of the annex. New technology and the lessons from this conflict give room for optimism.

#### Violations of Human Rights and Humanitarian Law in Kosovo During the March 24–June 10 1999 Period

During the course of its work, the Team benefited from the significant assistance of a team of researchers who made an exhaustive effort to compile data on violations of human rights and humanitarian law before, during and after the NATO campaign.<sup>5</sup> One of the most significant aspects of this process was its effort to promote collaboration among the broad variety of international governmental and non-governmental agencies that had compiled such data. The result is, we believe, the single most integrated and thorough report.

What follows is an analysis of narrative evidence of human rights violations in Kosovo based upon data and reports provided to the Team by international, governmental, and non-governmental organizations. Collection of narrative data from sources within Kosovo was difficult during the NATO campaign. After withdrawal of the OSCE-KVM Mission on March 22, 1999, virtually all on-ground monitoring of human rights violations in Kosovo by international governmental organizations and NGOs ceased. Some local NGOs attempted to continue monitoring activities in-country during this period.<sup>6</sup> However, most of the narrative information about human rights violations during the NATO campaign was acquired through interviews with refugees conducted

outside of Kosovo at the time, or with returned refugees after the conclusion of the bombing campaign.<sup>7</sup> These interviews were usually conducted in refugee camps or host family homes in Albania, Macedonia, and Fort Dix, New Jersey. Other organizations and governmental agencies relied on post-conflict forensic data,<sup>8</sup> published news reports,<sup>9</sup> independent investigations,<sup>10</sup> or military/intelligence information<sup>11</sup> in evaluating the human rights situation in Kosovo during the NATO air campaign. Still other groups collected potentially relevant data that has not been made public in any form.<sup>12</sup>

The extensive human rights violations<sup>13</sup> in Kosovo during the period of March 24–June 10, 1999 can be grouped into the following ten categories: forced displacement; killings; rape/sexual assault; arbitrary detention and violation of the right to fair trial; destruction, looting, and pillaging of civilian property; human shields and placing civilians at risk of harm; violations of medical neutrality; torture, cruel and inhuman treatment; confiscation of documents; and violations by NATO.

### Forced Displacement

Approximately 863,000 refugees were displaced from Kosovo during the NATO air campaign,<sup>14</sup> leading to an estimated total of “at least one million” persons who left the province from March 1998 through the end of the armed conflict.<sup>15</sup> Most of these refugees ended up in refugee camps or with host families in Albania, Macedonia, Montenegro, and Bosnia and Herzegovina. Approximately 80,000 were transferred to other countries in Europe, the United States, and elsewhere. In addition, over 590,000 became internally displaced persons (IDPs) within Kosovo.<sup>16</sup> Taken together, these figures demonstrate that over 90% of the estimated Kosovar Albanian population in 1998 were displaced from their homes.<sup>17</sup>

The substantial planning and coordination of these mass deportations are illustrated by the fact that before March there were two regular daily trains between Prishtina/Pristina and the Macedonian border, usually with three carriages each. During deportations there were three to four extra trains added each day, each with between thirteen to twenty carriages. One report recounts a train with twenty-eight carriages crammed full of people leaving Prishtina/Pristina for Macedonia.<sup>18</sup>

There were a number of challenges in quantifying the exodus. What is clear is that much of the ethnic Albanian population of Kosovo left their homes during the conflict, particularly between March 23 and April 6, 1999.<sup>19</sup> Collection of information from refugees departing Kosovo was complicated by a number of factors including chaotic wartime conditions surrounding their departure, the overwhelmingly sensitive nature of the information requested during refugee interviews, potential bias of refugees reporting information, and after the fact accounts of information that was traumatic and confusing when it occurred.

Despite these factors, a number of organizations did collect extensive amounts of information either from departing refugees, from refugees in camps or with host families outside of Kosovo during the conflict, or from returned refugees in Kosovo after the conflict. These organizations include the OSCE, KVM, KDOM, Physicians for Human Rights, The Lawyers Committee, the Council For Defense of Freedoms, ABA/CEELI in cooperation with The Center for Peace Through Justice (Tirana), UNHCR, and many

others. Basic information, including name, home municipality and village, and departure date was collected by customs and border monitoring officials in neighboring Macedonia and Albania.

Two types of findings can be extracted from the gathered information; compilations of narrative information, and statistical conclusions derived from specific analysis of refugee reports. Many organizations provided reports of the first type, compiling narrative information by date, region where events described occurred, and nature of events described.<sup>20</sup> The American Academy for the Advancement of Science (AAAS) produced what is to date the only statistical analysis of information derived from refugee flow data.

The statistical analysis of forced displacements performed by AAAS shed some light on the reasons why the majority of refugees and IDPs left their homes. The report analyzes information gathered by Albanian government officials registering refugees crossing the Albania/Kosovo border at Morine/Morina. Similar information gathered by Macedonian border officials at the Blace border has been requested by the Team, in hopes of assembling a more comprehensive statistical analysis. The AAAS report correlates refugee departure dates and home locations with NATO bomb attacks and locations of mass killings. From this correlation, the report demonstrates that refugee flow patterns do not match NATO bombing or mass killing location patterns, and, therefore, neither bombings nor mass killings directly caused refugee flows. The report then analyzes refugee departure locations and border arrival dates. It finds that refugees departed in three distinct waves from each of three regions of Kosovo. The regularity with which each wave of refugee arrivals builds up and drops off before the next wave begins suggests that the ethnic Albanian population was systematically expelled from with a carefully planned and orchestrated operation.<sup>21</sup>

Narrative information gathered by a number of non-governmental organizations sheds light on the conditions surrounding most refugees' departure from Kosovo. Virtually all of those displaced were Kosovar Albanians who were forced to leave their homes by members of the Yugoslav Armed Forces, Serbian police, or armed paramilitary units.<sup>22</sup> Witnesses from municipalities across the province reported a similar pattern of expulsions.<sup>23</sup> Serb forces would surround a village or town and attack it with grenades or artillery shelling, forcing many people to hide in basements or flee to the surrounding hills. Serb forces would then move into the village, frequently shooting into the air, and forcibly enter any Kosovar Albanian home. Any remaining occupants were threatened and usually given a brief period of time—several minutes or a few hours—within which they had to collect any belongings and leave. This process was usually accompanied by physical abuse, extortion, and killing. Once the village inhabitants were expelled, the Serb forces would loot and burn homes and businesses, and kill livestock. In some locations, such as Prishtine/Pristina, inhabitants were forced to board trains or buses that would transfer them across the border. Others traveled on tractor, car, cart, or on foot. In other cases, people were allowed to take cars and tractors and ordered to follow a prescribed route to the border. Many residents of municipalities east of the main North–South railroad were forced to walk to railway stations and were taken by trains to the Macedonian border.

### Killings

Summary and arbitrary killings became widespread during this period. The international community has not yet reached agreement on the precise number of people killed during the Kosovo conflict. The OSCE has declined to estimate a figure. ICTY Chief Prosecutor Carla Del Ponte reported to the UN Security Council that the ICTY had received reports of 11,000 people killed, with exhumations of 2108 bodies as of November 1999.<sup>24</sup> The US State Department has estimated that 6000 people were killed and buried in mass graves, and puts the total number killed at approximately 10,000.<sup>25</sup>

While there are limited reports of Serbs having been summarily executed by the KLA,<sup>26</sup> the overwhelming number of summary and arbitrary killings were reported to have been carried out by Serb forces against Kosovar Albanians. These killings took many forms. During forced expulsions, Serb forces would sometimes arbitrarily execute a Kosovar Albanian as an “example” in view of other village inhabitants and family members. Also during the forced expulsions, the Serb forces would usually separate the men from the women. In numerous cases, the group of men would be gathered together and killed. People traveling in convoys to the borders after expulsion were similarly victimized. Serb forces would also occasionally surround groups of IDPs hiding in the hills or forests and kill them. Also, children were specifically targeted for murder.<sup>27</sup>

In addition to arbitrary executions, there was apparently a pattern on the part of the Serb forces in which prominent members of Kosovar Albanian society were targeted for killing. One of the most widely reported such killing was of the leading human rights attorney Bajram Kelmendi and his sons. However, other lawyers, doctors, and political leaders were reportedly targeted as well.<sup>28</sup>

Usually the victims of arbitrary and summary killings were shot.<sup>29</sup> There are reports, however, of individual and mass killings carried out by burning people alive in locked homes, and beatings that led to death. In addition, many civilians were killed by the shelling and bombardment of villages, and indiscriminate gunfire by Serb forces.<sup>30</sup>

Reports during the period of the NATO air campaign indicate that Serb forces attempted to minimize evidence of mass killings by destroying and/or exhuming mass graves.<sup>31</sup> There is also evidence that Serb forces would leave dead bodies decomposing in the open for days or weeks, and sometimes prevented Kosovar Albanians from burying the dead in compliance with their religious customs.<sup>32</sup>

ABA/CEELI and the American Association for the Advancement of Science (AAAS) with the cooperation and support of like-minded human rights NGOs, including The Center for Peace Through Justice (Center), Physicians for Human Rights (PHR), and Human Rights Watch (HRW) undertook a statistical analysis of documented accounts of killings during the Kosovo conflict.<sup>33</sup> Each of these organizations conducted extensive interviewing of Kosovar concerning what happened during the conflict. In total, there were 3353 interviews included in the study.

AAAS statisticians estimate that approximately 10,500 Kosovar Albanians were killed between March 20–June 12, 1999. This estimate tracks closely the early numbers suggested by the US Department of State and the ICTY. Furthermore, it is based upon established statistical methods that would be defensible in a court of law.<sup>34</sup>

Because the estimate of 10,500 killed was generated from samples of the population

and not the entire population itself, a range must be computed that represents a margin of error for the estimate due to the sampling methods and the estimation technique. Using a 95% confidence interval, AAAS statisticians estimated the number of Kosovar Albanians who were killed during this time period to fall between 7494 and 13,627 (see Figure 1). This confidence interval indicates that if this study were repeated 100 times using different but independent lists of data, one would expect that in 95 of the 100 studies, the estimate would fall in the range 7494–13,627 killings.<sup>35</sup>

This confidence interval is most significant because it establishes that the 10,500 estimated killed is consistent with the findings of other scientific estimates of the number of killings. In September 1999, the Center for Disease Control (CDC) conducted a two-stage cluster survey among the Kosovar Albanian population in Kosovo. They collected retrospective mortality data, including cause of death, for the period from February 1998 to June 1999. Their report concluded that approximately 12,000 Kosovar had died in the conflict with a confidence interval of from 5500 to 18,300.<sup>36</sup> In addition, PHR<sup>37</sup> estimated that there were 9,269 Kosovar Albanians killed in the year prior to interview (the majority of these killings occurred during 1999). A 95% confidence interval for the PHR estimate results in a range of killings between 6911 and 11,627. Note that the ABA/CEELI-AAAS study's estimate of 10,500 fits within the confidence intervals from the PHR and CDC studies, and that both the PHR and CDC estimates. Thus, there is a general convergence of the ABA/AAAS estimate with other scientific estimates.<sup>38</sup>

With this cross comparison, it is now possible to assert that there is strong scientific evidence to support early ICTY and US Department of State estimates. While further data could provide refinements in the overall estimate, the ABA/CEELI-AAAS estimate would likely increase slightly with additional data, as opposed to decrease. Thus, the estimate of 10,500 killed should be viewed in terms of a minimum total number killed.<sup>39</sup>

While an accurate estimate of the total number killed is an important issue with geopolitical consequences, an equally compelling point of inquiry is an examination of the timing of the killings. These findings reveal that a majority of documented killings<sup>40</sup> occurred between late March and mid-April. This timing correlates in substantial part with refugee flows. Building upon past AAAS research on refugee flows, the results of this study support the proposition that there was a systematic campaign conducted against the Kosovar Albanian population.<sup>41</sup>

An analysis of the documented killings by time indicates that there was a peak in killing in late March, followed by another in mid-April. Reports also indicate a smaller, but sustained peak in late April to mid-May, after which the number of documented killings tapered off. This pattern of peaks corresponds with the pattern of refugee flows that occurred during these times. In the AAAS study Policy or Panic (2000), refugee flows out of Kosovo are described as having occurred in three distinct phases: March 24–April 6, April 17–23, and April 24–May 11. During the beginning of each phase, the flow of refugees was relatively light. The number of refugees leaving Kosovo would rise to a high point (a peak, group of peaks, or plateau) during the middle of the phase, before tapering off toward the end of the phase.<sup>42</sup>

By comparing the estimated numbers of people who left each municipality over time to the times when NATO bomb attacks occurred, the AAAS study concludes that

only a small fraction of Kosovar Albanians fled Kosovo as a direct result of NATO bombing raids. It also concludes that the mass exodus of refugees from Kosovo occurred in patterns so regular that they must have been coordinated. In the context of qualitative accounts given by refugees, the most likely explanation for the migration is the implementation of a centrally organized campaign to clear at least certain regions of ethnic Albanians.<sup>43</sup>

This last proposition is supported by the timing of reported killings seen in these analyses. Killing patterns mirror refugee flows extremely closely. If killings are a means of intimidation used to facilitate mass forced evictions then refugee flows are a logical result of killings. The close correspondence between the rise and fall of numbers of refugees leaving their homes and reported killings is wholly consistent with that postulate. Furthermore, the fact that the increases in the number of reported killings fluctuate in unison with refugee flows is consistent with the proposition that there was a centrally organized campaign targeting ethnic Albanians.<sup>44</sup>

The patterns of people killed in Kosovo over time and across space are similar to the refugee migration patterns and imply coordination. Narrative reports from refugees interviewed by ABA/CEELI-Center, PHR, and HRW attributed the vast majority of the killings to Yugoslav government and Serb paramilitary forces. This claim is consistent with the information collected by other organizations such as the International Crisis Group<sup>45</sup> and OSCE.<sup>46</sup> In light of the qualitative sources' attribution of a wide range of violations of international humanitarian law to Yugoslav forces, and given the conclusion that patterns of violations suggest central coordination, the ABA-AAAS report concludes that the patterns in the data imply that Yugoslav forces provided the central coordination of the documented violations.<sup>47</sup>

#### Rape/Sexual Assault

Occurrences of rape and sexual assault during the air war were merely a continuation of a trend begun by Serb forces a decade earlier. Many local and international NGOs reported cases of rape in the time period prior to the bombing. However, the majority of these incidents have not been corroborated.<sup>48</sup> It is also unclear precisely how many women were raped during the March 24–June 10 time period, primarily because the stigma attached to this form of violence in traditional Albanian society likely led to the underreporting of rape in Kosovo. HRW confirmed 96 documented cases, but note that due to women's reluctance to report sexual assault, this figure represents only a fraction of the actual incidents.<sup>49</sup> The reported cases demonstrate that Serb forces engaged in rape across the province between March 24 and June 10 as described below.

Rapes frequently occurred during forced expulsions, when men and women were separated. Serb forces would occasionally gather the women in a home and subject them to multiple rapes.<sup>50</sup> Sometimes, individual women were taken from their families to a separate home or village, where they were raped and then often returned a few hours later. Serb forces would also rape women or girls in front of their families or in view of the public, either in their homes, outside during expulsions, or on the side of the road during convoys. Some groups of women were reportedly taken to hotels or army camps, where they were held for extended periods and subjected to multiple

rapes. The threat of rape was also used by Serb forces as a means of extorting money from the families of women and girls.

#### Arbitrary Detention and Violation of Right to a Fair Trial

Arbitrary arrests and detention were widespread in Kosovo during the period of the NATO bombing campaign, particularly following the adoption of an emergency criminal procedure code by the Yugoslav government.<sup>51</sup>

During forced expulsions, when the men and women were usually separated, Serb forces would often detain Kosovar Albanian men of "fighting age," which could range from 14 to 65 years old. Similar treatment would frequently be encountered by men in IDP convoys. Those detained would often be taken to ad hoc detention facilities in schools or factories, or to prisons and jails. The most commonly used facilities were located in Istog/Istok, Lipjan/Lipljan, Vushtrri/Vucitrn, Prishtina/Pristina, Peje/Pec, and Gjakove/Djakovica.

Those detained would frequently be beaten and tortured, and forced to sign documents admitting their involvement with the KLA. After commencement of the NATO air campaign, there was little pretense of providing a fair trial to detainees. The rights of those arrested to appear before a judge were routinely violated.<sup>52</sup> Many were killed, and many were transferred to detention facilities located in Serbia at the conclusion of the NATO air campaign. The ICRC has estimated that approximately 2500 people disappeared during the period of the NATO bombing campaign. Of those, approximately 2000 were seized by Serb forces.<sup>53</sup>

The KLA was also involved in arbitrary detention and arrests of Kosovar Serbs and policemen, and established its own judicial system to handle the detainees. Although it is unclear to what extent this continued during the NATO air campaign, ICRC has estimated that 370 of those still missing from the entire conflict were seized by the KLA.<sup>54</sup>

#### Destruction, Looting, and Pillaging of Civilian Property

Attacks on civilian property were one of the defining characteristics of the period of the NATO bombing campaign. The vast majority of refugees reported incidents of destruction of civilian property, looting, or pillaging.<sup>55</sup> Over 500 villages were reported to have experienced burning, with 54 of them identified as having been mostly or entirely destroyed by burning.<sup>56</sup>

The attacks were conducted almost exclusively by Serb forces against Kosovar Albanian property, usually during the forced expulsion process. Sometimes, civilian homes would be destroyed by the shelling that would normally precede the forced expulsion. More often, once the inhabitants of a village had been expelled, Serb forces would move in, pillaging and looting the homes of Kosovar Albanian citizens. There were reports that Serb forces sometimes used lists of wealthy Kosovar Albanians to identify targets for looting.<sup>57</sup> Shops and businesses were almost always targeted. In rural areas, livestock was often killed,<sup>58</sup> and the corpses sometimes placed in wells.<sup>59</sup> Following looting and pillaging, the homes and businesses were often burned. In addition, there were many reports of the Serb forces targeting religious buildings, especially mosques, as well as buildings of historical or communal significance.

The Serb forces would also confiscate personal property, money, and automobiles at police checkpoints or random searches of IDP convoys. They would often extort money by threatening to kill or rape a family member.

#### Human Shields and Placing Civilians at Risk of Harm

During the period of the NATO air campaign, Serb forces reportedly used Kosovar Albanians as “human shields” on numerous occasions. Some refugees reported being forced to accompany Serbian military convoys, as deterrence to NATO air attacks.<sup>60</sup> It is also possible that groups of IDPs were forced to remain in the vicinity of potential NATO targets by Serb forces, thereby acting unknowingly as human shields.<sup>61</sup> It is difficult to estimate the precise extent of these activities, in part because the victims may not have been aware of the risk. Moreover, there were incidents in which Serb forces escorted groups of IDPs where the Kosovar Albanians were not being used as human shields.

Reports also include incidents in which Serbian forces compelled Kosovar Albanians to wear Serbian military uniforms, and placed groups of Kosovar Albanians inside likely NATO targets to try to generate civilian casualties. Serb forces also used civilian locations, including private homes, to conceal ammunition, weapons, and military vehicles.

There are reports of detained Kosovar Albanians being forced to conduct labor under dangerous circumstances. At least two incidents include reports of detainees being forced to walk across fields to see if they were mined, resulting in injuries to four Kosovar Albanian men.<sup>62</sup> This does not appear to have been a widespread phenomenon.

#### Violations of Medical Neutrality

The period of the NATO air campaign brought with it a broad range of violations of medical neutrality by Serb forces against the Kosovar Albanians. These violations included the expulsion of Kosovar Albanian doctors and patients from hospitals; targeting and murdering of physicians; denial of health care to Kosovar Albanian patients, including those seriously wounded;<sup>63</sup> harassment of Kosovar Albanian physicians; and positioning of military equipment on the roofs or grounds of medical facilities.<sup>64</sup> Serb forces also used hospitals to store ammunition. There were reports that the Serbs destroyed approximately 100 hospitals, clinics, and pharmacies.<sup>65</sup>

#### Torture, Cruel and Inhuman Treatment

Torture and ill treatment took place across Kosovo during the period in question. Refugee interviews demonstrate that virtually every municipality experienced incidents in which civilians were deliberately targeted for cruel, inhuman or degrading treatment.<sup>66</sup> These incidents were overwhelmingly reported to have taken place against Kosovar Albanians at the hands of Serb forces.

Victims were most often subjected to this treatment while being held in police stations, prisons, or other detention facilities. During interrogation, detainees would often be beaten, either by hand or with wooden clubs and baseball bats. Electric shocks were administered through electrical cables. Finger and toenails were removed, and needles were placed under finger and toenails. There were reports of knives being used to carve designs into victims’ skin.<sup>67</sup> Men would sometimes be beaten in the genital area, and

often required to strip naked, both in public and while in detention. Such incidents also took place during forced expulsions, both within private homes and during IDP convoys. Often the ill treatment was accompanied by extortion of money and other valuables.

#### Confiscation of Documents

This phase saw an extensive series of incidents in which the identification papers belonging to Kosovar Albanians, including passports, identification cards, or identification papers, were confiscated by Serb forces. The overall number of such incidents is unclear, but one survey of nearly 1200 refugees found that 60% had experienced or observed the confiscation or destruction of identity papers.<sup>68</sup>

Destruction of identification documents usually took place during forced displacement or when IDPs were about to cross borders into Albania or Macedonia. Serb forces also confiscated large numbers of automobile license plates, registration papers, land titles, and other forms of documentation.

#### A Need For A New Approach for Documenting Human Rights Violations

Acknowledging the diverse purposes of human rights reporting could promote clarity and effectiveness in the uses of the reports. At least three distinct purposes are at work, and each justifies its own methodology.<sup>69</sup> The first is to obtain in-depth eyewitness accounts of specific human rights violations to provide definitive, reliable, and compelling information for domestic and international audiences. Exemplified by the work of Human Rights Watch, in Kosovo this approach called upon field staff to develop trusting relationships with witnesses and to work quickly and flexibly to enable real-time reporting.

The second is to gather the kind of quantifiable information that can establish the scale and time frame of the human rights violations. In Kosovo, Physicians for Human Rights exemplified this kind of work. In conflict situations with incomplete access to information, this process faces many methodological hurdles. Ensuring the reliability of data aggregated across collecting groups is difficult when the methods for collecting data differ across different groups. Random sampling helps control for bias but it is not always easy to undertake in crisis situations. Cluster surveys and other population-based methodologies require standardization and technical expertise.<sup>70</sup> Testimonial and interview data do not lend them to the same kind of quantification and extrapolation as do measures of refugee flow. Selection bias limits the usefulness of interview data for epidemiological purposes even though such information can be vital in establishing the nature and course of particular human rights violations.

Finally, data can be sought to identify witness testimony to assist the ICTY. This kind of work in Kosovo was exemplified by ABA/CEELI and the International Crisis Group (ICG), which cooperated in developing standard interview forms as guides for interviewers, based on the information required by the ICTY and designed to connect with a database that could absorb information gathered by varied groups in varied settings.<sup>71</sup>

Additional information might be available from humanitarian groups, which inevitably gather stories in the midst of providing aid and protection. However, their neutrality could be compromised if they share their information with human rights re-

porting efforts. Perhaps improved communications among the two kinds of groups could reduce tensions and promote more constructive points of connection. Similarly, humanitarian groups should cooperate with human rights groups and the ICTY to provide family support and liaison in conjunction with field investigations because such investigations to date lack family support.

Coordinating methods for data collection offers some real benefits for each of these purposes, but there are also compelling reasons to ensure that each group can pursue its own methodology. Coordination, especially if imposed, can be bureaucratizing and inefficient; it can also founder in the face of rivalries and the possessive attitudes of individual groups; it can make operating field missions even more difficult; and it can impair the prospects for timely reportage. Specific coordination among human rights groups, humanitarian groups in the field and the ICTY is crucial, however, so that potential sources of evidence for criminal prosecutions are not tampered with and potential witnesses are not exhausted by repeating their stories to multiple interviewers. For this work, it is vital that information about how to locate the witness in the future be obtained, that a consistent form be used, and that interviewees be respected as potential witnesses in a criminal tribunal. The ICTY itself should clarify its position regarding the use of human rights and humanitarian organizations in gathering information to be used by the Tribunal. Sometimes, it has ignored organizations despite their offers to help and at other times it has attempted to force organizations to hand-over information. Standardization of methods by ICTY investigators would overcome such inconsistencies.

At the same time, rigorous standards developed by some non-governmental groups could inform and improve the forensic field investigations performed for the ICTY.<sup>72</sup> More generally, sharing at least a common vocabulary can strengthen the capacity of human rights reporting efforts to inform the media, the public, governments, and tribunals. Ideally, human rights organizations can find ways to share data sources, use transparent methodologies, and where feasible, coordinate data collection to permit more effective and wide-scale reporting. Improved training of field staff would improve data collection and coordination.<sup>73</sup>

Human rights organizations were a key focal point in the Kosovo conflict. Their reporting proved to be a decisive condition precedent for international intervention. In the slow build up to international intervention, there were numerous reports of large scale human rights abuses, but the international community responded cautiously, linking the degree of involvement to the assembly of quantifiable data of these alleged abuses. Given the debate surrounding the question of intervention generally, it is likely that the international community will continue to insist upon an increasingly sophisticated body of documentation for human rights abuses upon which to base their decisions. The political significance, for instance, of the massacre in Recak/Racak, was greatly magnified due to the speed with which a third party, OSCE-KVM, was able to catalogue and report the events. International resolve to act hardened immediately thereafter.

However, access to better information for the international community to use in determining its response is only one benefit of enhanced human rights data collection methods. There is also a need for more reliable data in order to hold perpetrators re-

sponsible for their actions. Statistical studies can be of particular use in this endeavor as they can identify patterns and trends in abuses that may not necessarily be gleaned from anecdotal information alone. Knowledge of these patterns can help to place responsibility on people in authority positions by helping to identify abuses that result from official policies. For example, the American Association for the Advancement of Science (AAAS) study, *Policy or Panic*, provides a powerful basis for asserting that Yugoslav authorities executed a coherent program of ethnic cleansing, in contradiction to their repeated official statements. Future conflicts would benefit from more of this type of information and analysis.

Comprehensive analyses of the pattern of human rights violations cannot be achieved without the cooperation and participation of the organizations devoted to collecting the data, and we urge the relevant organizations to work together to enable such comprehensive analyses in the future. In addition, where possible, groups pursuing both in-depth interviews and statistical overviews can train their staff also to obtain witness contact information to assist the ICTY. Groups pursuing statistical overviews can and should work together on common standards to promote reliability in aggregation and estimation.

To ensure that such analyses are readily available, it is important for the international community to support NGO efforts to facilitate and expand the collection of this type of information. One promising area involves the development and use of electronic databases. Currently, ABA/CEELI, in collaboration with the Chicago-Kent College of Law and the AAAS, is developing an atrocities documentation database. The design of this database is directly informed from the experience of these organizations in Kosovo and elsewhere. The goal of this database will be to provide a piece of software free of charge that will allow interested NGOs to gather data in a format suitable for statistical processing. Furthermore, the format and structure will allow disparate groups to merge some or all their data to conduct larger analyses with greater accuracy. Ideally, in future conflicts, NGOs could arrive on the scene equipped with the proper software and understanding of the power of collaboration.

#### Footnotes

- 1 International Crisis Group, *Kosovo Spring* (March 1998).
- 2 Amnesty International, *Orahovac, July–August 1998, Deaths, Displacement, Detentions: Many Unanswered Questions, in Kosovo A Decade of Unheeded Warnings*, (May 1999).
- 3 *Id.*
- 4 *Id.*
- 5 The team was assembled by the American Bar Association Central and East European Law Initiative (ABA/CEELI) and the Chicago-Kent College of Law. The materials contained herein represent the findings of researchers and should not be construed to be the view of ABA/CEELI or the Chicago-Kent College of Law, or any of the other contributing organizations.
- 6 The Humanitarian Law Center, for example, based in Belgrade with an office in Pristina, operated in Pristina sporadically throughout the air campaign.

- 7 These interviews were conducted by a wide range of organizations, including the Kosovo Verification Mission of the Organization for Security and Co-operation in Europe (OSCE-KVM), the War Crimes Documentation Project of the ABA/CEELI WCDP, Physicians for Human Rights (PHR), Medecins sans Frontieres, and The Center, Peace Through Justice, a coalition of Albanian NGOs.
- 8 See US State Department, *Ethnic Cleansing in Kosovo: An Accounting* (1999) (which relies on forensic data collected by the ICTY and KFOR).
- 9 See, e.g., reports by the Society for Threatened Peoples.
- 10 See, e.g., reports by Human Rights Watch.
- 11 See, e.g., US Department of Defense, *Kosovo/Operation Allied Force After-Action Report to Congress* (2000).
- 12 The International Committee of the Red Cross and the United Nations High Commissioner for Refugees.
- 13 The term, “human rights violation”, is used here to include violations of international human rights standards, international humanitarian law, and war crimes.
- 14 UNHCR figures.
- 15 US State Department, *Fact Sheet* (1999).
- 16 UNHCR estimate as of May 1999, cited in OSCE, *Kosovo/Kosova As Seen, As Told* 98 (1999). The UCK estimate of internally displaced persons was 650,000.
- 17 US State Department, *Ethnic Cleansing in Kosovo: An Accounting* 7 (1999); OSCE, *Kosovo/Kosova As Seen, As Told* IX (1999).
- 18 OSCE, *Kosovo* ... p.III
- 19 AAAS Study: 236,201 of 387,185 that left Kosovo during the conflict via the Morina border left during this time period.
- 20 The OSCE’s two-volume report, “As Seen As Told”, is the predominant report based on collected narrative information. Other reports of this type were produced by The US State Department, Physicians for Human Rights, The Lawyers Committee, The Center for Peace and Tolerance, The ABA/CEELI, The Center, Peace Through Justice (Tirana).
- 21 AAAS, *Policy or Panic* (2000)
- 22 Members of the Kosovar Roma population have also been identified by many Kosovar Albanians as collaborators of the Serb forces in a number of human rights violations. These include forced displacement, looting and pillaging, and the transportation and burying of bodies in mass graves. OSCE, *Kosovo/Kosova As Seen, As Told* 39, ch. 20 (1999).
- 23 See The Center, Peace Through Justice, in *Preliminary Compilation of Data, Report to the Independent International Commission on Kosovo* 13 (Apr. 2000) (summarizing refugee interviews story of the attack on the village of Dobroluk/Dobra Luka), preliminary compilation on file at ABA/CEELI. See also Society for Threatened Peoples, *Preliminary Compilation of Data, Report to the Independent International Commission on Kosovo* 57 (Apr. 2000) (describing forced expulsions), preliminary compilation on file at ABA/CEELI; US State Department, *Ethnic Cleansing in Kosovo: An Accounting* 51, 69, 71 (1999); OSCE, *Kosovo/Kosova As Seen, As Told* ch. 14 (1999). Also, see Amnesty International news service reports: “FRY — Kosovo: the plight of refugees must not be ignored,” April 7, 1999; “Federal Republic of Yugoslavia: Killings in the Kacanik area,” April 9, 1999; “Killings and beating on the journey to Albania — Amnesty International reports from the field,” April 21, 1999; “Federal Republic of Yugoslavia–Kosovo: Amnesty International reports from the field,” April 30, 1999.
- 24 ICTY Prosecutor Report to the Security Council, November 10, 1999. See also US State Department, *Ethnic Cleansing in Kosovo: An Accounting* (1999).
- 25 US State Department, *Ethnic Cleansing in Kosovo: An Accounting* 3 (1999). Also, the Council for Defense of Human Rights and Freedoms reports more than 7,500 killings between January 1, 1999 and December 31, 1999, and estimates the total number of killings to be at least 11,000.
- 26 The Society for Threatened Peoples noted that a UCK leader, Jakub Krasniqi, admitted that the UCK carried out some executions. Society for Threatened Peoples, *Preliminary Compilation of Data, Report to the Independent International Commission on Kosovo* 58 (Apr. 2000), preliminary compilation on file at ABA/CEELI. See also US State Department, *Ethnic Cleansing in Kosovo: An Accounting* 15 (1999).
- 27 OSCE, *Kosovo/Kosova As Seen, As Told* VIII, 38-9 (1999).
- 28 See Physicians for Human Rights, *Preliminary Compilation Of Data, Report to the Independent International Commission on Kosovo* 52 (Apr. 2000), preliminary compilation on file at ABA/CEELI. See also OSCE, *Kosovo/Kosova As Seen, As Told* VIII (1999).
- 29 The US State Department has estimated that there are approximately 500 mass graves throughout Kosovo. US State Department, *Ethnic Cleansing in Kosovo: An Accounting* 7 (1999).
- 30 See The Center, Peace Through Justice, in *Preliminary Compilation of Data, Report to the Independent International Commission on Kosovo* 11 (Apr. 2000) (A witness saw residents of Malisheve/Malisevo killed by grenade during Serb attack on that town), preliminary compilation on file at ABA/CEELI.
- 31 US State Department, *Ethnic Cleansing in Kosovo: An Accounting* 4-5 (1999).
- 32 OSCE, *Kosovo/Kosova As Seen, As Told* 42 (1999).
- 33 ABA/CEELI and AAAS, *political killings in Kosova/Kosovo, March–June 1999* (2000).
- 35 *Id.* at 8.
- 36 The Spiegel and Salama study included 1,197 households comprising 8,605 people. From February 1998 through June 1999, 67 (64%) of 105 deaths in the sample population were attributed to war-related trauma, corresponding to 12,000 (95% CI 5,500–18,300) deaths in the total population. The crude mortality rate increased 2.3 times from the pre-conflict level to 0.72 per 1,000 a month. Mortality rates peaked in April 1999 at 3.25 per 1,000 a month, coinciding with an intensification of the Serbian campaign of “ethnic cleansing.” Men of military age (15–49 years) and men 50 years and older had the highest age-specific mortality rates from war-related trauma. However, the latter group was more than three times as likely to die of war-related trauma than were men of military age (relative risk 3.2).
- 37 The data in the PHR Study is distinguishable from the HRW and ABA/CEELI-center

- data in that it was collected using statistical sampling methods. The HRW and ABA/CEELI-center data was collected in narrative form without a sampling methodology. Consequently, it had to be “cleaned” and coded to be used in this study.
- 38 ABA/CEELI and AAAS, *supra* note 33, at 9.
- 39 *Id.* at 10.
- 40 While estimates of total killings are possible, the data is insufficient to make estimates of the total number of people killed in each municipality for each sub-period of the conflict. There are killings that were not reported to the ABA/CEELI-Center, HRW or PHR researchers, and estimates of unreported killings are not included in discussions of the killings breakdown by date and geography.
- 41 ABA/CEELI and AAAS, *supra* note 33, at 10–16.
- 42 *Id.* at 10–12.
- 43 *Id.* at 11.
- 44 *Id.* at 15.
- 45 See, International Crisis Group, *Reality Demands: Documenting Violations of International Humanitarian Law in Kosovo* (1999).
- 46 See, OSCE, *Kosovo/Kosova as Seen, as Told* (1999).
- 47 ABA/CEELI and AAAS, *supra* note 33, at 15.
- 48 Human Rights Watch, *Kosovo: Rape as a Weapon of “Ethnic Cleansing”* (2000).
- 49 Human Rights Watch, *Kosovo: Rape as a Weapon of “Ethnic Cleansing”* (2000). This figure includes cases reported to local and international NGOs and confirmed by HRW.
- 50 US State Department, *Ethnic Cleansing in Kosovo: An Accounting II* (1999) (citing refugee interviews reporting that women were taken to the Hotel Karagac in Pejë/Pec, and to a Serb army camp near Gjakovë/Djakovica). Also, Amnesty International reports at least one incident in which Serb forces in a village in Suhareke/Suva Reka detained women and raped them repeatedly over a three-day period. See also OSCE, *Kosovo/Kosova As Seen, As Told* 58–9 (1999) (included an account in which a group of women were abducted from a village and detained as sexual slaves).
- 51 Decree on Application of the Law of Criminal Procedure during the State of War, *Official Gazette of the Federal Republic of Yugoslavia*, vol. VIII no. 21, April 4, 1999, cited by OSCE, *Kosovo/Kosova As Seen, As Told* 74 (1999).
- 52 OSCE, *Kosovo/Kosova As Seen, As Told* 66 (1999). See also Society for Threatened People, *Preliminary Compilation of Data, Report to the Independent International Commission on Kosovo* 57 (Apr. 2000), preliminary compilation on file at ABA/CEELI.
- 53 Red Cross Appeals for Information on 3300 Missing From Kosovo Conflict (June 7, 2000) <www.cnn.com>.
- 54 Red Cross Appeals for Information on 3300 Missing From Kosovo Conflict (June 7, 2000) <www.cnn.com>.
- 55 The OSCE noted that “of the nearly 800 refugee statements taken by the OSCE-KVM in this period, very few were without mention of such experience.” OSCE, *Kosovo/ Kosova As Seen, As Told* 91 (1999). See also Council for Defense of Human Rights and Freedoms, *Preliminary Compilation of Data, Report to the Independent International Commission on Kosovo* 21 (Apr. 2000) (citing more than 47,000 homes and flats destroyed or burned), preliminary compilation on file at ABA/CEELI.
- 56 US State Department, *Ethnic Cleansing in Kosovo: An Accounting* 2 (1999).
- 57 See, e.g., OSCE, *Kosovo/Kosova As Seen, As Told* 92 (1999) (eyewitness account alleging that a group of Serb civilians and soldiers beat and robbed the interviewee’s uncle because they had a list of names that helped them identify the uncle as wealthy.)
- 58 OSCE, *Kosovo/Kosova As Seen, As Told* 91 (1999). See also The Center, *Peace Through Justice*, in *Preliminary Compilation of Data, Report to the Independent International Commission on Kosovo* 12 (Apr. 2000), preliminary compilation on file at ABA/CEELI.
- 59 There are also reports that Serb forces used human corpses to poison local water supplies. See, e.g., US State Department, *Ethnic Cleansing in Kosovo: An Accounting* 28 (1999).
- 60 US State Department, *Ethnic Cleansing in Kosovo: An Accounting* 10 (1999).
- 61 OSCE, *Kosovo/Kosova As Seen, As Told* 94 (1999) (stating that the restricted movement of IDPs by the Serb forces “had at least the appearance of protecting military objects, sites or personnel.”).
- 62 These incidents occurred in Trnoc/Trnavce and Ferizaj/Uroševac, according to refugee interviews. OSCE, *Kosovo/Kosova As Seen, As Told* 96 (1999).
- 63 OSCE, *Kosovo/Kosova As Seen, As Told* 86 (1999).
- 64 OSCE, *Kosovo/Kosova As Seen, As Told* ch.II (1999); US State Department, *Ethnic Cleansing in Kosovo: An Accounting* 5 (1999); see also Physicians for Human Rights, in *Preliminary Compilation of Data, Report to the Independent International Commission on Kosovo* 52 (Apr. 2000), preliminary compilation on file at ABA/CEELI.
- 65 US State Department, *Ethnic Cleansing in Kosovo: An Accounting* 12 (1999); see also Physicians for Human Rights, in *Preliminary Compilation of Data, Report to the Independent International Commission on Kosovo* 51 (Apr. 2000), preliminary compilation on file at ABA/CEELI.
- 66 OSCE, *Kosovo/Kosova As Seen, As Told* 47 (1999) (“Examples of torture and ill-treatment can be found in every part of the section of recorded events in Kosovo’s municipalities”). See also The Center, *Peace Through Justice*, in *Preliminary Compilation of Data, Report to the Independent International Commission on Kosovo* 8 (Apr. 2000), preliminary compilation on file at ABA/CEELI; Society for Threatened People, in *Preliminary Compilation of Data, Report to the Independent International Committee on Kosovo* 56 (Apr. 2000), preliminary compilation on file at ABA/CEELI.
- 67 OSCE, *Kosovo/Kosova As Seen, As Told* 46 (1999).
- 68 See Physicians for Human Rights, in *Preliminary Compilation of Data, Report to the Independent International Commission on Kosovo* 53 (Apr. 2000), preliminary compilation on file at ABA/CEELI.

- 69 This discussion is informed by an interview with Kenneth Roth, Executive Director, Human Rights Watch, May 16, 2000.
- 70 See Paul B. Spiegel and Peter Salama, War and Morality in Kosovo, 1998-99: An Epidemiological Testimony, *The Lancet*, vol. 355, June 24, 2000, at 2204-09.
- 71 See 15 International Crisis Group, Reality Demands: Documenting Violations of International Humanitarian Law in Kosovo 1999 (2000).
- 72 Interview with Len Rubenstein, Executive Director, Physicians for Human rights, May 8, 2000.
- 73 Interview with Diane Paul, formerly with Human Rights Watch, May 12, 2000.

## ANNEX 2 ★ KOSOVO — FACTS AND FIGURES

|                                  |   |
|----------------------------------|---|
| Area:                            | 10,887 square kilometres (12.3% of Serbian Republic)  |
| Population 1981 (latest census): | 1.9 million (175/sq.km)<br>77.5% Albanians<br>13.2 % Serbs<br>3.7% (Bosnian and Montenegrin) Muslims<br>2.2% Roma<br>1.7% Montenegrins<br>0.8% Turks<br>1.1% Others   |
| Population 1998 (est.):          | 2.2 million (>200/sq.km)<br>90% Albanians<br>7% Serbs   |
| Languages:                       | Albanian, Serbian   |
| Religions:                       | Islam, Serbian Orthodox   |
| Administrative status:           | De jure province in the Serbian republic of the Federal Republic of Yugoslavia (FRY). Enjoyed a certain degree of autonomy within Serbia during 1974-90.<br>De facto under interim UN administration since June 1999. |
| Province capital:                | Prishtina/Pristina (more than 300,000 inhabitants)  |
| Other major cities:              | Prizren/Prizren (70,000), Peje/Pec (60,000), Mitrovica/Kosovska Mitrovica/ (58,000), Gjakove/Djakovica (46,000), Gjilan/Gnjilane (40,000)   |
| Pre-war GDP/capita:              | USD 400 (est., not accounting for the large informal sector). About one third of the average GDP/capita in FRY.   |
| Natural resources:               | Lead and zinc (mines at Trepce/Trepca), copper, silver, gold, brown coal  |
| Agricultural products:           | Wheat, corn   |
| Major rivers:                    | Sitnica, Drini i Bardh/Beli Drim  |
| Highest mountain:                | Gjeravica, 2522 meters  |

## ANNEX 3 ★ THE RAMBOUILLET AGREEMENT — A SUMMARY

This is a summary of the final draft of the proposed Interim Agreement for Peace and Self-Government In Kosovo reached at Rambouillet on the 23 February 1999. The full text is available on a number of internet sites, for example [www.usip.org/library/pa/kosovo/kosovo\\_rambtoc.html](http://www.usip.org/library/pa/kosovo/kosovo_rambtoc.html). The text contains a framework and eight chapters.

The **framework** establishes equal rights for all citizens in Kosovo, special provisions and legal equality of the national communities, as long as these special provisions do not endanger the rights of other national communities or “the sovereignty and territorial integrity of the Federal Republic of Yugoslavia” (a wording which is used several times in the text). It also provides the right to democratic self-government for citizens in Kosovo. The framework states that use of force in Kosovo shall cease immediately and that all persons have the right to return to their homes and recover their property. It specifies the right of access for international aid agencies. Persons held without charge or “in connection with the conflict” shall be released (within 3 weeks according to Chapter 7) and the work of the International Committee of the Red Cross shall be facilitated. With the exception of persons “having committed serious violations of international humanitarian law” a general amnesty shall be granted and no one shall be prosecuted for crimes related to the conflict. Press freedom shall be ensured.

**Chapter 1, Constitution**, states that “Kosovo shall govern itself democratically”, although FR Y will retain authority in the areas of: territorial integrity, maintaining a common market within the Federal Republic of Yugoslavia, monetary policy, defense, foreign policy (although Kosovo shall have authority to conduct foreign relations within its areas of responsibility equivalent to the power provided to Republics under the FR Y Constitution), customs, federal taxation, federal elections, and “other areas specified in this Agreement”. It outlines the structure of Kosovo’s self-government: an Assembly with 120 members (80 elected directly, 40 by national communities according to a certain definition; laws adopted by the Assembly shall not be changed or modified by Federal or Republican authorities), a President of Kosovo elected by the Assembly, a Prime Minister and a Government approved by the Assembly, Administrative Organs where national communities shall be “fairly represented at all levels”, a Chief Prosecutor, a court system consisting of a Constitutional Court with judges from all national communities and partly selected from a list drawn up by the President of the European Court of Human Rights, a Supreme Court, District Courts and Communal Courts. The chapter specifies the duties of these organs. It further elaborates on the rights of national communities, including the rights to elect “institutions to administer its affairs in Kosovo”, to “preserve and protect their national, cultural, religious, and linguistic identities” in certain specified ways and with reference to “international standards and the Helsinki Final Act”, to have access to media and to finance their activities by levying contributions from their members. The chapter further outlines the rights and responsibilities of Kosovo’s communes. It also establishes a minimum representation for Kosovo citizens in the Federal Assembly and in the National Assembly of Serbia.

**Chapter 2, Police and Civil Public Security**, stipulates that all law enforcing agencies shall act according to international standards of human rights and due process. It gives OSCE and its implementation mission (see Chapter 5) a central role in monitoring and supervising law enforcement including the right to issue binding directives. Primary responsibility for law enforcement shall lie with communal police units led by communal commanders. Policemen shall be recruited at the local level. A Criminal Justice Administration shall be established, as well as a Police Academy, Criminal Justice Commissions both on a Kosovo-wide and a communal level with the task to review and make recommendations on the work of the police. Federal and Republic law enforcement officials may only act within Kosovo in cases of hot pursuit of a person suspected of committing a serious criminal offence and under certain specified conditions. Serbian Border Police and federal customs officers will remain at international border crossings. The chapter specifies rules for arrest and detention.

**Chapter 3, Conduct and Supervision of Elections**, sets the conditions for elections and requests the OSCE to supervise the preparation and conduct of elections both at a Kosovo-wide and communal level and to establish a Central Elections Commission. The president of this Commission shall decide the timing and order of elections, but the first elections shall be held within nine months of the agreement. The Commission shall adopt rules and regulations for the electoral process. Responsibilities of the Commission are further specified, as well as its composition — a president appointed by the Chairman-in-Office of the OSCE and representatives of all national communities and of political parties in Kosovo.

**Chapter 4, Economic Issues**, starts by establishing that the economy shall function in accordance with free market principles. The chapter lays down principles for tax collection. It outlines responsibilities for the federal authorities in distributing to Kosovo a proportionate share of federal resources, in ensuring the free movement of persons, goods, services and capital to and from Kosovo, and in concluding international contracts for reconstruction projects if required. It deals with the reallocation of ownership and resources in accordance with the changed distribution of power between federal and Kosovo level, and provides for a Claim Settlement Commission to solve disputes in this regard. The chapter also deals in general terms with the framework for humanitarian assistance, reconstruction and economic development. It refers to EC coordination of international assistance, the UNHCR’s lead role in humanitarian assistance, and details areas where international assistance shall be provided, e.g. reconstruction of housing and infrastructure, development of the institutional and legislative framework, social welfare and a revival of the local economy.

**Chapter 5, Implementation 1**, outlines the structure and process for the civilian implementation of the agreement. The OSCE in cooperation with the European Union are invited to constitute an Implementation Mission (IM). The tasks of the IM shall be to supervise and direct the implementation of civilian aspects of the agreement, to take part in donor meetings, to coordinate the activities of civilian organizations assisting in the implementation, and to carry out functions pertaining to police and security forces. The Chief of the IM shall head a Joint Commission with representatives from Federal and Republic level, from each national community in Kosovo, from the office of the

President of Kosovo and from the Assembly of Kosovo. Joint Councils can also be established “for informal dispute resolution and cooperation” on province level and local level. The chapter repeats the electoral provisions of Chapter 3 and the OSCE’s role. It further requires federal authorities to conduct, under OSCE supervision, a census of the population in Kosovo. All laws and regulations in effect which are compatible with the agreement shall remain in effect “unless and until replaced by laws or regulations adopted by a competent body”. Martial law is revoked.

**Chapter 6, Ombudsman**, stipulates that there shall be an Ombudsman to monitor human rights protection and the rights of members of national communities. The Ombudsman, who shall be nominated by the President of Kosovo from a list of candidates prepared by the President of the European Court of Human Rights and elected for a three-year period by the Assembly, shall not be “a citizen of any State or entity that was a part of the former Yugoslavia, or of any neighbouring State”. He or she may act either on his or her own initiative or in response to an allegation of violation of the rights mentioned above, and issue findings in the form of a published report. A procedure is set for how non-compliance with recommendations from the Ombudsman shall be treated.

**Chapter 7, Implementation II**, contains provisions for military implementation. A reference is made to the sovereignty and territorial integrity of the FRY. The Chapter starts by inviting the UN Security Council to pass a Chapter VII resolution endorsing the chapter, including the creation of a multinational military implementation force (KFOR). It invites NATO to lead the force while other states may assist. The Parties agree to refrain from all hostilities. The international border of FRY shall be demilitarised except for border guards. The chapter specifies how forces present in Kosovo shall be redeployed, withdrawn or demilitarised. Yugoslav army forces shall, within five days, be redeployed to 13 cantons within Kosovo, further specified in an appendix to the chapter. Within 30 days a detailed plan for their withdrawal from Kosovo shall be provided. Within 90 days half the men and material and all “designated offensive assets” shall be withdrawn. By 90 days authority for storage sites shall pass to KFOR, and within 180 days all army forces shall be withdrawn. Border guards will be the only remaining Yugoslav forces with restrictions on their numbers, location, tasks and equipment. Yugoslav air and air defence forces shall be withdrawn within ten days. The chapter also has a timetable for the cantonment (at 37 sites, specified in Appendix A) and withdrawal of Yugoslav security forces with a final deadline after one year, which can be extended for up to an additional year by the KFOR commander. “Other forces” (basically meaning uck) are required to “refrain from all hostile intent, military training and formations, organization of demonstrations, and any movement in either direction or smuggling across international borders or the boundary between Kosovo and other parts of the FRY”, not to carry weapons in certain specified areas and to demilitarise on terms to be defined by the KFOR commander. Within 5 days they shall abandon all fighting positions and establish weapon storage sites, where within 30 days all larger weapons shall be stored. Within 120 days total demilitarisation shall be completed. 30 days after the entry into force of the agreement, personnel who are not of local origin shall be withdrawn from Kosovo.

Further, the mandate of KFOR is defined, generally to “take all necessary action to help ensure compliance” with the chapter. This includes the right to “respond promptly to any violations and restore compliance, using military force if required”. KFOR is also given the task to support other agencies in implementing other parts of the agreement, including the creation of secure conditions. The legal status, rights and obligations of KFOR are specified in an appendix (“B”). These include the obligation to respect FRY laws, exemption from passport and visa regulations, the right to wear uniforms and NATO/national flags, legal immunity, exemption from taxes and duties, free use of infrastructure and communication facilities and the right to hire local personnel. The appendix also contains the clause that “NATO personnel shall enjoy, together with their vehicles, vessels, aircraft, and equipment, free and unrestricted passage and unimpeded access throughout the FRY”.

The “sole authority to establish rules and procedures governing command and control of the airspace over Kosovo as well as within a 25 kilometre Mutual Safety Zone” is given to NATO.

A Joint Military Commission, chaired by the KFOR commander or his representative and consisting of a Yugoslav military commander, the Federal and Republican Ministers of Interior, military representatives of other forces, a representative of the Implementation Mission and “other persons as COMKFOR shall determine, including one or more representatives of the Kosovo civilian leadership”, shall be established. It shall advise the KFOR commander and address any military complaints, questions, or problems that require resolution by the commander.

**Chapter 8** describes how amendments to the agreement can be made and states that an international meeting shall be convened after three years “to determine a mechanism for a final settlement for Kosovo, on the basis of the will of the people, opinions of relevant authorities, each Party’s efforts regarding the implementation of this Agreement, and the Helsinki Final Act”. The meeting shall further “undertake a comprehensive assessment of the implementation of this Agreement” and “consider proposals by any Party for additional measures”.

ANNEX 4 ★ THE AHTISAARI-CHERNOMYRDIN AGREEMENT  
— A SUMMARY

The agreement — or peace plan — was presented on 3 June 1999 to the FRY leadership by Finland's President Martti Ahtisaari, representing the European Union, and Viktor Chernomyrdin, the Russian president's special representative. It was accepted by both the federal government of FRY and the Serbian assembly, and formed the basis for the detailed provisions of UN Security Council Resolution 1244 adopted on 10 June 1999.

It is a short document listing the ten principles necessary for an agreement to be reached. The principles are summarized as follows:

- 1 An immediate and verifiable end to violence and repression in Kosovo.
- 2 The rapid withdrawal of military, police and paramilitary forces.
- 3 An international civil and security presence under the auspices of the UN.
- 4 Substantial NATO participation in the security presence, under a unified command and control, authorised to establish a safe environment for all people in Kosovo and facilitate the return of all displaced persons and refugees.
- 5 An interim administration "under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia".
- 6 A small, agreed number ("hundreds, not thousands" according to a footnote) of Yugoslav and Serbian personnel may return to liaise with the international mission, to mark/clear minefields and to maintain a presence at Serb patrimonial sites and border crossings.
- 7 Safe and free return of all refugees and displaced persons under UNHCR supervision.
- 8 A process towards an interim framework agreement providing for substantial self-government, taking full account of the Rambouillet accords, the principles of FRY sovereignty and the demilitarisation of the UCK.
- 9 A comprehensive approach to economic development and stabilization of the region, including a stability pact for southeastern Europe.
- 10 The rapid conclusion of a military-technical agreement, which will specify, among other things, procedures for withdrawal and modalities for personnel returning in accordance with principle 6. The withdrawal shall be completed within seven days; air defence weapons shall be withdrawn within 48 hours outside a 25-kilometre safety zone.

ANNEX 5 ★ RESOLUTION 1244 (1999)

Adopted by the Security Council at its 4011th meeting, on 10 June 1999

*The Security Council,*

*Bearing in mind* the purposes and principles of the Charter of the United Nations, and the primary responsibility of the Security Council for the maintenance of international peace and security,

*Recalling* its resolutions 1160 (1998) of 31 March 1998, 1199 (1998) of 23 September 1998, 1203 (1998) of 24 October 1998 and 1239 (1999) of 14 May 1999,

*Regretting* that there has not been full compliance with the requirements of these resolutions,

*Determined* to resolve the grave humanitarian situation in Kosovo, Federal Republic of Yugoslavia, and to provide for the safe and free return of all refugees and displaced persons to their homes,

*Condemning* all acts of violence against the Kosovo population as well as all terrorist acts by any party,

*Recalling* the statement made by the Secretary-General on 9 April 1999, expressing concern at the humanitarian tragedy taking place in Kosovo,

*Reaffirming* the right of all refugees and displaced persons to return to their homes in safety,

*Recalling* the jurisdiction and the mandate of the International Tribunal for the Former Yugoslavia,

*Welcoming* the general principles on a political solution to the Kosovo crisis adopted on 6 May 1999 (S/1999/516, annex 1 to this resolution) and welcoming also the acceptance by the Federal Republic of Yugoslavia of the principles set forth in points 1 to 9 of the paper presented in Belgrade on 2 June 1999 (S/1999/649, annex 2 to this resolution), and the Federal Republic of Yugoslavia's agreement to that paper,

*Reaffirming* the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other States of the region, as set out in the Helsinki Final Act and annex 2,

*Reaffirming* the call in previous resolutions for substantial autonomy and meaningful self-administration for Kosovo,

*Determining* that the situation in the region continues to constitute a threat to international peace and security,

*Determined* to ensure the safety and security of international personnel and the implementation by all concerned of their responsibilities under the present resolution, and *acting* for these purposes under Chapter VII of the Charter of the United Nations,

1. *Decides* that a political solution to the Kosovo crisis shall be based on the general principles in annex 1 and as further elaborated in the principles and other required elements in annex 2;

2. *Welcomes* the acceptance by the Federal Republic of Yugoslavia of the principles and other required elements referred to in paragraph 1 above, and *demand*s the full cooperation of the Federal Republic of Yugoslavia in their rapid implementation;

3. *Demands* in particular that the Federal Republic of Yugoslavia put an immediate and verifiable end to violence and repression in Kosovo, and begin and complete verifiable phased withdrawal from Kosovo of all military, police and paramilitary forces according to a rapid timetable, with which the deployment of the international security presence in Kosovo will be synchronized;

4. *Confirms* that after the withdrawal an agreed number of Yugoslav and Serb military and police personnel will be permitted to return to Kosovo to perform the functions in accordance with annex 2;

5. *Decides* on the deployment in Kosovo, under United Nations auspices, of international civil and security presences, with appropriate equipment and personnel as required, and welcomes the agreement of the Federal Republic of Yugoslavia to such presences;

6. *Requests* the Secretary-General to appoint, in consultation with the Security Council, a Special Representative to control the implementation of the international civil presence, and *further requests* the Secretary-General to instruct his Special Representative to coordinate closely with the international security presence to ensure that both presences operate towards the same goals and in a mutually supportive manner;

7. *Authorizes* Member States and relevant international organizations to establish the international security presence in Kosovo as set out in point 4 of annex 2 with all necessary means to fulfil its responsibilities under paragraph 9 below;

8. *Affirms* the need for the rapid early deployment of effective international civil and security presences to Kosovo, and *demands* that the parties cooperate fully in their deployment;

9. *Decides* that the responsibilities of the international security presence to be deployed and acting in Kosovo will include:

- (a) Deterring renewed hostilities, maintaining and where necessary enforcing a ceasefire, and ensuring the withdrawal and preventing the return into Kosovo of Federal and Republic military, police and paramilitary forces, except as provided in point 6 of annex 2;
- (b) Demilitarizing the Kosovo Liberation Army (KLA) and other armed Kosovar Albanian groups as required in paragraph 15 below;
- (c) Establishing a secure environment in which refugees and displaced persons can return home in safety, the international civil presence can operate, a transitional administration can be established, and humanitarian aid can be delivered;
- (d) Ensuring public safety and order until the international civil presence can take responsibility for this task;
- (e) Supervising demining until the international civil presence can, as appropriate, take over responsibility for this task;
- (f) Supporting, as appropriate, and coordinating closely with the work of the international civil presence;
- (g) Conducting border monitoring duties as required;
- (h) Ensuring the protection and freedom of movement of itself, the international civil presence, and other international organizations;

10. *Authorizes* the Secretary-General, with the assistance of relevant international organizations, to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, and which will provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo;

11. *Decides* that the main responsibilities of the international civil presence will include:

- (a) Promoting the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo, taking full account of annex 2 and of the Rambouillet accords (S/1999/648);
- (b) Performing basic civilian administrative functions where and as long as required;
- (c) Organizing and overseeing the development of provisional institutions for democratic and autonomous self-government pending a political settlement, including the holding of elections;
- (d) Transferring, as these institutions are established, its administrative responsibilities while overseeing and supporting the consolidation of Kosovo's local provisional institutions and other peace-building activities;
- (e) Facilitating a political process designed to determine Kosovo's future status, taking into account the Rambouillet accords (S/1999/648);
- (f) In a final stage, overseeing the transfer of authority from Kosovo's provisional institutions to institutions established under a political settlement;
- (g) Supporting the reconstruction of key infrastructure and other economic reconstruction;
- (h) Supporting, in coordination with international humanitarian organizations, humanitarian and disaster relief aid;
- (i) Maintaining civil law and order, including establishing local police forces and meanwhile through the deployment of international police personnel to serve in Kosovo;
- (j) Protecting and promoting human rights;
- (k) Assuring the safe and unimpeded return of all refugees and displaced persons to their homes in Kosovo;

12. *Emphasizes* the need for coordinated humanitarian relief operations, and for the Federal Republic of Yugoslavia to allow unimpeded access to Kosovo by humanitarian aid organizations and to cooperate with such organizations so as to ensure the fast and effective delivery of international aid;

13. *Encourages* all Member States and international organizations to contribute to economic and social reconstruction as well as to the safe return of refugees and displaced persons, and *emphasizes* in this context the importance of convening an international donors' conference, particularly for the purposes set out in paragraph 11 (g) above, at the earliest possible date;

14. *Demands* full cooperation by all concerned, including the international security presence, with the International Tribunal for the Former Yugoslavia;

15. *Demands* that the KLA and other armed Kosovar Albanian groups end immedi-

ately all offensive actions and comply with the requirements for demilitarization as laid down by the head of the international security presence in consultation with the Special Representative of the Secretary-General;

16. *Decides* that the prohibitions imposed by paragraph 8 of resolution 1160 (1998) shall not apply to arms and related *matériel* for the use of the international civil and security presences;

17. *Welcomes* the work in hand in the European Union and other international organizations to develop a comprehensive approach to the economic development and stabilization of the region affected by the Kosovo crisis, including the implementation of a Stability Pact for South Eastern Europe with broad international participation in order to further the promotion of democracy, economic prosperity, stability and regional cooperation;

18. *Demands* that all States in the region cooperate fully in the implementation of all aspects of this resolution;

19. *Decides* that the international civil and security presences are established for an initial period of 12 months, to continue thereafter unless the Security Council decides otherwise;

20. *Requests* the Secretary-General to report to the Council at regular intervals on the implementation of this resolution, including reports from the leaderships of the international civil and security presences, the first reports to be submitted within 30 days of the adoption of this resolution;

21. *Decides* to remain actively seized of the matter.

#### Annex 1

Statement by the Chairman on the conclusion of the meeting of the G-8 Foreign Ministers held at the Petersberg Centre on 6 May 1999.

The G-8 Foreign Ministers adopted the following general principles on the political solution to the Kosovo crisis:

- Immediate and verifiable end of violence and repression in Kosovo;
- Withdrawal from Kosovo of military, police and paramilitary forces;
- Deployment in Kosovo of effective international civil and security presences, endorsed and adopted by the United Nations, capable of guaranteeing the achievement of the common objectives;
- Establishment of an interim administration for Kosovo to be decided by the Security Council of the United Nations to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo;
- The safe and free return of all refugees and displaced persons and unimpeded access to Kosovo by humanitarian aid organizations;
- A political process towards the establishment of an interim political framework agreement providing for a substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other countries of the region, and the demilitarization of the KLA;
- Comprehensive approach to the economic development and stabilization of the crisis region.

#### Annex 2

Agreement should be reached on the following principles to move towards a resolution of the Kosovo crisis:

- 1 An immediate and verifiable end of violence and repression in Kosovo.
- 2 Verifiable withdrawal from Kosovo of all military, police and paramilitary forces according to a rapid timetable.
- 3 Deployment in Kosovo under United Nations auspices of effective international civil and security presences, acting as may be decided under Chapter VII of the Charter, capable of guaranteeing the achievement of common objectives.
- 4 The international security presence with substantial North Atlantic Treaty Organization participation must be deployed under unified command and control and authorized to establish a safe environment for all people in Kosovo and to facilitate the safe return to their homes of all displaced persons and refugees.
- 5 Establishment of an interim administration for Kosovo as a part of the international civil presence under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, to be decided by the Security Council of the United Nations. The interim administration to provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo.
- 6 After withdrawal, an agreed number of Yugoslav and Serbian personnel will be permitted to return to perform the following functions:
  - Liaison with the international civil mission and the international security presence;
  - Marking/clearing minefields;
  - Maintaining a presence at Serb patrimonial sites;
  - Maintaining a presence at key border crossings.
- 7 Safe and free return of all refugees and displaced persons under the supervision of the Office of the United Nations High Commissioner for Refugees and unimpeded access to Kosovo by humanitarian aid organizations.
- 8 A political process towards the establishment of an interim political framework agreement providing for substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other countries of the region, and the demilitarization of uck. Negotiations between the parties for a settlement should not delay or disrupt the establishment of democratic self-governing institutions.
- 9 A comprehensive approach to the economic development and stabilization of the crisis region. This will include the implementation of a stability pact for South-Eastern Europe with broad international participation in order to further promotion of democracy, economic prosperity, stability and regional cooperation.
- 10 Suspension of military activity will require acceptance of the principles set forth above in addition to agreement to other, previously identified, required elements, which are specified in the footnote below.1 A military-technical agreement will then be rapidly concluded that would, among other things, specify additional

modalities, including the roles and functions of Yugoslav/Serb personnel in Kosovo:

*Withdrawal*

- Procedures for withdrawals, including the phased, detailed schedule and delineation of a buffer area in Serbia beyond which forces will be withdrawn;

*Returning personnel*

- Equipment associated with returning personnel;
- Terms of reference for their functional responsibilities;
- Timetable for their return;
- Delineation of their geographical areas of operation;
- Rules governing their relationship to the international security presence and the international civil mission.

*Notes*

- 1 Other required elements:
  - A rapid and precise timetable for withdrawals, meaning, e.g., seven days to complete withdrawal and air defence weapons withdrawn outside a 25 kilometre mutual safety zone within 48 hours;
  - Return of personnel for the four functions specified above will be under the supervision of the international security presence and will be limited to a small agreed number (hundreds, not thousands);
  - Suspension of military activity will occur after the beginning of verifiable withdrawals;
  - The discussion and achievement of a military-technical agreement shall not extend the previously determined time for completion of withdrawals.

ANNEX 6 ★ THE COMMISSION'S WORK

The Commission members have convened five times. The first meeting was in September 1999 in Stockholm. It was also at this meeting that the Mission Statement was agreed upon.

The second meeting in December 1999 was held in New York. Prior to this meeting a seminar was hosted and organized by the New York University School of Law.

The Commission's third meeting was held in Budapest where the Central European University and Open Society hosted and organized a seminar.

The fourth meeting was held in Florence at the invitation of the New York University. The fifth and final meeting was held in Johannesburg. The South African Institute for International Affairs and the University of the Witwatersrand hosted and organized a seminar where the opening speaker was Dr. Nelson Mandela.

In addition to the meetings, the Chairman and the Co-chairman have traveled extensively to visit and talk to key players in the conflict. Two meetings were organized in Kosovo.

Meetings have also been organized by e.g. The Carnegie Endowment for International Peace, the American Peace Foundation and the London School of Economics with representatives of neighboring countries as well as NGOs active in Kosovo.

**Mission Statement**

The Independent International Commission on Kosovo will examine key developments prior to, during and after the Kosovo war, including systematic violations of human rights in the region. The Commission will present a detailed, objective analysis of the options that were available to the international community to cope with the crisis. It will focus on the origins of the Kosovo crisis, the diplomatic efforts to end the conflict, the role of the United Nations and Nato's decision to intervene militarily. It will examine the resulting refugee crisis including the responses of the international community to resolve the crisis. The effect of the conflict on regional and other states will also be examined. Furthermore, the Commission will assess the role of humanitarian workers, NGOs and the media during the Kosovo war. Finally, the Commission will identify the norms of international law and diplomacy brought to the fore by the Kosovo war and the adequacy of present norms and institutions in preventing or responding to comparable crisis in the future.

In addition the Commission will take up: The future status of Kosovo, Lessons learned for Kosovo, and Lessons learned for the future.

**The Members of the Commission**

CHAIRMAN

**Richard Goldstone**, South Africa ★ Born 1938. Graduate from the University of the Witwatersrand 1962 then practiced as an advocate at the Johannesburg Bar. In 1976 appointed Senior Counsel and in 1980 Judge of the Transvaal Supreme Court. In 1989 appointed Judge of the Appellate Division of the Supreme Court and in July 1994 appointed a Justice of the Constitutional Court of South Africa. In 1991-1994 he

served as chairperson of South Africa's Commission of Inquiry regarding Public Violence and Intimidation. From August 15, 1994 to September 1996 Chief Prosecutor of the United Nations International Criminal Tribunals for the former Yugoslavia and Rwanda.

## CO-CHAIRMAN

**Carl Tham, Sweden** ★ Born 1939. Graduated Stockholm University 1963, in Literature and History. 1969–1976 Secretary General of the Swedish Liberal Party. Member of Parliament 1976 to 1982, State Secretary at the Ministry of Labor 1976–1978, and Minister of Energy 1978–1979. Between 1979 and 1981 Special Advisor to the Minister for Foreign Affairs, and 1981–1982 State Secretary at the Ministry of Foreign Affairs, responsible for Development Assistance. In 1983 Director General of the Swedish Energy Agency, 1985 Director General of SIDA, The Swedish Agency for International Assistance. 1994 to 1998 Minister of Education and Science in the Social Democratic government. At present Secretary General of the Olof Palme International Center. Publications include: *The New-Old Left*, 1967, 1969; *The Universities in the Knowledge Society* 1971, *The Conditions of Welfare*, 1971, *The Equality that Disappeared*, 1973, *The Turn of the Tide*, 1994

## MEMBERS:

**Grâce d'Almeida, Benin** ★ Grâce d'Almeida, 1951. Degree in Private Law, a Masters in Private Law, and a Diplôme d'Etude Approfondie in African Law from the University of Paris. 1978 Attorney at Law in Benin. 1990 founder and President of the Association of Female Lawyers of Benin. Member of the High Council of the Republic of Benin 1990–1992 Professor of Law since 1993 Attorney General of the Republic of Benin and Vice President of the Superior Council of Judges 1995–1996, 1996 Professor of Law at the University of Benin. Research and papers on studies of children's rights in Benin, the establishment of Legal Aid Centers in francophone Africa, and "Structural Impediments to the Improvements of Women's Living Conditions in Benin" (for the World Bank).

**Hanan Ashrawi, Palestine**<sup>1</sup> ★ Hanan Mikhail-Ashrawi born in Nablus, Palestine, on October 8, 1946. B.A. and M.A. in English American University of Beirut, and a Ph.D. in English (Medieval and Comparative Literature) University of Virginia, Charlottesville. Faculty member of Birzeit University in the Israeli-occupied West Bank 1973–1995 Established and chaired the Department of English 1978–1984. Member of the Inifada Political Committee 1988–1993, the Official Spokesperson of the Palestinian Delegation to the Middle East Peace Process 1991–1993, Head of the Preparatory Committee, founder, and Commissioner General of the Palestinian Independent Commission for Citizens Rights 1993–1995. Elected member of the Palestinian Legislative Council in 1996 and served as Minister of Higher Education

<sup>1</sup> Unfortunately commitment to peace initiatives in the Middle East has prevented Dr Ashwari from participating in more than the first of the Commission's meetings and she is, therefore, not associated with the report.

and Research 1996–1998. 1998 founder and Secretary General of the Palestinian Initiative for the Promotion of Global Dialogue and Democracy "Miftah". Publications include "This Side of Peace", "From Intifada to Independence", and "Contemporary Palestinian Poetry and Fiction".

**Akiko Domoto, Japan** ★ Akiko Domoto born in 1932 in California, and received a BA in Social Sciences from Tokyo Women's Christian College in 1955. From 1959–1989 producer, director, and newscaster for the Tokyo Broadcasting System, producing documentaries such as "The Baby Hotel Series" (1980–1981), and "The Age of Child Slavery" (1989). Received 1991 the Japanese Citizen's Broadcasting League Award, the Conference of Japanese Journalists Award, and the Special Award from the Japanese Cultural Broadcasting Foundation. Member of the House of Councillors of Japan in 1989 and continues to serve in that capacity. Founder of the International Children's Network in 1991 and Japan Women's Global Environment Network International in 1992. 1994 Councillor for IUCN-The World Conservation Union and now serves as an IUCN Regional Councillor and Vice President and President of the Global Legislators Organization for a Balanced Environment (GLOBE). Publications include "The Rise of the Earth's Citizens: Linking NGOs and Politics" (1995) and "Threats of Global Warming to Biological Diversity" (co-editor, 1997).

**Richard Falk, USA** ★ Richard Falk is Albert G. Milbank Professor of International Law and Practice and Professor of Politics and International Affairs at the Woodrow Wilson School, Princeton University, Princeton, New Jersey. Born in New York City on November 13, 1930. B.S. (Economics) from the Wharton School, University of Pennsylvania, in 1952, L.L.B. from Yale Law School in 1955, and a J.S.D. Harvard University in 1962. Member of the Independent World Commission on the Oceans; counsel to Ethiopia and Liberia in the Southwest Africa Case before the International Court of Justice; research director of the North American Team in the World Order Models Project; research director of the Coming Global Civilization Project; and is honorary vice president of the American Society of International Law. Major publications include: *On Humane Governance: Toward New Global Politics; Revolutionaries and Functionaries; The Promise of World Order; Indefensible Weapons* (co-author); *Human Rights and State Sovereignty; A Study of Future Worlds; This Endangered Planet; Crimes of War* (co-editor); *Legal Order in a Violent World*; and *The Vietnam War and International Law* (four volumes, editor and contributor).

**Oleg Grinevsky, Russia**<sup>2</sup> ★ Ambassador Oleg Grinevsky, diplomat, residing in Monterey Institute of International Studies, USA. Born in Moscow on June 3, 1930 Graduate and post-graduate doctoral studies from the Moscow Institute for International Affairs. Entered diplomatic service 1957. Participating in the negotiations on the Test Ban Treaty of 1963 and the Nuclear Non-Proliferation Treaty of 1968, Served as Deputy Head of the Soviet Delegation to the SALT I and ABM

<sup>2</sup> Unfortunately ill-health prevented Ambassador Grinevsky from participating in more than the first of the Commission's meetings and he is not associated with the report.

Negotiations in 1968–1972. Director of the Middle East Department and in 1984 the Head of the Soviet Delegation to the Stockholm Conference on Confidence and Security-building Measures. In 1989 appointed head of the USSR delegation to the Vienna conference on Conventional Armed Forces Reductions in Europe (CFE), and the European Conference on Confidence and Security-building Measures in Vienna. In 1991–1997 Russian Ambassador to Sweden. Publications include two books on the diplomacy of Peter the Great and three books on Soviet foreign policy.

**Michael Ignatieff**, Canada ★ London-based writer, historian and broadcaster. Born in Toronto, Canada in 1947. Doctorate in history at Harvard, senior research fellowship at King's College, Cambridge and visiting professorships and lectureships at St. Antony's College, Oxford, the University of California at Berkeley, Notre Dame, the University of London and the London School of Economics. Publications include a trilogy of books on ethnic war and the dilemmas confronting Western intervention: "Blood and Belonging: Journeys into the New Nationalism" (1993); "The Warrior's Honor: Ethnic War and the Modern Conscience", (1998), and "Virtual War: Kosovo and Beyond" (2000).

**Mary Kaldor**, UK ★ Mary Kaldor was born on March 16, 1946. BA in Politics, Philosophy, and Economics from Oxford in 1967. Scholar at the Stockholm International Peace Research Institute 1967–1969, and Consultant 1969–1971. Since 1969 various positions of Research Fellow, Associate Fellow, and Senior Fellow at the Institute for the Study of International Organisation, the Institute of Development Studies, and the Science Policy Research Unit, University of Sussex. 1999 Director of the Programme on Global Civil Society at the Centre for the Study of Global Governance, London School of Economics. Co-Chair of the Helsinki Citizens Assembly and Governor of the Westminster Foundation for Democracy. Publications include: "The Arms Trade and the Third World" (1971) (principle co-author), "The Imaginary War: Understanding the East-West Conflict" (1990), and "New and Old Wars: Organised Violence in a Global Era" (1999).

**Martha Minow**, USA ★ J.D. from Yale, Ed.M. from Harvard, and A.B. from the University of Michigan. Professor of Law at Harvard Law School. Teacher at Harvard since 1981. Previously law clerk for Justice Thurgood Marshall, and for Judge David Bazelon. On the boards of many non-profit organizations and foundations, including Facing History and Ourselves, a teacher-training and curriculum development organization that seeks to prevent intergroup conflict and hatred. Publications include "Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence" (Beacon Press, 1998); "Not Only for Myself: Identity, Politics, and Law" (The New Press, 1997); and "Making All the Difference: Inclusion, Exclusion, and American Law" (Cornell University Press, 1990).

**Jacques Rupnik**, France ★ Born on November 21, 1950. History at the Sorbonne and politics at the Institut d'Etudes Politiques de Paris, M of A in Soviet Studies from Harvard University (1974), and Doctorat en Histoire in the History of International Relations from the University of Paris (1978). Research Associate at the Russian Research Center at Harvard University 1974–1975, specialist in Eastern Europe at the BBC World Service 1977–1982, and Director of Research at the Fondation nationale des

sciences politiques (Centre d'études et de recherches internationales) and Professor at the Institut d'Etudes Politiques de Paris 1982–1996. Executive Director of the International Commission for the Balkans at the Carnegie Endowment for International Peace 1995–1996. Visiting Professor at the College of Europe in Bruges and one of the editors of the quarterly *Transeuropéennes*. 1990–1992 advisor to Czech President Vaclav Havel. Publications include "Histoire du parti communiste tchécoslovaque" (1981), "The Other Europe" (1989), "De Sarajevo à Sarajevo: l'échec yougoslave" (1992), "Les Balkans, paysage après la bataille" (1996); He was a drafter of "Unfinished Peace" (1996).

**Theo Sommer**, Germany ★ Born in 1930 in Constance, Germany. Studied History, Political Science and International Relations in Sweden, at Tübingen University and the University of Chicago; PhD thesis on "Germany and Japan between the powers 1935–1940" (published 1962). In 1960 participant in Henry Kissinger's International Summer Seminar, at Harvard University. Between 1967 and 1970 Reader in Political Science at the University of Hamburg. Appointed Foreign Editor of "Die Zeit" in 1958, and became Deputy Editor in 1968. Chief of the Planning Staff at the Ministry of Defense in 1969–70; Returned to "Die Zeit" as Editor-in-Chief in 1973 and became Publisher on October, 1 1992. Writes mainly on international affairs, strategic questions, German and European problems. Publications include "The Chinese Card" (1979), "Changing Alliance?" (1982), "Look Back Into the Future" (1984), "Journey to the Other Germany" (1986).

**Jan Urban**, the Czech Republic ★ Born in Hradec Kralove, Czechoslovakia on March 27, 1951. Graduated 1974 in history and philosophy from Charles University in Prague. One of the founders of the only international network connecting dissident journalists at that time in Czechoslovakia, Poland, Soviet Union, Hungary, Yugoslavia and the German Democratic Republic. One of the founders "Lidove noviny" in 1987. Active in the Civic Forum movement that brought the change of the regime in November 1989 and served as its leader during the last four months before the first free elections in June, 1990. Left political functions one day after the victorious elections. Visiting Fellow at the New School for Social Research in New York in 1990 and at the Cambridge University Immanuel College Global Security Programme in 1992, as well as German Marshall Fund Visiting Professor in 1994.

#### ASSISTING THE COMMISSION:

The American Bar Association Central and East European Law Initiative (ABA/CEELI) generously seconded its director, Mark Ellis, to act as the legal advisor of the Commission. Mr. Ellis will as of January 1, 2001, take up the post of Director for the International Bar Association in London. The Director of the Commission Secretariat is Pia Övelius, a senior member of the office of the Swedish Prime Minister who was generously seconded by the Prime Minister to assist the Commission. The media and public relations work for the Commission was directed by Anki Wood, a freelance journalist. The final report was edited by Liam Mahony, a lecturer at Princeton University. The Commission would like extend a special thanks to Liam Mahony who, at a very short notice agreed to undertake the editing of the full report.

In Johannesburg, the researchers in the chambers of Justice Goldstone at the Constitutional Court of South Africa assisted with administrative work of the Commission and with the editing of this report — Nicole Fritz, Estelle Dehon and Tung Chan. Statistical team in Washington: Scott Carlsson, Director of the Kosovo and War Crimes Documentation Project for ABA/CEELI; Charles Rudnick, Assistant Dean for International Law at the Chicago-Kent College of Law; Randy Clark, the Chicago-Kent College of Law; Wendy Betts, Assistant Director of the Kosovo and War Crimes Documentation Project for ABA/CEELI.

The Commission extends its warm thanks to all these people and others who have made this report possible.

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#### FOLLOW UP

After the presentation of the report to the Secretary General of the United Nations, Mr. Kofi Annan on 23 October 2000 and to Prime Minister Göran Persson on 24 October 2000, the Commission will organize further seminars to discuss the reception of the report. The Commission's work formally ends on 31 December 2000.

#### SPECIAL CONTRIBUTIONS BY

The Commission expresses its special thanks to a number of persons that have provided help, advice and/or reports to the Commission.

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Philip Dimitrov, Bulgarian ambassador, USA  
 Joly Dixon, Deputy Special Representative, UNMIK  
 Ambassador Jim Dobbins, State department, United States of America  
 Senator Robert J. Dole, Washington  
 Ambassador Mitsuro Donowaki, Special Assistant to the Minister of Foreign Affairs, Japan  
 Prof. Norman Dorsen, NYU School of Law, USA  
 Vjosa Dreshaj, The Forum, Kosovo  
 John Dugard, University of Leiden, the Netherlands  
 Rolf Ekéus, Swedish ambassador, the United States of America  
 H.E.E. Eliades, Cyprus High Commission, South Africa  
 Glynne Evans, Foreign and Commonwealth Office, UK  
 Can Everts, Head of Mission, OSCE  
 Peter Fabricius, Independent Foreign Service, South Africa  
 Mient Faber, IKV  
 Nicolo Figa-Talamanca, UN War Crimes Project  
 Jacques Forster, Vice President, International Committee of the Red Cross  
 William Friis-Möller, Ambassador of Denmark to Sweden  
 Dr Akiko Fukushima, International Cooperation Department, NIRA  
 Senior Deputy Director Yoshitaro Fuwa, FASID  
 H.E. Naela Gabr, Egyptian Ambassador to South Africa  
 V Dianna Games, Business in Africa  
 Mircea Geoana, Rumanian ambassador, USA  
 Mario Giro, Communauté de Sant'Egidio, Italy  
 Misha Glenn, journalist, historian, UK  
 Vladimir Gligorov, Vienna Institute for International Economic Studies  
 Ettore Greco, Istituto Affari Internazionali, Italy  
 Ms. Janne Haaland-Matraly, the State Secretary of the Norwegian Foreign Ministry  
 Deputy Foreign Minister, Peter Hain, the UK  
 Jeremy Harding, London Review of Books  
 Andrew Harper, UNHCR  
 Florence Hartmann, France  
 Pierre Hassner, Institut Francis des Relations Internationales  
 Amb. Jorge Heine, University of Chile  
 Mats Hellström, Swedish ambassador, Germany  
 Jeffrey Herbst, Princeton University, USA  
 Phillip Heymann, Harvard Law School, USA  
 Sven Hirdman, Swedish ambassador, the Russian Federation  
 Kossar Hjasein, UN War Crimes Project  
 Quinton Hoare, The Bosnian Institute, UK  
 Captain François Hugo, Defense Secretariat, South Africa  
 Connie Huntsman, ABA/CEELI, USA  
 Anna Husarska, journalist, CERI, France  
 Ylber Hysa, Koha Ditore, Kosovo  
 Wilbert J.E.M. van Hövell tot Westerflier, Deputy to DSRCG, UNHCR, Kosovo  
 Olatokunbo Ige, International Commission of Jurists  
 Gordana Ignic, IWPR  
 Dr Masako Ikegami, Uppsala University, Sweden  
 Adesola Ilemobade, Wits University, South Africa  
 Wolfgang Ischinger, State Secretary, Foreign Ministry, Germany  
 Leonid Ivachov, Ministry of Defense, the Russian Federation

Pierre Jacquet, Institut Francais des relations internationales  
 Bianca Jagger  
 Sanna Johnsson, Olof Palme International Center  
 Lynn Jones, psychiatrist working in Kosovo and Bosnia  
 Emyr Jones-Perry, Political Director, Foreign and Commonwealth Office, UK  
 Dr. Chantal de Jonge Oudraat, Carnegie Endowment for Peace  
 Claude Kabemba, Centre for Policy Studies  
 K. Kak, Institute for Defense Studies and Analyses  
 Natasha Kandic, Humanitarian Law Center, Serbia and Kosovo  
 Jan Kickert, political Adv. to Mr. Kouchner, UNMIK  
 Prof. Benedict Kingbury, NYU School of Law, USA  
 Ms Miho Kitshitani, JEN Japan Emergency NGOs  
 Ms Eri Komukai, Environment, WID and Other Global Division, Planning Department, JICA  
 Dr. Bernard Kouchner, UN Chief Administrator in Kosovo  
 O. Kovalchik, Charge d'Affairs at the Russian Embassy, South Africa  
 Ms Mariko Koyatsu, The Japan Institute of International Affairs  
 Garentina Kraja, The Forum, Kosovo  
 Jakup Krasniqi, Secretary General of the Party of Democratic Prosperity  
 Justice Kriegler, Constitutional Court, South Africa  
 Radha Kumar, Council on Foreign relations  
 Director Satoru Kurosawa, Environment, WID and Other Global Division, Planning Department, JICA  
 Anthony C. Land, UNHCR, Kosovo  
 Colonel Robert Laloux, Belgian Embassy, South Africa  
 Frédéric Baleine de Laurens, Directeur général adjoint, Ministère des Affaires Etrangères  
 Alison Lazarus, Center for Conflict Resolution, South Africa  
 Dominique Lebastard, French Trade Commission  
 Stefan Lehne, Council of the European Union  
 Allan Little, BBC, UK  
 Edward Llewellyn, European Commission, Brussels  
 Eckard Lohse, Frankfurter Allgemeine Zeitung, Germany  
 George Lugalambi, Makerere University  
 Vladimir P. Lukin, Deputy Speaker of the State Duma, Russian Federation  
 Faik and Ragip Luta, BBS World Service  
 Björn Lyrvall, Swedish Foreign Office  
 Shyqri Malaj, Director of School, Rezalla/Rezala, Kosovo  
 Noel Malcolm, historian, UK  
 Eddie Maluleka, Constitutional Court, South Africa  
 Giulio Marcon, Italian Consortium of Solidarity, Italy  
 Luciano Massetti, Italian Joint Operations Command  
 Jessica Mathews, Carnegie Endowment for International Peace  
 Errol P. Mendes, Director, University of Ottawa, Canada  
 Gian Giacomo Migone, Senato della Repubblica, Italy  
 Paul Miller, Amnesty International  
 Greg Mills, SAIHA, South Africa  
 Michael Montgomery  
 Pascale Moreau, UNHCR, Kosovo

Prof. Madeleine H. Morris, Duke University, USA  
 Rudina Mullahi, Counselor of the Albanian Embassy, USA  
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 Andreas Gordon O'Shea, University of Durban-Westville, South Africa  
 Rory O'Sullivan, the World Bank, Brussels  
 Jane Olson  
 H. Onoria, Makerere University  
 Prof Ryo Oshiba, Professor, Hitotsubashi University  
 Joseph Otteh, Access to justice  
 Mr Toshiro Ozawa, The Japan Institute of International Affairs  
 Patsy Palmer, ABA/CEELI, USA  
 Michelle Parlevliet, Center for Conflict Resolution, South Africa  
 Marina Pavlova-Silvanskaya, Carnegie endowment for International Peace, the Russian Federation  
 Martina Pavolva-Silvanskaya, Carnegie Moscow Center  
 Executive Director Lulzim Peci, the Kosovar Civil Society Foundation.  
 Sören Jessen Pedersen, Assistant High commissioner, UNHCR  
 Bo Pellnäs, Sweden  
 Friis Arne Petersen, Director, Ministry for Foreign Affairs, Denmark  
 Nadan Petrovic, Italian Consortium of Solidarity, Italy  
 Professor James Pettifer, UK  
 Anu Pillay, African Women's Anti War Coalition

Misha Piro, Open Society Foundation for Albania  
 Barney Pityana, Human rights Commission, South Africa  
 Carla Del Ponte, Chief Prosecutor of the UN War Crimes Tribunal for the former Yugoslavia  
 Helen Popovic, Libération, France  
 Dr Aleksander Prlja, Ambassador of the FR of Yugoslavia to Sweden  
 Nebi Qena, The Forum, Kosovo  
 Emmanuela C. del Re, European University Institute, Italy  
 Klaus Reinhardt, General, KFOR  
 Peter Ricketts, Director for International Security at the Foreign and Commonwealth Office, UK  
 Lord Robertson, Secretary General of NATO  
 Mary Robinson, High Commissioner for Human Rights, UNHCR  
 Jeremy Root, Inside the Law  
 Herr John Roper, Prof. Univ. of Birmingham, UK  
 General Len le Roux, Defence Secretariat, South Africa  
 Dr Ibrahim Rugova, LDK (Democratic League of Kosova), Kosovo  
 Martin Rupiya, University of Zimbabwe  
 Bonaventure Rutinwa, Dar es Salaam University  
 Robert Rydberg, Swedish Foreign Office  
 Albie Sachs, Constitutional Court, South Africa  
 Father Sava, Serb Orthodox Monastery in Ulpiana/Gracanica, Kosovo  
 Prof. Michael Scharf, New England Law School  
 Albrecht Schnabel, UN University  
 Maxie Schoeman, RAU  
 Robert Schrire, University of Cape Town, South Africa

Ms Sachiko Seya, FASID, International Development Research Institute, Japan  
 John Sefton, NYU School of Law, USA  
 Blerim Shala, Editor "Zeri", Kosovo  
 William Shapcott, Council of the European Union  
 Director Takashi Shinozuka, International Cooperation Department, NIRA  
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 Amananth Singh, Financial Mail  
 Laura Silber, Financial Times, USA  
 Betsie Smith, Department of Foreign Affairs, South Africa  
 Stephen Smith, American Radio Works  
 Hussein Solomon, University of Pretoria, South Africa  
 Jonathan Steele, The Guardian, UK  
 Michael Steiner, Foreign Policy Advisor to the Bundeskanzler, Germany  
 Frau Dr. Constanze Stelzenmüller, Die Zeit, Germany  
 John Stremlau, Wits University, South Africa  
 William A. Stuebner, United States Institute of Peace  
 Ms Megumi Suezawa, Research Fellow, The Japan Institute of International Affairs  
 Veton Surroi, Koha Ditore, Kosovo  
 Roland Svensson, Managing Director, the Swedish Cooperative Union, Sweden  
 Dr Kazuo Takahashi, FASID, International Development Research Institute  
 Terence Taylor, Assistant Director, the International Institute for Strategic Studies  
 Hashim Thaqi, chairman of the PDK party, Kosovo

Roberto Toscano, Secretary General, Ministero Affari Esteri, Italy  
 Kim Traavik, director, Ministry for Foreign Affairs, Norway  
 Mr Susumu Ueda, Central and Eastern Division, MOFA  
 Magnus Valquist, Swedish ambassador, Norway  
 Ivan Vejvoda, fund for an Open Society, Belgrade, FR Y  
 Mr Masato Watanabe, Central and Eastern Division, MOFA  
 Rob de Wijk, Clingendael, Holland  
 Martin Woollacott, Guardian, Foreign Affairs, UK  
 Jeta Xharra, student, Kosovo  
 Tetsuya Yamada, Japan  
 Ditron Zhubi, The Forum, Kosovo  
 Jeremy Zucker, Journal of International Law and Politics  
 Miomir Zuzul, Croatian ambassador, USA

*The Commission apologizes for any oversight or inaccuracy in this list.*

## ANNEX 7 ★ END NOTES

## Preface

1 There is also a summary document prepared by the International Committee of the Red Cross under the title *Fundamental Rules of International Humanitarian Law Applicable in Armed Conflicts*. These texts can all be found in Burns Weston & others, *Documents: International Law and World Order* (3rd ed. 1997); the direct documentary references would be more professionally correct.

## 1. The Origins of the Kosovo Crisis

- 1 Rankovic was a Stalinist rather than a nationalist who strongly favored centralization.
- 2 See interviews in Julie Mertus, *Kosovo: How Myths and Truths Started a War*, University of California Press, 1999.
- 3 According to official statistics more than 700 people had been arrested by 1982 for “anti-Yugoslav, Albanian nationalist-irredentist activity” and 320 had been put on trial. By October 1983, some 595 individuals had been sentenced to prison in connection with the demonstrations. Quoted in Mertus
- 4 GMP or Gross Material Product is based on manufacturing and agricultural output. GNP also includes services.
- 5 See Gramoz Pashko, “Kosovo: Facing Dramatic Economic Decline”, in Thanos Vermemies and Evangelos Kofos, *Kosovo: Avoiding Another Balkan War*, ELIAMEP, University of Athens, 1998.
- 6 The survey results can be found in Marina Blagojevic, “Kosovo: In/Visible Civil War” in Veremies and Kofos, op.cit. Interviews undertaken by Mertus, indicate similar experiences.
- 7 Later, Martinovic confessed to the commander of the garrison where he worked as a clerk that the wound was self-inflicted, an act of “self-satisfaction”, and this was the view of the Prishtina/Pristina clinic where he was first treated. However, the authorities later gave conflicting opinions and the case was never decisively established. Martinovic again changed his story and claimed that his confession had been forced, whereupon the commander of the garrison, himself a Serb, sued him for libel, (see Mertus). Serb nationalists seized upon the case as evidence of the “genocide” theory and as a metaphor for all injustices meted out to Serbs in history. In particular, a parallel was drawn with the Turkish practice of impalement described by Ivo Andric in his book *Bridge over Drina*. A book about the case sold 50,000 copies. As Julie Mertus has put it, “The power of the Martinovic case lay in its ability to invoke the primary imagery of Serbian oppression: the Turkish brutality of impaling, Jasenovac (the wartime concentration camp where Serbs and Jews were killed), ‘for sale’ sign on the property of Kosovo Serbs” (Mertus, p.112). Mertus quotes an Albanian woman as saying: “I am ashamed to think that Albanians could have done this. The expert testimony conflicted so we don’t know what happened for sure. Where I take offence is that Serbs automatically accused all of us of being there with the perpetrators. It was as if we had all done the attack” (Mertus, p.106).

- 8 Quoted in Tim Judah, *The Serbs: History, Myth and the Destruction of Yugoslavia*, Yale University Press, 1997, p.159.
- 9 Mertus, p.109.
- 10 Quoted in Noel Malcolm, *Kosovo: A Short History*, papermac, London, 1998.
- 11 Quoted in Mertus, p.185
- 12 Mertus, p179.
- 13 See International Helsinki Federation for Human Rights, IHF Special Report: *The Past 10 Years in Kosovo: Autonomy, Colonization, Genocide*, July 1999.
- 14 For example, in Prizren/Prizren, “League of Prizren” street became “King Peter the Liberator” street. The Museum of the League of Prizren, which had been declared a world heritage site by UNESCO, was looted and turned into a hostel for Serb refugees from Croatia. See International Crisis Group (March 1998) Kosovo Spring.
- 15 Humanitarian Law Center, *Human Rights 1991-5, 1997* p.61.
- 16 Judy Dempsey, “Serbian authorities step up pressure in Kosovo”, Financial Times, July 13, 1992, p.3.
- 17 Amnesty International has published reports dated as early as 1981. The International Helsinki Federation and the Council for Defense of Human Rights and Freedoms began monitoring the situation in 1989, Human Rights Watch in 1990, OSCE in 1991, United Nations in 1992, and the Humanitarian Law Center in 1993.
- 18 Some 7000 Albanian schoolchildren became ill. There was no definitive account of what happened to the children, but most experts seem to accept the theory of mass hysteria; there have been similar occurrences in situations of heightened tension.
- 19 Quoted in Tim Judah, “Kosovo’s Road to War”, *Survival*, Summer 1999, p.120.
- 20 Andrew March and Rudra Sil, *The “Republic of Kosovo” (1989-1998) and the Resolution of Ethno-Separatist Conflict in the Post-Cold War Era*, University of Pennsylvania Press, Forthcoming.
- 21 Ibid.
- 22 Interview with Sonja Licht, Director of the Open Society Foundation, Belgrade.
- 23 Shkelsen Maliqi, *Kosovo: Separate Worlds*, MM, Pristina, 1998.
- 24 Pashko, Gramoz (1998) “*Kosovo: Facing Dramatic Economic Decline*” in Veremies and Kofos.
- 25 Quoted in Mertus, p. 204.
- 26 Quoted in Stephan Troebst, *Conflict in Kosovo: Failure of Prevention, an Analytical Documentation*, European Centre for Minority Issues, Flemsburg, 1999, p. 27.
- 27 Quoted in Tim Judah, *Kosovo: War and Revenge*, Yale University Press, 2000, pp. 79-80. Revealingly, presumably because the possibility of a solution to Kosovo which accommodated Belgrade was beginning to circulate in the form of speculation and rumors, the KLA (whom few Kosovar Albanians had even heard of at the time) was reportedly issuing death threats in 1996 directed at any Albanian leader who attempted to reach an autonomy deal with Belgrade.
- 28 Maliqi, Shkelsen (1998) “*Kosovo: Separate World: Reflections and Analyses*” MM, Pristina.

- 29 Judah, *Kosovo*, 2000, p.81.  
 30 Maliqi, 1998.  
 31 Quoted in Richard Caplan, “International Diplomacy and the Crisis in Kosovo”, *International Affairs*, Volume 74, no. 4, October, p.752.  
 32 Quoted in Veremis and Kofos, 1998, p.36.  
 33 Ibid.  
 34 Humanitarian Law Center, Spotlight Report No. 25, 1998, p.30.  
 35 Humanitarian Law Center, Human Rights, 1991–1995 (1997).  
 36 Guy Dinmore, “Uneasy Peace in Kosovo May be Coming to an End”, *Financial Times*, Nov. 4, 1997, p. 4.  
 37 Quoted in Judah, *Kosovo*, 2000, p.152.  
 38 Economist Intelligence Unit, Country Profile: Yugoslavia (Serbia-Montenegro) Macedonia 1997–8, London, New York and Hong Kong, 1997, p.14.  
 39 Quoted in Judah, *Kosovo*, p.74.  
 40 “President Bush’s message was specific and clear. We are prepared to respond against Serbia in the event of a conflict in Kosovo caused by Serbian action. Secretary of State Christopher has reiterated this message.” Quoted in Troebst.  
 41 The Kosovar Albanians were invited as observers and not as participants. “If you are planning to be in London at the time of the conference”, Lord Carrington wrote to Rugova, it would be possible to have some meetings, but “for practical and other reasons” it would not “be possible to grant your delegation access to the conference (...) We are making strenuous efforts to ensure that the views of Kosovar Albanians are heard. If you are interested in participating on this basis, I should be grateful if you would contact the secretariat ... with details of your proposed delegation and accommodation in London (quoted in Judah, *Kosovo*, pp. 92–3).  
 42 The Contact group is an informal ad-hoc group consisting of representatives from the USA, the UK, France, Italy, Germany and Russia. It was originally formed for consultations on Bosnia but has now expanded to questions relating to Western Balkans.  
 43 Quoted in Troebst, p.26.  
 44 Quoted in Judah, *Kosovo*, p. 125.  
 45 Interview with director Sonja Licht, OSF.  
 46 See Mary Kaldor, *New and Old Wars, Organized Violence in a Global Era*, Polity Press, Cambridge (UK), 1999.  
 47 Interview with Aryeh Neier, Soros Foundation/Open Society Institute, May 1, 2000.

## 2. Internal Armed Conflict: February 1998–March 1999

- 1 ICG, Kosovo Spring, March 1998, p. 30.  
 2 The subsequent chapter analyzes the international response in greater detail.  
 3 Stefan Troebst, *Conflict in Kosovo: Failure of Prevention*, European Centre for Minority Issues, No. 1, 1998, p. 3.  
 4 Tim Judah, pp.138–40. The Humanitarian Law Center stated that among the dead there was a large number of women and children. They also noted that people were shot while trying to surrender, (Humanitarian Law Center, *Police Operation in the Drenica Area*, March 5–6, 1998).

- 5 Human Rights Watch, *Humanitarian Law Violations in Kosovo*, Oct. 1998, p. 18.  
 6 Ibid., p. 19.  
 7 Ibid., pp. 1–74.  
 8 Ibid., p. 75.  
 9 Donji Prekazi/Prekaze, “Serbs Declare Kosovo Crackdown Over; Ethnic Albanians Allege that the Lull in Fighting is Designed to Deceive the West, Only Timed to Coincide with a Meeting of World Powers in London on Peace in the Balkans,” *Minneapolis Star Tribune* (AP Wire), Mar. 9, 1998, p. 4A.  
 10 Jeffrey Smith, “Eerie Quiet Follows Assault in Kosovo; Ruins, Refugees, Death Left in Serbian’s Wake,” *Washington Post*, Mar. 9, 1998, p. A13.  
 11 “Major Powers Demand Urgent Action on Kosovo,” *Toronto Star*, Mar. 9, 1998, p. A1.  
 12 Office of the Prosecutor, Press Release, CC/P10/302-E, March 10, 1998. The Prosecutor also announced that the ICTY was “currently gathering information and evidence in relation to the Kosovo incidents and would continue to monitor any subsequent developments.” The Prosecutor’s remarks concluded with a statement that she expected the “full cooperation” of Serb authorities.  
 13 SC Resolution 1160 UN SCOR, UN Doc S/RES/1160 (1998).  
 14 “UN Hits Yugoslavia with Arms Embargo; Security Council Hopes to Force Peace in Kosovo,” *Toronto Star*, Apr. 1, 1998, p. A11.  
 15 Thus, for instance, leaders chosen to represent the KLA at peace talks even as late as the spring of 1999 met one another for the first time during their flight to the negotiation sessions.  
 16 Philip Smucker, “Young Kosovars Await Order for Border Assault; Expatriate Kosovars Have Begun Returning to their Homeland to Fight Serbs,” *Sunday Telegraph*, Apr. 26, 1998, p. 34.  
 17 Humanitarian Law Center, Kosovo: Disappearances in Times of Armed Conflict, Report No. 27, 1998, pp. 6–7.  
 18 Amnesty International, “Ljubenic and Poklek: Extrajudicial Executions, Excessive Use of Force, and Disappearances,” in *Kosovo: A Decade of Unheeded Warnings*, Apr. 2, 1999, p. 20.  
 19 Ibid., pp. 3–6.  
 20 Elizabeth Neuffer, “NATO Weighs Raids to Slow Serbs in Kosovo; Aides Gather in Brussels Today to Consider Options,” *Boston Globe*, June 11, 1998, p. A2.  
 21 Ibid.  
 22 Ibid.  
 23 Ibid.  
 24 OSCE, 156th Permanent Council, PC. DEC/218 (1998).  
 25 Memorandum from Tim Isles, deputy head, OSCE Presence in Albania, to chairman of the Permanent Council, Vienna, July 13, 1998 (citing shelling of villages in Decane/Decani, Serb soldiers torching houses in Potok Morine/Potok Morina, and desertion of 5 Serb soldiers, as well as reporting on the visit of German Minister of Foreign Affairs Kinkel).  
 26 According to Robert S. Gelbard, special representative of the President and the

- secretary for implementation of the Dayton Peace Agreement, in a statement before the House International Relations Committee, Washington, DC, on July 23, 1998, "One aspect of Ambassador Hill's mission has been to work with the Kosovar Albanian side to promote the development of an authoritative negotiating team that represents the full spectrum of political opinion in the Kosovar Albanian community, including extremist elements. Unless the views of those on the Albanian side engaged in the fighting are represented, it is unlikely that either a cessation of hostilities or a comprehensive political settlement can be negotiated. That is why we have opened a dialogue with the uck. The uck is a reality on the ground, and however much we condemn the use of violence by either side, they will have to be a party to any cessation of hostilities."
- 27 Kosovar journalist, (name withheld upon request), in an interview by the Commission in Budapest, Apr. 2, 2000.
- 28 Memorandum from Tim Isles, op. cit.; osce Albania Spot Report, July 18, 1998 (citing a Serb ambush of 700 uck, leading to as many as 450 killed or captured); osce Albania Spot Report, July 24, 1998 (citing heavy artillery shelling from the direction of Rrahovec/Orahovac during a two hour period on July 21).
- 29 Human Rights Watch, *Humanitarian Law Violations in Kosovo*, Oct. 1998, p. 39.
- 30 Amnesty International, "'Disappeared' and 'Missing' Persons: The Hidden Victims of the Conflict," in *Kosovo: A Decade of Unheeded Warnings*, Apr. 1999, p. 11.
- 31 See The Center — Peace through Justice, "Preliminary Compilation of Data: Report to the Independent International Commission on Kosovo," Apr. 2000, p. 13. Preliminary compilation on file available at ABA/CEELI
- 32 Smith, "Eerie Quiet," op. cit.
- 33 Statement by the president of the Security Council, Aug. 24, 1998, S/PRST/1998/25.
- 34 Office of the Prosecutor, Press Release, CC/PIU/329-E, July 7, 1998.
- 35 Ibid.
- 36 James Hooper, "UN Prosecutor Must Go to Kosovo," Toronto Star, Sept. 16, 1998.
- 37 Justice Louise Arbour, "Prosecutor Won't Play Politics in the Balkans," Toronto Star, Sept. 22, 1998. It is worth noting that this response upon the part of the Chief Prosecutor was foreshadowed publicly in April 1998. Speaking at a conference on War Crimes Tribunals: The Record and the Prospect, held at American University in Washington, DC, she stated: "I am not sure that personally going there [Kosovo] is likely to advance my investigations a great deal" Audience Questions, 13. Am. U. Int'l L. Rev. 1495, 1505 (1998).
- 38 Memorandum from Tim Isles, deputy head, osce Presence in Albania, to chairman of the Permanent Council, Vienna, Oct. 1, 1998; memorandum from Ambassador Daan Evert, head, osce Presence in Albania, to chairman of the Permanent Council, Vienna, Sept. 24, 1998 (citing expulsion of 3500 refugees from Montenegro); memorandum from Ambassador Daan Everts, head, osce Presence in Albania, to chairman of the Permanent Council, Vienna, Sept. 9, 1998 (citing over 100 explosions and machine gun fire within 4 kilometers of Gjakove/Djakovica).
- 39 SC Resolution 1199, UN SCOR, UN Doc. S/RES1199 (1998).

- 40 Jane Perlez, "Serb Pullback May Forestall NATO Attack," New York Times, Oct. 5, 1998, p. A1.
- 41 Organization for Security and Cooperation in Europe (OSCE), "Kosovo/Kosova As Seen As Told," 1999, p. 6.
- 42 William Drozdiak, "NATO Approves Airstrikes on Yugoslavia; Milosevic is Given Ultimatum; Key Demands Reportedly Met," Washington Post, p. A1.
- 43 SC Resolution 1203, UN SCOR, UN Doc. S/RES1203 (1998).
- 44 Vernon Loeb, "End of Fighting in Kosovo May Be Within Sight, Holbrooke Says," Washington Post, p. A38.
- 45 SC Resolution 1207, UN SCOR, UN Doc. S/RES/1207 (1998).
- 46 Office of the Prosecutor, Press Release, CC/PIU/351-E, October 7, 1998.
- 47 Human Rights Watch, Detentions and Abuse in Kosovo, Report No. 10 (D), Dec. 1998.
- 48 Ibid.
- 49 Humanitarian Law Center, *Spotlight on: Human Rights in FR Yugoslavia*, Report No. 28, 1998, pp. 20-5.
- 50 Report of the Secretary-General Prepared Pursuant to Resolution 1160 (1998), 1199 (1998) and 1203 (1998) of the Security Council, UN Doc. S/1998/1068, Nov. 12, 1998.
- 51 Ibid., p. 3.
- 52 Marc Weller, *The Crisis in Kosovo 1989-1999: From the Dissolution of Yugoslavia to the Rambouillet and the Outbreak of Hostilities*, vol. 1, Cambridge University Press, 1999, p. 286.
- 53 Memorandum from Tim Isles, deputy head, osce Presence in Albania, to chairman-in-office, Dec. 2, 1998 (citing machine gun fire from a FRV border post into the nearby village of Gorozhup/Gorozup); memorandum from Ambassador Daan Everts, head, osce Presence in Albania, to chairman-in-office, Dec. 19, 1998 (citing Serb shelling of Albanian villages of Gegaj and Padesh and Kosovar village of Prejlep/Prilep and Serb border incursions); memorandum from Ambassador Daan Everts, head, osce Presence in Albania, to chairman-in-office, Dec. 24, 1998 (citing shelling of Vrbnica and border incursions).
- 54 Nicole Veash, "Bitter Welcome in Kosovo No Place to Call Home," Observer, Dec. 6, 1998, p. 15.
- 55 Report of the Secretary-General Prepared Pursuant to Resolution 1160 (1998), 1199 (1998) and 1203 (1998) of the Security Council, UN Doc. S/1998/1221, Dec. 24, 1998, p. 3.
- 56 UN Inter-Agency Report, *Update on Humanitarian Situation in Kosovo*, Dec. 24, 1998.
- 57 On December 10, 1998, Finnish forensic pathologists, accompanied by the Finnish ambassador, were not allowed to proceed to Obri e Eperme/Gornje Obrinje without a substantial armed accompaniment (two busloads of security personnel and eight armored vehicles). Due to the risk of KLA attack accompanying movement of a military convoy of that size, the Finnish team declined to travel to Obri e Eperme/Gornje Obrinje and protested the conditions imposed by the Yugoslav government. The minister of justice of Serbia then promised that such a situation

would not happen again. Thereafter, the pathologists discussed the security situation with KLA and Serb authorities who both suggested that investigations be targeted at safer locations. The Finnish pathologists determined that it would not be possible to conduct fieldwork at these other locations either, and left on December 20, 1998. These difficulties were raised in meetings between EU officials and Serb authorities, who expressed a willingness to address the issue only after the pathologists had returned to Yugoslavia, (Special Report of the Secretary-General Prepared Pursuant to Resolutions 1160 (1998), 1199 (1998), and 1203 (1998) of the Security Council, UN Doc. S/1999/99, 1999, p. 5).

- 58 Judah, *op. cit.*, p. 230. Serbian analyst Braca Grubacic, editor of Belgrade's English-language newsletter, *VIP*, offered the following analysis of Milosevic's expectations after the Holbrooke deal: "He thought the us would close the border with Albania to prevent arms smuggling, that the us would freeze the KLA's assets and make arrangements to terminate the KLA's influence... When Milosevic understood that Holbrooke would not fulfill such a promise he went for war."
- 59 Interviews with UNHCR and KVM personnel on the ground in Prishtina/Pristina, Kosovo, Aug. 1999.
- 60 In the October Agreement, Milosevic agreed not to place more than three company sized units in the field in Kosovo at any one time and not to use heavy weapons. All training exercises had to be announced to the OSCE KVM mission in advance to allow proper monitoring presence. The presence of paramilitary units was prohibited, as was the arming of civilians.
- 61 OSCE, "Kosovo/Kosova," *op. cit.*, p. 354.
- 62 *Ibid.* p. 36.
- 63 *Ibid.*, p. 354.
- 64 Office of the Prosecutor, Press Release, CC/PIU/379-E, 20 January 1999.
- 65 *Ibid.*
- 66 Security Council Press Release SC/6628, Jan. 19, 1999; OSCE Press Release, Jan. 1999, no. 10/99.
- 67 *Ibid.*
- 68 Letter Dated 23 March 1999 from the Secretary-General Addressed to the President of the Security Council, UN Doc. S/1999/214 (1999).
- 69 OSCE, "Kosovo/Kosova," *op. cit.*, p. 7.
- 70 OSCE Press Release No. 24/99, March 19, 1999.

### 3. International War supervenes: March 1999-June 1999

- 1 Weller, *op. cit.*, page 498.
- 2 House of Commons, Select Committee on Foreign Affairs, Fourth Report, para 77.
- 3 See, e.g. House of Commons, *op. cit.*, and Adam Roberts, "NATO's Humanitarian War Over Kosovo", *Survival*, vol. 41, no 3, Autumn 1999.
- 4 See Barry Posen, "The War for Kosovo", *International Security*, vol. 24, no. 4, Spring 2000.
- 5 Judah, *op. cit.*, p.282; OSCE, "Kosovo/Kosova" *op. cit.*, p.25.
- 6 Interview with Sejdiu Pleurat, Prishtina/Pristina, Nov. 1999.

- 7 House of Commons, Select Committee on Foreign Affairs, Fourth Report, *op. cit.*, para 115.
- 8 The OSCE concluded that "the violations inflicted on the Kosovar Albanian population after 20 March were a continuation of actions by Yugoslav and Serbian military and security forces that were well rehearsed, insofar as they were already taking place in Kosovo well before 20 March". OSCE, "Kosovo/Kosova" *op. cit.*, p. viii.
- 9 US State Department, "Ethnic Cleansing in Kosovo: An Accounting" Washington, DC, 1999.
- 10 House of Commons Select Committee on Foreign Affairs, Fourth Report, *op. cit.*, para 105., paragraph 105.
- 11 See also ICG Reality Demands, Documenting Violations of International Humanitarian Law in Kosovo 1999.
- 12 OSCE, "Kosovo/Kosova" *op. cit.*, p.iii.
- 13 "Kosovo's Killing Fields — a myth?" Mail and Guardian, August 25 to 31, 2000.
- 14 ICG Report no 85: Albanians in Serbian Prisons, p. 3.
- 15 Figures from NATO, quoted in ICTY, Final Report to the Prosecutor by the Committee Established to Review the NATO Bombing Campaign against the Federal Republic of Yugoslavia, *op. cit.*, p. 17.
- 16 See summary in Posen, "The War for Kosovo" *op. cit.*
- 17 Europe Information Service, Brussels, Euro-Est, *op. cit.*, July 1999.
- 18 The "G8" comprises the United Kingdom, Canada, France, Germany, Italy, Japan, the United States, and Russia.; the G7 is the above, bar Russia.
- 19 Judah, *op. cit.*, p. 271.
- 20 Copy of the Peace Plan Approved by the Serb Parliament, Associated Press, June 3, 1999.
- 21 SC. Resolution. 1244, UN. SCOR, UN. Doc. S/RES1244 (1999).

### 4. Kosovo Under United Nations Rule

- 1 The Resolution was passed by a vote of 14 in favor, no votes against. China abstained from the vote.
- 2 Leonard J. Cohen, "Kosovo: Nobody's Country", *Current History*, March 2000, pp. 117-23.
- 3 Under the North Atlantic Council authorization of Operation Joint Guardian, the international force was to:
- establish a security presence in Kosovo, as authorized by the UN Security Council Resolution (UNSCR) 1244 and further defined in the Military Technical Agreement (MTA) signed by military authorities from the Federal Republic of Yugoslavia and NATO;
  - verify and enforce the terms of the MTA;
  - establish a secure environment in which refugees and displaced persons can return home in safety;
  - establish a secure environment in which the international civil presence can operate, a transitional administration can be established and humanitarian aid can be delivered;

- help achieve a self-sustaining secure environment which will allow public security responsibilities to be transferred to appropriate civil organizations.
- 4 See the letter from Nikolay Ryzhkov, chairman, State Duma Commission for Assistance to the FRY on the Elimination of the Consequences of NATO Aggression, to Kosovo Commission Chairman Richard Goldstone on July 5, 2000, and the attached list, “Non-implementation of the UN Security Council Resolution 1244,” Moscow, June 27, 2000.
- 5 Force levels have not varied dramatically since then. Three months after the end of hostilities, KFOR consisted of a total troop strength of 40,000 soldiers. By June 12, 2000 — the first anniversary of KFOR’s advance into Kosovo — its strength had dwindled to 37,000 soldiers.
- 6 For General Reinhardt’s comments, see *Süddeutsche Zeitung*, June 26, 2000.
- 7 Full text of Resolution 1244 appears in annex 5.
- 8 Kouchner is former French Health Minister and co-founder of Médecins Sans Frontières.
- 9 Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, June 6, 2000, p. 1.
- 10 *Süddeutsche Zeitung*, June 26, 2000.
- 11 Report of the Secretary-General on the United Nations Interim Administration in Kosovo, 6 June 2000, p.6.
- 12 *Ibid.*, p. 22
- 13 Lord Robertson, as quoted in the *Financial Times*, July 18, 2000.
- 14 Report of the Secretary-General on the United Nations Interim Administration in Kosovo, June 6, 2000, p. 22.
- 15 *Ibid.*, p. 6
- 16 UNMIK, Administrative Department of Justice, *The Justice System of Kosovo*, p. 3.
- 17 House of Commons Select Committee on Foreign Affairs, Fourth Report, May 23, 2000, pp. 191-92.
- 18 Report of the Secretary-General on the United Nations Interim Administration in Kosovo, 6 June 2000, p. 294.
- 19 Since February 20, 2000, the European Agency for Reconstruction.
- 20 Report of Secretary-General on UNMIK, 6 June 2000, pp. 19 f.
- 21 The Stability Pact can be described as a declaration of intent between the countries of Southeastern Europe and interested parts of the international community. It was introduced at a meeting with EU foreign ministers in Cologne, June 10, 1999. The Stability Pact offers to the countries of the region the perspective of integration into European and Euro-Atlantic structures. In return, the countries of the region must commit themselves to regional cooperation as well as institutional reform.
- 22 For the official record of achievement, see Special Representative Bernard Kouchner, “UNMIK Marks Six Months in Kosovo,” press briefing, December 13, 1999, and Report of the Secretary-General on UNMIK, June 6, 2000.
- 23 Carl Bildt, remarks to UN Security Council, June 23, 2000, p. 4.

### 5. The Diplomatic Dimension

- 1 Ivo Daalder, presentation to the Commission in Washington, DC, February 8, 2000. See also Ivo Daalder and Michael O’Hanlon, *Winning Ugly*, Brookings Institution, Washington, 2000; Noam Chomsky and Norman Davies, “Is This Really a Grand NATO Victory?” *New Statesman*, June 14, 1999, pp. 11-16.
- 2 Bill Frelick, in a meeting with the Commission, February 8, 2000. See also “The Kosovo Refugee Crisis,” testimony of Bill Frelick, senior policy analyst of the US Committee for Refugees before the US Senate Committee on the Judiciary Subcommittee on Immigration, April 14, 1999. On p. 4, he states: “Had President Milosevic intended to ethnically cleanse Kosovo all along? It certainly was a wish, but not necessarily a plan. He is the consummate opportunist, and will take what he can get away with. Last year, his strategy did not appear to be ethnic cleansing per se — the magnitude of that task and its prospects for success too daunting. So, he followed a classic counter-insurgency strategy, in the process of which his forces displaced about 300,000 people within Kosovo. We can debate whether this would have become ethnic cleansing by slow bleeding in the absence of NATO bombing, instead of the hemorrhage that occurred after March 24. My guess is that it may well have happened. However, I also think the hemorrhage could have been avoided if a significant number of NATO troops had been deployed in the region during the Rambouillet negotiations (...)” See also Michael McGwire, “Why Did We Bomb Belgrade?” *International Affairs*, January 2000, pp. 1-23, and US Department of State, *Erasing History: Ethnic Cleansing in Kosovo*, May 1999). This report states: “In late March 1999, Serbian forces dramatically increased the scope and pace of their efforts, moving away from selective targeting of towns and regions suspected of KLA sympathies toward a sustained and systematic effort to ethnically cleanse the entire province of Kosovo.”
- 3 For instance, the political party of Seselj, the elected vice Prime Minister of Serbia in February 1998, had such a platform.
- 4 The US State Department did apparently investigate the legality of interdicting financial support for the KLA, but no such steps were implemented.
- 5 Statement on Kosovo of the Contact Group Foreign Ministers, New York, September 24, 1997.
- 6 Stefan Troebst, *Conflict in Kosovo: Failure of Prevention*, European Center for Minority Issues Working Paper no. 1, 1998, p. 32, citing the Draft Resolution, “Recent Developments in the Federal Republic of Yugoslavia and their Implications for the Region,” Report to the Political Affairs Committee of the Parliamentary Assembly of the Council of Europe, Doc. 7986.
- 7 Contact Group Statement on Kosovo, Moscow, February 25, 1998.
- 8 Jeffrey Smith, “U.S. Assails Government Crackdown in Kosovo; Administration Seeks Support for Sanctions,” *Washington Post*, Mar. 5, 1998, p. A23.
- 9 Anne Swanson, “Diplomacy and Fear Follow Killing in Kosovo; West, Russia Agree on Sanctions for Belgrade: Albright Calls Steps A Satisfactory Response,” *Washington Post*, Mar. 10, 1998, p. A13.
- 10 “Major Powers Unlikely to Back Either Intervention or Sanctions for Kosovo,” *Irish Times*, Mar. 9, 1998, p. 15.

- 11 Statement on Kosovo, London Contact Group meeting, March 9, 1998.
- 12 “Finally, we learned in Bosnia, and we have seen in Kosovo, that President Milosevic understands only the language of force” (statement by Secretary of State Madeleine K. Albright, “Remarks and Q & A Session at the US Institute of Peace,” Washington DC, February 4, 1999).
- 13 According to Albright, “(...) Kosovo is not Bosnia because we have learned the lessons of Bosnia — and we are determined to apply them here and now (...) Simply put, we learned in Bosnia that we can pay early, or we can pay much more later.” “(...) we have reached the stage where diplomacy, to succeed, requires the backing of military force. And it reflects wide agreement that NATO successfully acted beyond its borders in Bosnia to bring a deadly conflict to an end, and that it can do this again in Kosovo” (see statement by Secretary of State Madeleine K. Albright, “Remarks and Q & A Session at the US Institute of Peace,” Washington DC, February 4, 1999. See also Secretary of State Madeleine K. Albright, “Statement at the Contact Group Meeting on Kosovo,” Bonn, Germany, March 25, 1998: “Think of all the peace plans that were advanced during the Bosnian war. How many times did one party or another appear to accept our proposals, only to walk away? We saw then that in the former Yugoslavia, promises mean little until they are implemented with safeguards. Incentives tend to be pocketed; warnings tend not to be believed. Leaders respond not to the distant threat of sanctions, but to the reality of sanctions.” Albright also stated, in an interview with Frontline, Public Broadcasting System, on February 22, 2000, “We all knew that he [Milosevic] best understood the use of force. He didn’t see the light in Bosnia until the NATO bombing, and then he agreed to the Dayton Accords”. In contrast, according to Mary Kaldor, “What went wrong in Bosnia was the reluctance to risk the lives of peacekeepers. It is the same syndrome in Kosovo. NATO credibility will never be restored unless NATO succeeds in stopping the violence in Kosovo. And that means troops on the ground to protect civilians” (Mary Kaldor, “Kosovo Crisis: Bombs Away! But to Save Civilians We Must Get In,” *Guardian*, March 25, 1999, p. 19).
- 14 Resolution 1160 called for the Secretary-General to make “recommendations for the establishment of a comprehensive regime to monitor the implementation of the prohibitions (...)” seeking cooperation from all states. In his first report back to the Council, the Secretary-General wrote: “The establishment of a comprehensive regime to monitor the implementation of the prohibitions imposed by Security Council resolution 1160 (1998) would require the deployment of teams composed of qualified experts (...) It should be noted that the United Nations is unable, within existing budgetary resources, to establish and administer the requested comprehensive monitoring regime (...) I believe that OSCE, with contributions and assistance from other regional organizations, as necessary, would be in a position to carry out the requested monitoring functions effectively. Those regional organizations might include the European Union, the North Atlantic Treaty Organization, and the Western European Union” (Report of the Secretary-General Prepared Pursuant to Security Council Resolution 1160 (1998), UN Doc. S/1998/361 (April 30, 1998), p. 2).

- 15 Report of the Secretary-General Prepared Pursuant to Resolution 1160 (1998) of the Security Council, UN Doc. S/1998/834 (September 4, 1998), p. 3.
- 16 UN Security Council Resolution 1203, UN Doc. S/RES/1203 (1998).
- 17 Tim Judah, *Kosovo: War and Revenge*, Yale University Press, 2000, pp. 187–90. With respect to China’s position, see statement by Guofang Shen, UN Security Council Press Release SC/6597, 3944th meeting, November 17, 1998. “Chinese Official, at Yugoslav Parliament, Denounces NATO,” *New York Times*, June 13, 2000, p. A13.
- 18 Oleg Levitin, “Inside Moscow’s Kosovo Muddle,” *Survival*, vol. 42, no. 1, spring 2000, p. 137.
- 19 This agreement opened the way for the installation of the Kosovo Diplomatic Observer Mission (KDOM).
- 20 Levitin, op. cit., p. 132. Levitin also argues: “One should not overestimate the leverage that Moscow possessed. But there was at least one lever that could have been used and, occasionally, was used: for example, in June 1998 at the Moscow summit meeting when Boris Yeltsin told Milosevic unequivocally that he could not rely on Russian support in the conflict if he ignored advice from the Kremlin.”
- 21 Contact Group Statement, Bonn, Germany, July 8, 1998.
- 22 Albright stated on October 8: “But if force is necessary, then we will not be deterred by the fact that the Russians do not agree with that” (Secretary of State Madeleine K. Albright, Press Conference on Kosovo, Brussels, Belgium, October 8, 1998). With respect to the US interpretation of Belgrade’s unreliability as a negotiating partner except when coerced, Albright stated on October 27: “We must consider Milosevic’s track record, his long-standing unwillingness to negotiate seriously and the accumulated barbarity of the past months. Time and again, Milosevic has taken half steps to avoid the consequences of his actions. We are not interested in further promises, only continued compliance. We assume that Milosevic will act responsibly only when all the other alternatives have been exhausted” statement by Secretary of State Madeleine K. Albright, “Remarks on Kosovo,” Washington, DC, October 27.
- 23 Robert Gelbard, Press Conference, Belgrade, February 23, 1998.
- 24 Judah, op. cit., p. 154.
- 25 Catherine Guichard, “International Law and the War in Kosovo,” *Survival*, vol. 41, no. 2, Summer 1999.
- 26 The exact and full nature of the Holbrooke–Milosevic agreements (and their informal understandings) is not disclosed in open sources. Its interpretation is based on the best existing evidence, including interviews with many of the principals, but remains at this point somewhat circumstantial, and to some extent conjectural. See R. Jeffrey Smith, “Kosovo Rebels Plan for Renewal of War; Guerrillas Say They Will Strike if Government Troops do not Withdraw as Pledged,” *Washington Post*, October 22, 1998, p. A30: “Many officials in Washington essentially have agreed with Belgrade that Kosovo Liberation Army demands no longer carry weight because the group is not strong enough to play a spoiling role in negotiations being set up between the Serbian authorities and the more moderate, elected

- ethnic Albanian leadership headed by Ibrahim Rugova. Special us envoy Richard C. Holbrooke did not, for example, consult with guerrilla representatives during his nine days of talks with Yugoslav President Slobodan Milosevic that ended Oct. 12 with a series of accords aimed at resolving the crisis. Deputy Secretary of State Thomas Pickering reflected a common view when he said on Oct. 14 that “this overwhelming use of military power on the part of Milosevic has driven most of the armed fighters either underground or out of the country or out of the picture.” Also see statement by Secretary of State Madeleine K. Albright, “Remarks on Kosovo,” Washington, DC, October 27, 1998: “To support these negotiations, we have also delivered a clear message to the leadership of the KLA: there should be no attempt to take military advantage of the Serb pull-back. Neither side can achieve military victory in Kosovo. The message is starting to have an effect. In recent days, we’ve seen a new degree of restraint on the part of the KLA, which has been willing to negotiate the disengagement of forces in several key areas (...)”
- 27 Magnusson, Kjell, *Rambouilletvtalet*, Uppsala University, 1999, page 76.
- 28 Rubin, press briefing, Rambouillet, Feb. 21 (Weller, page 451), Albright Press Conference February 23, 1999, <http://secretary.state.gov/www/state-ments/1999/990223.html>.
- 29 Judah, op. cit., p. 207.
- 30 Weller, op. cit., pp. 229–30.
- 31 In the October and November drafts it was said in more general and vague terms that in three years the sides would undertake an assessment of the agreement and consider proposals by either side for additions steps “which will require mutual agreement.” These words disappeared in the January version (Magnusson, *Rambouilletvtalet*, Uppsala, 1999).
- 32 Judah, op. cit., p. 213.
- 33 Weller, page 410.
- 34 See also the Parliamentary Report of the House of Commons, Select Committee on Foreign Affairs Fourth Report, para. 62–5, for a discussion of the impact of the military annex.
- 35 Statement by Secretary of State Madeleine K. Albright, Press conference on the Kosovo peace talks, Rambouillet, France, February 20, 1999.
- 36 Judah, op. cit., p. 220.
- 37 Judah, op. cit., p. 220. Also, according to Braca Grubacic, Milosevic felt quite threatened by the provisions: “He thought the only goal was NATO in Kosovo, and after Rambouillet, when he saw that the West wanted to allow NATO to pass through Yugoslavia he was afraid that someone like [William] Walker would turn up and say: ‘You are no longer president.’”

#### 6. International Law and Humanitarian Intervention

- 1 Final Report to the Prosecutor by the Committee Established to Review the NATO Bombing Campaign against the Federal Republic of Yugoslavia.
- 2 Uniting for Peace Resolution, adopted by the UN General Assembly, 3 Nov. 1950, G.A. Res. 337A, IN Do. A/1775 (1951).

- 3 The Treaty of Washington, article 5 states:  
The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence recognised by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.  
Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.
- 4 See Oscar Schachter, “In Defense of International Rules on the Use of Force,” *University of Chicago Law Review* 53:113 (1986); Louis Henkin, “Force, Intervention, and Neutrality in Contemporary International Law,” *Proc. ASIL* 147, 166 (1963); P. Jessup, *The Modern Law of Nations* 164–67 (1948)
- 5 In that decision the majority of the Court clearly held that customary international law, independent of the Charter, now imposes on states as restrictive an approach to the use of force as does the Charter, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States)* 76 ILR 349. For a range of views on the case see Appraisals of the ICJ’s Decision: *Nicaragua v United States (Merits)*, G Maier (ed) in 81 *Am. J. Int’l L.* 77 (1987).
- 6 Such argumentation is relied upon by Ruth Wedgwood, “NATO’s Campaign in Yugoslavia”, included in “Editorial Comments”, *NATO’s Kosovo Intervention*, 93 *Am. J. Int’l L.* at 835
- 7 Julie Mertus, “Reconsidering the Legality of Humanitarian Intervention: Lessons from Kosovo”, 41 *Wm. & Mary L. Rev.* 1743 (2000).
- 8 See especially Kofi Annan’s 1999 “Report of the Secretary General on the Work of the Organisation” made at the 54th session of the General Assembly.
- 9 See Michael J. Glennon, “The New Interventionism”, 78 *Foreign Affairs.* (1999), on the need to revise the UN, or abandon its authority.
- 10 Among the many books, perhaps the strongest indictment is that of David Rieff, *Slaughterhouse: Bosnia and the Failure of the West*, Vintage, London, 1995.
- 11 This suspicion was reiterated to the Commission by many participants at its final seminar in Johannesburg, South Africa, August 25–26, 2000.
- 12 See comment on this in David Cartright & George Lopez, eds., *The Sanctions Decade: Assessing un Strategies in the 1990s* (Boulder, CO: Lynne Rienner, 2000); Anthony Arnone, ed., *Iraq under Siege* (Cambridge, MA: South End Press, 2000); for general background see Lori Fisler Damrosch, “Enforcing International Law Through Non-forcible Measures,” *Recueil des cours*, 269:13–250 (1997).
- 13 For an overview see Anthony Clark Arend and Robert J. Beck, *International Law and the Use of Force*, New York, Routledge, 1993; for a balanced view on these issues see Rosalyn Higgins, *Problems and Process: International Law and How We Use It*, Oxford University Press, 1994, pp. 254–266.

- 14 Michael Reisman Kosovo's Antinomies included in Editorial Comments: NATO's Kosovo Intervention, op. cit., p. 867, has argued this most persuasively. See also Reisman, Article 2(4): The Use of Force in Contemporary International Law," Proc. ASIL 74-87(1984); Reisman, "Coercion and Self-Determination: Construing Charter Article 2(4)," AJIL 78: 642(1984).
- 15 For an overview supporting such an approach, see Myres, McDougal and Feliciano, *Law and Minimum Public Order: The Legal Regulation of International Coercion*, New Haven, CT, Yale University Press, 1961.
- 16 Article 53 of the UN Charter provides:  
 "(1) The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.  
 "(2) The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter."
- 17 Article 39 of the UN Charter provides:  
 "The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security."
- 18 Article 51 of the UN Charter provides:  
 "Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."  
 [But there were other reasons for legal concern about even this mandate. See Ismael and Ismael for a collection of articles critical of the UN approach; also the remark of Boutros Ghali in Agenda for Peace that never again should a mandate to use force be so open-ended and without continuing Security Council supervision.]
- 19 Resolution 1160 (1998) of March 31, 1998, Resolution 1199 (1998) of September 23, 1998, and Resolution 1203 (1998) of October 24, 1998.
- 20 Deep concern at the massive influx of Kosovo refugees into Albania, the former Yugoslav Republic of Macedonia, Bosnia and Herzegovina, and other countries, as

- well as by the increasing numbers of displaced persons within Kosovo, the Republic of Montenegro and other parts of the Federal Republic of Yugoslavia activated SC Resolutions 1199 (1998) and 1239 (1999).
- 21 See the Report of the Secretary-General pursuant to General Assembly Resolution 53/35 (1998) and also the Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda.
- 22 On the latter see *Mad Dogs: the US Raids on Libya* edited by Paul Anderson and Mary Kaldor (Pluto Press: London, 1986)
- 23 On March 26, by a vote of 3 in favor (China, Namibia, Russian Federation) to 12 against, the Security Council rejected a draft resolution demanding an immediate cessation by NATO of the use of force against the Federal Republic of Yugoslavia. The draft had been submitted by Belarus, the Russian Federation, and India.
- 24 See Thomas Franck, Lessons of Kosovo included in Editorial Comments: NATO's Kosovo Intervention, op. cit., at p. 864, on "exception" versus Glennon, op. cit., on "obsolescence".
- 25 See criticism by Dennis McNamara as cited in Steven Erlanger, "As UN's Kosovo Role Ebbs, an Official has Caustic Advice", International Herald Tribune, July 4, 2000.
- 26 1899 Hague Declaration 2 Concerning Asphyxiating Gases; 1899 Hague Declaration 3 Concerning Expanding Bullets; 1907 Hague Convention IV Respecting the Laws and Customs of War on Land; 1907 Hague Convention V Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land; 1907 Hague Convention VI Relating to the Status of Enemy Merchant Ships at the Outbreak of Hostilities; 1907 Hague Convention VII Relating to the Conversion of Merchant Ships into Warships; 1907 Hague Convention VIII Relative to the Laying of Automatic Submarine Contact Mines; 1907 Hague Convention IX Concerning Bombardment by Naval Forces in Time of War; 1907 Hague Convention XI Relative to Certain Restrictions with Regard to the Exercise of the Right to Capture in Naval War; 1907 Hague Convention XIII Concerning the Rights and Duties of Neutral Powers in Naval War; 1949 Geneva Convention I for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; 1949 Geneva Convention II for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea; 1949 Geneva Convention III Relative to the Treatment of Prisoners of War; 1949 Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War; 1977 Geneva Protocol I Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts; 1977 Geneva Protocol II Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts.
- 27 France apparently intends to ratify shortly. The most important Protocol I provisions have been incorporated into the US Military Code of Conduct which is supposed to guide the behavior of its armed forces.
- 28 This view of the content of Additional Protocol I is supported by the ICRC's Final Report, op. cit., par. 15.

- 29 See e.g. *Crimes of War: A Legal, Political-Documentary and Psychological Inquiry into the Responsibility of Leaders, Citizens and Soldiers for Criminal Acts in Wars*, edited by R. Falk, G. Kolko and R. Lifton (New York: Random House, 1971).
- 30 See Section 4.11, “NATO/Federal Republic of Yugoslavia: ‘Collateral Damage’ or Unlawful Killings? Violations of the Laws of War by NATO during Operation Allied Force,” AI Index EUR 70/18/00, June 2000.
- 31 ICTY, Final Report, op. cit., par. 5.
- 32 ICTY, Final Report, op. cit., par. 5.
- 33 Article 1 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, 18 September 1997, provides:  
 “1. Each State Party undertakes never under any circumstances:  
 To use anti-personnel mines;  
 To develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, anti-personnel mines;  
 To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.  
 2. Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in accordance with the provisions of this Convention.”
- 34 This is especially so given the recently leaked internal report from the British Ministry of Defense, which admitted that 60% of the Royal Air Forces’ cluster bombs missed their intended target or remain “unaccounted for”. R. Norton-Taylor, “MoD Leak Reveals Kosovo Failure” *The Guardian* August 15, 2000.
- 35 AI Index EUR, op. cit., p 25. Commendably, NATO made some adjustments to the Rules of Engagement governing bombing after the civilian damage arising from the attack near Gjakove/Djakovica on April 14, 1999 and the bombardment of the Barbarin/Barbarin bridge on May 30, 1999.
- 36 ICTY, Final Report, op. cit., par 56.
- 37 “The Kosovo Conflict: Consequences for the Environment and Human Settlements”.
- 38 ICTY, Final Report, op. cit., par 14.
- 39 ICTY, Final Report, op. cit., par 26.
- 40 Legality of Nuclear Weapons, 10, icj 1996, 242
- 41 Article2(7) of the UN Charter provides:  
 “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.”
- 42 See Report of the Secretary-General Pursuant to General Assembly Resolution 53/35, op. cit.; Organization of African Unity, Report of the International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events, July 7, 2000.
- 43 See Rieff, op. cit.
- 44 See the Convention on the Suppression and Punishment of the Crime of

- Apartheid, General Assembly resolution 3068 (XXVIII) of November 30, 1973, which entered into force on July 18, 1976.
- 45 Special Report of the International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events. July 7, 2000.
- 46 Report of the Secretary-General pursuant to General Assembly resolution 53/35, The Fall of Srebrenica. November 15, 1999.
- 47 *Humanitarian Intervention: Legal and Political Aspects*, Danish Institute of International Affairs, Copenhagen, 1999, pp. 106-11.

#### 7. Humanitarian Organizations and the Role of Media

- 1 The following persons have been consulted in connection with this chapter: Nina Bang-Jensen, Coalition for International Justice, John Faucett, previously with Coalition for International Justice, Karen Koning Abuzayrd, UNHCR Washington Office, Aryeh Neier, Open Society, Diane Paul, formerly with Human Rights Watch, Len Rubenstein, Executive Director, Physicians for Human Rights.
- 2 Tim Judah, *Kosovo: War and Revenge*, Yale University Press, 2000, p. 240 (citing House of Commons, International Development Committee, Fourth special Report: Government Response to the Third Report from the Committee, Session 1998-99: “*Kosovo: the Humanitarian Crisis*”, London, 1999, p. xi).
- 3 Astri Suhrke, Michale Barutciski, Peta Sandison, Rick Garlock, UNHCR Evaluation and Policy Analysis: *The Kosovo Refugee Crisis: An Independent Evaluation of UNHCR’s Emergency Preparedness and Response*, February 2000, chapter 5, para. 322.
- 4 Physicians for Human Rights, *War Crimes in Kosovo, A Population-Based Assessment of Human Rights Violations Against Kosovar Albanians*, Boston, 1999.
- 5 NATO/EAPC Ad Hoc Group, Report from a Seminar on Kosovo Experience With Regard to Compendium on Humanitarian Aspects of Peacekeeping, Brussels, October 21, 1999, (Civil-Military Cooperation in Humanitarian Efforts during the Kosovo Crisis: NATO Lessons Learned).
- 6 *The Economist* begins a story about NGOs by describing a newcomer whose NGO will do whatever a funder will fund. See “NGOs: Sins of the Secular Missionaries”, *The Economist*, Jan. 29, 2000, p. 25. As the article notes, “The focus of such NGOs can easily shift from finding solutions and helping needy recipients to pleasing their donors and winning television coverage.” Id., at 26. And “Personnel and resources were even shifted [to Kosovo] from worse wars and refugee crises in Africa” apparently to get media recognition. Id., p. 27.
- 7 The larger trend is the escalating number of humanitarian organizations in existence. The number of humanitarian aid agencies registered with the U.S. Agency for International Development expanded from 144 to 418 between 1983 and 1992; the number of NGOs in the North registered with the Organization for Economic Cooperation and Development grew from 1660 to 2970 between 1980 and 1993. See Jennifer Leaning, *Introduction, in Humanitarian Crises: The Medical and Public Health Response* (Jennifer Leaning, Susan M. Briggs, and Lincoln C. Chen eds., Harvard University Press, Cambridge, 1999, pp. 1 and 4.
- 8 The problem is increasingly present in complex humanitarian crises. See Marc

- Lindenberg, Complex Emergencies and NGOs: The Example of Care, in *Humanitarian Crises*, supra note 7, pp. 211, 216. After the crisis, UNMIK issued regulation 1999/22 to govern the registration and operation of non-governmental organizations in Kosovo as an effort to better coordinate private initiatives.
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  - 24 NATO/EAPC Ad Hoc Group, Report From a Seminar On the Kosovo Experience With Regard to Compendium on Humanitarian Aspects of Peacekeeping, supra note 5.
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  - 32 Leslie Heilbrenn, “*Honor Roll: Alone in the War*”, *Brills’ Content*, July/August, 1999.
  - 33 Michael Ignatieff, *Virtual War: Kosovo and Beyond*, Henry Holt & Co, 2000, pp. 137-141.
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  - 38 Steven Erlanger, *NATO Peacekeepers Plan a System of Controls for the News Media in Kosovo*, *N.Y. Times*, Aug. 16, 2000,
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- 8. Kosovo — The Regional Dimension**
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  - 2 For example, Zoran Todorovic, close to Milosevic’ wife Mira Markovic and head of the petrol industry; more recently the assassination of the director of JAT, the Yugoslav airlines; possibly even the Zeljko Raznatovic (Arkan) assassination in January of this year.
  - 3 The founders of Otpor were activists from the 1996-97 student movement, although only 10% of present day members were active then. It has at first received influential support of leading artists and writers now broadening its support in the population at large. Otpor thrives on not being a political party and thus not being compromised or corrupted by the struggles for power. Yet at the same time it has no better option than to give its backing to a broad coalition of all political parties

- (and their discredited leaders) in order to help to bring about an electoral defeat of Milosevic's regime. Cf. [www.otpor.com](http://www.otpor.com).
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  - 10 The League of Prizren established at the end of the nineteenth century is often considered as the founding moment of Albanian nationalism.
  - 11 Answering allegations to this effect in Parliament in the early phase of the NATO intervention, Prime Minister Kostov declared that Bulgaria had never put its air space at the disposal of NATO. The minister of internal affairs Bogomil Bonev even threatened that court proceedings could be initiated against journalists or politicians who were spreading rumors that could stir up negative disposition against Bulgaria in war-stricken Yugoslavia, (according to a report by Dimitri Filipov, *ATM*, April 2, 1999).
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  - 18 M. Emerson and D. Gross, The CEPS Plan for the Balkans, Center for European Policy Studies, Brussels, 1999.
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#### Internet sources

- A plethora of websites present news and views on Kosovo. Three useful guides to these sources are:
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- The Independent International Commission on Kosovo: [www.kosovocommission.org](http://www.kosovocommission.org)

#### ANNEX 9 ★ ACRONYMS

|           |   |
|-----------|---|
| AAAS      | American Association for the Advancement of Science   |
| ABA/CEELI | American Bar Association Central and East European Law Initiative   |
| BBC       | British Broadcasting Cooperation  |
| CDHRF     | Council for the Defense of Human Rights and Freedoms  |
| CIA       | Central Intelligence Agency   |
| CIMIC     | Civilian Military Cooperation   |
| COE       | Council of Europe   |
| DU        | Depleted uranium  |
| ECOMOG    | West African Peace Monitoring Force   |
| EU        | European Union  |
| FRY       | Federal Republic of Yugoslavia  |
| G7        | Group of seven. Heads of State or government from France, the United States, the UK, Germany, Japan, Italy and Canada, meeting annually |
| G8        | Group of eight. G7 plus Russia.   |
| GDP       | Gross Domestic Product  |
| HLC       | Humanitarian Law Center   |
| HRW       | Human Rights Watch  |
| ICFY      | International Conference on Former Yugoslavia   |
| ICG       | International Crisis Group  |
| ICJ       | International Court of Justice  |
| ICRC      | International Committee of the Red Cross  |
| ICTY      | International Criminal Tribunal for the Former Yugoslavia   |
| IDP       | Internally Displaced People   |
| IICK      | Independent International Commission on Kosovo  |
| IMF       | International Monetary Fund   |
| IOM       | International Organization for Migration  |
| IRC       | International Rescue Committee  |
| JIAC      | Joint Interim Administrative Council  |
| JIAS      | Joint Interim Administrative Structure  |
| KDOM      | Kosovo Diplomatic Observer Mission  |
| KFOR      | Kosovo (International Security) Force   |
| KLA       | Kosovo Liberation Army  |
| KPC       | Kosovo Protection Corps   |
| KPS       | Kosovo Police Service   |
| KTC       | Kosovo Transition Council   |
| KVM       | Kosovo Verification Mission   |
| LDK       | League for a Democratic Kosovo  |
| LPK       | Levizja Popullare e Kosoves   |
| MP        | Member of Parliament  |
| MTA       | Military-Technical Agreement  |
| MTV       | Music Television  |

|          |  |
|----------|--|
| MUP      | Military Uniformed Police  |
| NATO     | North Atlantic Treaty Organization   |
| NGO      | non-governmental organization  |
| OAU      | Organization of African Unit   |
| OSCE     | Organization for Security and Cooperation in Europe                                |
| OSCE-KVM | osce Kosovo Verification Mission   |
| OSF      | Open Society Foundation (of Belgrade)  |
| SC       | Security Council   |
| SCR      | Security Council Resolution  |
| SFOR     | Stabilization Force (Bosnia)   |
| SRSG     | Special representative of the (UN) Secretary-General                               |
| UCK      | Ushtria Clirimtare E Kosoves (English: KLA)  |
| UK       | United Kingdom   |
| UN       | United Nations   |
| UNSC     | United Nations Security Council  |
| UNEP     | UN Environment Program   |
| UNESCO   | UN Educational, Scientific and Cultural Organization                               |
| UNHCR    | UN High Commissioner for Refugees  |
| UNICEF   | UN Children's Fund   |
| UNMIK    | UN Interim Administration Mission in Kosovo  |
| UNPREDP  | United Nations Dag Hammarskjöld Library United Nations Preventive Deployment Force |
| UNSC     | UN Security Council  |
| UNSG     | UN Secretary-General   |
| USA      | United States of America   |
| USAID    | us Agency for International Development  |
| USIA     | us Information Agency  |
| USIS     | us Information Service   |
| VJ       | Yugoslav armed forces  |
| VMRO     | A Macedonian political party   |
| WFP      | World Food Program   |
| WHO      | World Health Organization  |
| WIW      | The Vienna Institute for International Economic Studies                            |

## ANNEX 10 ★ INDEX

|                             |  |
|-----------------------------|--|
| A                           | China 69, 168  |
| administrative committee    | Chinese 142–145, 163, 175, 233, 261, 269                     |
| Agami, Fehmi                | Chinese embassy 94   |
| Ahtens, Geert               | Cirez/Qirez 68   |
| Ahtisaari, Martti           | Civil Registry 116   |
| Albania                     | Civilian Military Cooperation (C1M1C) 120                    |
| Albright, Madeleine         | Clark, Wesley 76, 81, 95                                     |
| Amnesty International       | Clinton 85–86, 147   |
| Annun, Kofi                 | cluster bombs 180  |
| Arbour, Louise              | Communita di Sant'Egidio 50, 60                              |
| Artemije, Bishop            | conditional independence 271–279, 284                        |
| Autonomy                    | Contact Group 57, 69, 137–161, 268                           |
| B                           | Council for the Defense of Human Rights 42, 53, 83           |
| Barbarin/Barbarin           | Croatia 34, 284–285  |
| BBC                         | D  |
| Belgrade                    | Danish Institute of International Affairs 192                |
| government                  | Dashinocv/Dasinovac 72                                       |
| intellectuals               | Dayton Agreement 50, 57–65, 104, 139, 146–161, 209, 229, 283 |
| Koha Ditore                 | Clinton 210  |
| monitoring meetings         | Peace Agreement 209  |
| Serbia                      | UN Security Council 212                                      |
| Berisha, Sali               | Demaqi, Adem 47, 50  |
| Bildt, Carl                 | demographics 38  |
| Blair, Tony                 | depleted-uranium (DU) 182                                    |
| Blewitt, Graham             | Despic, Aleksandr 50   |
| Blue Sky                    | Deutsche Welle 78  |
| Bosnia-Herzegovina          | Deutschmark 103, 121, 236, 261, 270                          |
| British House of Commons    | Diaspora 45–65, 240  |
| budget 2000                 | diplomacy, failure of 25                                     |
| Bujko                       | Djakovica/Gjakove 73–75, 222                                 |
| Bukoshi, Bujor              | Djukanovic, Milo 235–236, 250                                |
| Bulgaria                    | Drazkovic, Vuk 232   |
| Bush, George, President     | Drenice/Drenica 67, 68–69, 70, 137, 222                      |
| C                           | E  |
| Lord Carrington             | economic levels 246  |
| Ceku, Agim                  | ethnic conflict 33   |
| Central Election Commission |  |
| Chernomyrdin, Viktor        |  |

- European [Union] Community  
Conference on Former Yugoslavia 57  
European Agency for Reconstruction  
121, 124  
European Stability Pact 238  
European Union (EU) 55–65, 101, 103,  
121–127, 133, 227–257, 284–286
- F  
Federal Republic of Yugoslavia (FRY)  
59–65, 69–83, 96, 153  
Filipovic, Miroslav 220  
Forum 47  
four pillars 100  
Fushe Kosove/Kosovo Polje 33, 40, 79
- G  
Gelbard 146–147  
Gjakove/Djakovica 73–75, 222  
Gjilan/Gnjilane 103, 110–111  
Gornje Obrinje/Obri e Eperme 75  
Gornji i Ratis/Ratishi i Eperme 72  
Gracnica/Ulpiana 109  
Grdelica 180
- H  
Helsinki Summit 58  
Hill, Chris 153–161  
Holbrooke 76–80, 142–150  
Human Rights Watch 42, 53, 60, 68, 77,  
94, 180, 206  
Humanitarian Law Center (HLC) 53, 72,  
77, 91  
Humanitarian Law Fund 60
- I  
ICFY 57–58  
Identification Commission 116, 120  
Independence 268  
Institute for Civil Administration 117  
internally displaced people 69, 74, 202,  
213–214  
International Committee of the Red  
Cross (ICRC) 77, 91, 142, 204, 209
- International Criminal Tribunal at The  
Hague 140, 233  
International Helsinki Federation for  
Human Rights 53  
International Mission 223  
International Rescue Committee (IRC)  
204
- J  
Jashari, Adem 55, 68, 147  
Joint Interim Administrative Council  
(JIAC) 116  
Joint Interim Administrative Structure  
(JIAS) 115
- K  
KFOR 100–127, 206–207, 224, 259–262,  
272, 289  
Kinkel, Klaus 73  
Koha Ditore 47, 110  
Korishe/Korisa 94  
Kosovo 34  
Kosovo crisis 23  
Kosovo Diplomatic Observer Mission  
(KDOM) 73  
Kosovo Liberation Army (KLA) 67–83,  
104  
Kosovo Polje/Fushe Kosove 33, 79  
Kosovo Protection Corps (KPC) 107, 118  
Kosovo Protection Force 123  
Kosovska Mitrovica/Mitrovice 43  
Kouchner, Bernard 98, 99–115, 223  
kvm 76–83, 85, 150
- L  
League for a Democratic Kosovo (LDK)  
45–65, 104  
League of Prizren 36, 40  
Levizja Popullare e Kosoves (LPK) 51  
Liksoshan/Likosane 68  
Luan/Luan 180  
Lubeniq/Ljubenic 72
- M  
Macedonia 34, 51, 74–83, 87, 90, 103, 172,  
200, 227–257, 284–285  
Mandela, Nelson 14, 296  
Martinovic, Djordje 39  
Medecins Sans Frontières 203  
Media Resource Center 224  
Mercy Corps 60  
Military–Technical Agreement (MTA)  
101–104  
Milosevic 34–65, 69–83, 131–161, 163–164,  
228–257  
Milutinovic, Milan 152  
Mitrovica/Kosovska Mitrovica 43, 103,  
106, 108–117, 267, 268  
Montenegro 34, 74
- N  
NATO 72–83, 133, 148, 222, 259–262, 272,  
289  
NATO Secretary-General 85  
non-governmental organizations (NGOs)  
46–47, 57, 60–65, 203–205  
Novi Poklek/Poklek i Ri 72
- O  
Obri e Eperme/Gornje Obrinje 75  
Odalevic/Veljko 69  
Open Society Foundation of Belgrade  
(OSF) 60–61  
Open Society Institute 224  
Operation Horseshoe 88, 201  
Operation Joint Guardian 101, 103  
Orahovac/Rahovec 74, 109  
organized crime 51–53  
Organization of Security and  
Cooperation in Europe (OSCE)  
56–65, 78–83, 85–97, 101, 105, 107,  
133–148, 223–225  
The Permanent Council 73  
OSCE-KVM 87  
Otpor 232  
Owen, David 57–58
- P  
Panic, Milan 48–49  
Peje/Pec 67, 68, 78–80, 103, 110–111  
Podujevo/Podujevo 79–80, 80–82  
Poklek i Ri/Novi Poklek 72  
Poland 244  
Polish Solidarity 44  
Post-Pessimist Club 47  
Prekazi/Prekaz 55, 68, 147  
Primakov 143  
Prishtina/Pristina 35–37, 43, 68–69, 90,  
102, 103, 110–111, 124, 207, 224, 239  
Prizren/Prizren 33, 35–37, 73–75, 103,  
110–111  
Protectorate 263  
Protocol 1–111 30–31, 166
- Q  
Qirez/Cirez 68  
Qosja, Rexhap 50
- R  
Radio Galaxy 224  
Radio tv Belgrade 40  
Rambouillet 82, 86–87, 97, 100, 104, 145,  
151–161, 320–323  
rape 3, 11, 39, 91, 97  
Ratishi i Eperme/Gornj 72  
Recak/Racak 81, 83, 159, 215  
Reconstructing media 224  
referendum 271  
Reinhardt, Klaus 105  
Resolution 1160 140–141  
Resolution 1199 75–76  
Resolution 1203 142  
Resolution 1244 96, 99–127, 163, 172, 207,  
259–269, 325–330  
Roma 104, 109, 116–117, 164, 206, 265, 269  
Rahovec/Orahovac 74, 109  
Rubin, James 153  
Rugova, Ibrahim 43–65, 70, 83, 104, 147,  
239  
Russia 73, 95–97, 168, 284

- Russian 102–103, 137–161, 163, 175, 233, 244, 261, 269  
 Rwanda 159, 170, 185–198, 297
- s
- sanctions program 235  
 Serbia 284  
 Serbian television 221  
 Seselj, Vojislav 54  
 78-day campaign 89, 92, 97, 290  
 sexual violence 91  
 Shterpe/Strpce 80  
 Shtime/Stimlje 81  
 Slovenia 34, 284–285  
 Special Envoy of the un Secretary-General for the Balkans 126  
 Special Group on Kosovo 57  
 Stability Pact 124–125, 252–257, 274–275, 284–286  
 Supreme Court 112  
 Surroi, Veton 44, 50, 110, 207
- T
- targets 179  
 Territorial Defense law 80  
 Tetovo 239  
 Thaci, Hashim 104, 239  
 The Council for the Defense of Human Rights 46  
 The Government of the Republic of Kosova 104  
 The Provisional Government of Kosova 104  
 “three republic” proposal 51  
 Tirana 239  
 Tito 34–37, 43  
 Turkey 244
- U
- Ulpiana/Gracanica 109  
 UN 78, 133  
 UN Charter 75, 139, 166, 291  
 UN General Assembly 59, 190  
 UN Secretary-General 78  
 UN Security Council 56, 59, 69–83, 96, 99, 138–143, 223, 291–293  
 Unemployment 37  
 UNESCO 59  
 UNHCR 101, 107, 127, 138, 140, 142  
 UNICEF 59  
 United Nations (UN) 56  
 United Nations High Commissioner for Refugees (UNHCR) 201–225  
 United Nations Interim Mission in Kosovo (UNMIK) 100–127, 191, 223–224, 259–264  
 US 103, 137–138
- V
- Vance, Cyrus 57  
 Veljko/Odalevic 69  
 Victim Recovery 116, 120  
 Voice of America 77–78  
 Vojvodina 34  
 Vollebæk, Knut 82  
 Vushtrri/Vucitrn 74, 80
- W
- Walker, William 81  
 war criminal 233  
 WHO 59  
 women 47, 61, 91, 116–117  
 World Bank 121, 124–125, 246, 255  
 World Food Program (WFP) 202, 204  
 World Health Organization 204
- Y
- Yeltsin 73, 144  
 youth 61  
 Yugoslav Red Cross 60
- Z
- Zeri 47



