

Reality Demands

**Documenting Violations
of International Humanitarian Law
in Kosovo 1999**



CONTRIBUTORS

This report is a result of the work of numerous individuals, who cannot, unfortunately, each be named individually here, but all of whom are sincerely thanked. The following persons worked on the Humanitarian Law Documentation Project and contributed directly to the drafting and editing of the report:

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The following pages are dedicated to our friend and colleague, Julia Ziegler, who was tragically taken away from us and her family in an accident in Kosovo on 12 November 1999. Julia gave so much of herself to the Project and to our welfare. Reality Demands was one of her favourite poems. We hope that this report in some way provides an insight into the commitment and compassion that she and so many others demonstrated in striving to meet the demands of reality in Kosovo.

REALITY DEMANDS

*Reality demands
we also state the following:
life goes on.
At Cannae and Borodino,
at Kosovo Polje and in Guernica.*

*There is a gas station
in a small plaza in Jericho,
and freshly painted
benches near Bila Hora.
Letters travel
between Pearl Harbor and Hastings,
a furniture truck passes
before the eyes of the lion of Chaeronea,
and only an atmospheric front advances
towards the blossoming orchards near Verdun.*

*There is so much of Everything,
that Nothing is quite well-concealed.
Music flows
from yachts at Actium
and on board couples dance in the sun.*

*So much keeps happening,
that it must be happening everywhere.
Where not a stone is left standing,
there is an ice cream truck
besieged by children.
Where Hiroshima had been,
Hiroshima is again
manufacturing products
for everyday use.*

*Not without its draws is this terrible world,
not without its dawns
worth our waking.*

*In the fields of Maciejowice
the grass is green
and on the grass is you know how grass is
transparent dew.*

*Maybe there are no fields but battlefields,
those still remembered,
and those long forgotten,
birch groves and cedar groves,
snows and sands, iridescent swamps,
and ravines of dark defeat
where today, in sudden need,
you squat behind a bush.*

*What moral flows from this? Probably none.
But what really flows is quickly-drying blood,
and as always, some rivers and clouds.*

*On the tragic mountain passes
the wind blows hats off heads
and we cannot help
but laugh.*

Wisława Szymborska (translated by Joanna Trzeciak)

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ACKNOWLEDGEMENTS

The International Crisis Group (ICG) would like to express special thanks to the non-governmental organisation No Peace Without Justice (NPWJ), whose help and assistance made possible the successful implementation of the Humanitarian Law Documentation Project. A number of staff who worked on the Project had been seconded from NPWJ, having worked on a similar initiative conducted by NPWJ in Kosovo in 1998. Senior management of NPWJ provided invaluable advice throughout the Project, particularly during the initial design and set-up phase.

ICG is also grateful to the following groups and organisations for their assistance with the preparation of this report and the implementation of the project, through their interview work in Albania, Kosovo and Italy:

The Albanian Human Rights Group (Tirana)

The Albanian Helsinki Committee (Tirana)

The Monitoring Unit on Violations of Human Rights in Kosovo (Tirana)

The Centre for Peace Through Justice (Tirana)

The Council for the Protection of Human Rights and Freedoms (Prishtina/Pristina), in particular the Sub-Committees in Gjakova/Djakovica, Decane/Decani, Rahovec/Orahovac and Malisheve/Malisevo

The Centro Italiano per i Rifugiati (Trieste)

The Consorzio Italiano di Solidarietà (Rome)

The International Crisis Group also acknowledges the contribution of Médecins du Monde (MDM) Sweden to the work of the Project, and extends its thanks to MDM Sweden personnel in Gjakove/Djakovica during the period of operation.

May 2000

MAP OF KOSOVO



Source: CIA available at <http://www.lib.utexas.edu>

I. INTRODUCTION

This report is the product of seven months of field research conducted by teams of local and international personnel in Kosovo and Albania in 1999, as part of the International Crisis Group's Humanitarian Law Documentation Project. The Project was conceived in the spring of 1999, as violence and destruction in Kosovo forced hundreds of thousands of men, women and children from their homes, many seeking shelter in neighbouring Albania and The former Yugoslav Republic of Macedonia (hereafter referred to as Macedonia). The purpose of the Project was to support the efforts of the International Criminal Tribunal for the former Yugoslavia ("the Tribunal" or "the ICTY") to investigate serious violations of international humanitarian law committed in Kosovo and bring to justice persons responsible for such crimes.

Those involved in the creation of the Project had participated in previous research concerning the Kosovo conflict in 1998.¹ With the conflict's progression into 1999 and the acceleration of the campaign of terror and expulsion directed against the Kosovo Albanian population, the Project sought to identify violations of international humanitarian law - often termed "the laws of armed conflict" or "the laws of war" - and record direct evidence of these violations. Through the efforts of 46 international staff and 123 local staff, over 4,700 statements from victims and witnesses were eventually accumulated. All evidence gathered was handed over to staff of the Prosecutor of the ICTY.

Funding for the Project was secured from the European Commission Humanitarian Office (ECHO) after an assessment trip was conducted to Tirana, Albania, to determine its utility and viability. Operations then

¹ See No Peace Without Justice (NPWJ), *Report on Serious Violations of International Humanitarian Law in Kosovo*, February 1999, available at <http://www.npwj.org>.

commenced on 28 May 1999, with four international personnel based in Tirana. The size of the Project team rapidly expanded, including lawyers from several different countries, local interpreters and translators, drivers, IT support staff and logistical and administrative assistants. Staff numbers further increased with the opening of a second Project office in Gjakove/Djakovica, Kosovo, upon the withdrawal of military and police forces of the Federal Republic of Yugoslavia (Serbia and Montenegro) (FRY) and the return of virtually all of the 862,000 Kosovar refugees in Albania, Macedonia and elsewhere. These staff members created and implemented a system for the gathering of information from victims and witnesses, which was then entered into an electronic database. The Project was completed, and the office in Gjakove/Djakovica closed, on 28 December 1999.²

It should be emphasised that the purpose of the Project was to assist the work of the ICTY, which is the organisation with the mandate to prosecute and punish persons responsible for certain kinds of violations of international humanitarian law in the territory of the former Yugoslavia, since 1991. In essence, the Project sought to aid the Tribunal by providing an extensive list of witnesses whom its investigators could subsequently interview in a more in-depth manner. By creating the database and passing it on to the ICTY, the Project was able to provide basic information about these witnesses and the types of crimes they had experienced, or seen, in a manner that was readily searchable by computer. The members of the Project went to great efforts to ensure that there was no misunderstanding with any victims or witnesses, or with any other organisation, about their relationship with the ICTY, which was in no sense formal, official or representative.

It was further decided that a substantive report providing an analysis of the conflict in Kosovo in 1999, focusing on the violations of international humanitarian law which characterised it, would be a useful resource for the ICTY and the general public. Thus this volume, aimed at raising public awareness of the horrific and tragic events that unfolded in Kosovo in a few months in 1999. The intention is to explain the legal provisions applicable to the parties to the conflict, along with the jurisdiction of the

² The Tirana office having been closed in September, upon the transfer of all operations into Kosovo.

ICTY, and illustrate the types of crimes that have been committed. Moreover, in order to contribute to the resolve of the international community to respond to such events, and indeed act in a preventive manner, it is also crucial that there is a broad public understanding of the processes of international criminal law and institutions at the current stage of their development. Such an understanding may then lead to increased pressure to bring to account all those who would seek to violate or deny the very humanity of any group of people.

In view of these aims and considerations, it is necessary to clarify the limitations under which the Project operated, both self-imposed and circumstantial, that affect the content of this report. First, the report is intended to cover only violations of international humanitarian law within the subject-matter jurisdiction of the ICTY. Chapter III provides more detail on these legal provisions and Chapter VI seeks to apply them to the facts of the Kosovo conflict as revealed by the Project. Fundamentally, the report is not intended to describe violations of human rights law *per se* and this has some effect on the range of incidents described.³ In particular, a cautious approach is taken to determining the time-period during which an “armed conflict” might be said to have existed, engaging the provisions of international humanitarian law. Nonetheless, this is not meant to imply that events falling outside this time-period are not within the jurisdiction of the ICTY, or are not worthy of its investigation.

In addition, the report is primarily concerned with events occurring in Kosovo in 1999, and not prior to this time. While references are naturally made to historical context and, in particular, the conflict between the authorities of the FRY and the forces of the Kosovo Liberation Army (KLA)⁴ in 1998, it is considered that the violations of international humanitarian law committed during the 1998 campaign are covered adequately in the report by the non-governmental organisation No Peace Without Justice, published in February 1999.⁵

³ The relevant distinctions between international humanitarian law and international human rights law are explained below in Chapter III.

⁴ For convenience and familiarity to an international readership, the English terminology Kosovo Liberation Army (KLA) is used throughout the report. The Albanian terminology is Ushtria Çlirimtare e Kosovës (UÇK).

⁵ See footnote 1.

Rather than give a detailed account of individual incidents described by witnesses, the following chapters distil information gathered in the course of the Project and present it in a manner intended to identify patterns of conduct that may constitute violations of international humanitarian law of the most serious nature. Thus, those chapters of a factual, descriptive nature have been compiled on the basis of an analysis of the interviews recorded and entered into the Project database, along with other information gathered from local sources in Kosovo by the international legal staff.⁶ These sections are deliberately drafted to avoid making reference to specific witnesses or victims, in order to ensure compliance with all confidentiality assurances given during the witness interview process.

A further stipulation, which must be stated at the outset, is that the present report is not intended in any sense to endorse the political claims of any of the parties to the conflict in Kosovo. It is a fundamental principle that international humanitarian law applies equally to all parties to an armed conflict and does not confer any legitimacy on the claims of the parties, nor provide them with any particular status. In relation to this issue, it will become apparent from the content of the report that it primarily recounts attacks and operations carried out by FRY/Serbian forces against the Kosovo Albanian population. The vast majority of information available to the members of the Project in the time-period of its existence concerned such attacks and operations and it is for this reason alone that they make up the bulk of the factual part of the report. Nonetheless, personnel from the Project did make efforts to investigate violations of international humanitarian law committed against the Kosovo Serbs and other minority populations, primarily by members of the KLA. Furthermore, while the report contains no references to alleged violations of international humanitarian law committed by North Atlantic Treaty Organisation (NATO) forces taking part in Operation Allied Force,⁷ this is due only to the difficulty of investigating such violations and the

⁶ Some statistical and background information has been drawn from other reports published by international organisations such as the Organisation for Security and Co-operation in Europe (OSCE), but all events described are reconstructed on the basis of witness information provided to the Project itself.

⁷ The aerial operation mounted by NATO against the FRY from 24 March 1999 to 10 June 1999, is discussed further in Chapter IV.

lack of availability of direct witness evidence. Should the Prosecutor of the ICTY have information relating to crimes committed by the KLA, or by NATO personnel or commanders, these deserve serious and careful investigation.

One final caveat relates to the use of language within this report. The Project operated in Albania and largely within the Albanian community of Kosovo, thus rendering the use of the Albanian versions of place-names more convenient and practical. Indeed, often it was difficult to determine the Serbian name of certain areas or villages, and such an equivalent may not always exist. For the purposes of this report, the utilisation of either Serbian or Albanian names is not intended to endorse the claims of either community, but merely reflects the availability of information. As much as possible, place names are stated in the alternative - Albanian/Serbian and the alternatives are listed in Appendix B.⁸ The term used for the province itself is "Kosovo", being the most widely used and recognised in the international community.

The substance of the report is divided into five chapters, followed by some brief conclusions. The first of these outlines the methodology of the Project and seeks to describe its growth and development, as well as give recognition to those individuals and organisations who have been of invaluable assistance to it. Following this, there is a chapter describing the law to be applied in the report and a short introduction to the ICTY. A general chapter on the history of the Kosovo conflict, the military and security forces involved, the 1998 campaign and subsequent developments precedes a more detailed analysis of the attacks and operations carried out in several areas within Kosovo in 1999. The final chapter seeks to apply the law, as outlined, to the facts as described, and explore the issue of individual criminal responsibility for the violations of international humanitarian law thus identified.

⁸ This formula is deviated from in Chapter V, purely for reasons of practicality. Place name spellings are generally taken from the OSCE reports, *Kosovo/Kosova: As Seen, As Told*, *Kosovo/Kosova: As Seen, As Told Part II*, available at <http://www.osce.org>.

This short description of the Project's aims and methods cannot do justice to the effort dedicated by so many people to its operation and the compilation of this concluding report. Nonetheless, it is hoped that these brief words of introduction will encourage the reader to continue further and explore the report in its entirety, in particular the issues of law and fact which it details concerning the commission of serious violations of international humanitarian law in Kosovo, and strengthen the need felt to ensure that there is no impunity for such offences.

II. METHODOLOGY

A. Outline of the Project

The Project from which the present report is derived operated officially from 28 May until 28 December 1999. As stated in the introduction, through the efforts of 46 international staff and 123 local staff, it provided to the ICTY a database containing over 4,700 statements from witnesses to and victims of acts in Kosovo potentially constituting serious violations of international humanitarian law. This report draws upon an analysis of those statements and other information gathered by international legal staff through interviews with local and international sources.

The Project, as conceived, aimed to support the work of the ICTY by providing it with electronically organised information concerning the commission of serious violations of international humanitarian law in Kosovo. This was intended to facilitate the identification of individual witnesses to be interviewed by ICTY investigators and assist in the reconstruction of events in Kosovo, including the patterns of violations of international law within the jurisdiction of the ICTY. The Project had three essential components: (1) the gathering of information from victims and witnesses; (2) the standardisation of all information gathered in a central uniform database; and (3) the provision of such assistance as was possible to local non-governmental organisations (NGOs) and individuals.

An initial assessment mission was undertaken to Tirana, Albania in late April 1999, and meetings held with among others representatives of the ICTY, Organisation for Security and Co-operation in Europe (OSCE), Council of Europe, local Albanian Human Rights organisations and with the Prosecutor General of Albania. A funding application was made to ECHO by the International Crisis Group.

The Project had three distinct periods of operation:(a) its initiation and functioning in Albania, from 28 May 1999 to the first steps towards creating a second office in Kosovo itself, in mid July;(b) the establishment of the Kosovo office in Gjakova/Djakovica and initial conduct of field trips,from 16 July until 20 September;and (c) the closing of the Albania office and consolidation of all operations within Kosovo on 20 September, until the end of the Project on 28 December. These three Project phases are here discussed in turn.

B. 28 May to 16 July 1999

On 28 May 1999, the Project directors arrived in Tirana, to take steps towards the initiation of the Project. An office was opened on 11 June, following confirmation of ECHO funding, and international staff were hired to begin operations. From the outset, Project staff worked closely with the Tirana office of the ICTY to guarantee that the Project met the needs of the Tribunal. Pursuant to this co-operation, the staff instituted procedures to ensure that, in the conduct of Project operations, witnesses and potential witnesses would be fully aware of the non-formal nature of the Tribunal's relationship with the Project and those Albanian and Kosovar organisations working with it. Also at this time, relationships with the Prosecutor General of Albania and several Albanian NGOs, including the Albanian Human Rights Group, the Albanian Helsinki Committee, the Monitoring Unit for the Violations of Human Rights in Kosovo and the Centre for Peace through Justice, were quickly established. These organisations, and others, were already active in relation to the Kosovo crisis and had begun gathering information on violations of international humanitarian law from Kosovar refugees arriving in Albania since the end of March 1999, each employing their own methodologies and reflecting their own organisational priorities. The work of these organisations was crucial in ensuring that as much information as possible reached the ICTY in a timely fashion.

The Project sought to provide as much assistance as possible to such Albanian NGOs, within its funded mandate, and to make their work more useful to the ICTY. Specifically, the motivation behind seeking out

Albanian organisations was that, while international staff could assist local interviewers with interviewing techniques and provide expertise on issues of international humanitarian law, particularly those pertaining to the ICTY, local interviewers could break through language and trust barriers. Interviews conducted by Albanians and Kosovars could, therefore, potentially yield more and better quality information. Project support involved providing international legal experts to accompany the NGO representatives into the field and assist them in gaining access to the refugee camps and centres, as well as being available for advice on interview techniques and the requirements of the ICTY. The Project also assisted the local groups with logistics, including transport and field communications.

To make the material gathered more accessible to the Tribunal, the Project created a uniform electronic database. A network of computers was installed in the office in Tirana, which could be utilised to aid the translation and standardisation of information and contain all data derived from the NGO interviews. Due to the fact that each NGO sought slightly different information from the refugees, and they used interview forms reflecting these differences, the Project employed a standard database compatible with the needs of the ICTY. To facilitate the data-entry process, an interface was designed that required the data-entry operator to provide specific information, often offering predetermined options. Each record prompted the input of information regarding, for example, the personal details and contact information for a witness, the existence of any corroborating witnesses to events described, the fate of personal documentation and the pattern of internal displacement within, or route of departure from, Kosovo. In addition, staff would divide statements being entered into discrete incidents, which recorded their dates and locations, a list of alleged crimes and a brief narrative of events, including the type(s) of perpetrators involved. The interface, together with an extensive three-tier checking process undertaken by local and international staff, assured quality control and consistency in the organisation of information.

Local staff received specialised training and carried out statement translation and information standardisation under the supervision of international legal staff. In addition, virtually all of the local interviewers

received some form of database training, which had the benefit of familiarising them with the requirements of the database and thereby enhancing their ability during future interviews to ask the questions most important and relevant for the ICTY. In fact, the Project sought where possible to ensure that NGO interviewers who took witness statements entered the information directly into the database. This practice provided an opportunity for training and skill development for local NGO personnel.

Throughout June, members of the Project accompanied local NGO partners on field trips to refugee camps in Albania. Staff requirements grew considerably during this time, with more international staff needed to conduct field trips and work on the database, and further local staff needed for database and logistical work.

Following the passing of Security Council Resolution 1244, on 10 June 1999, and the subsequent deployment of international forces in and withdrawal of FRY/Serbian military and security forces from Kosovo, most of the refugees in Albania and Macedonia sought to return to their homes. The speed at which these refugees made their way back to Kosovo had not been anticipated by the international community, and the refugee camps and centres were virtually empty by the beginning of July. The Project carried out its last field trip on 8 July to Vlore, where international staff were informed that only fifteen refugees remained. Thus, field trips in Albania then ceased, while work on the database continued.

C. 16 July to 20 September 1999

Due to the rapid refugee return and the (previously unavailable) opportunity to enter Kosovo, in mid-July the Project carried out a mission to assess the possibility of establishing an office within the province. The assessment team met with Kosovar individuals and organisations, including the Council for the Defence of Human Rights and Freedoms (CDHRF), a prominent Kosovo-based human rights organisation, and spoke to representatives of international organisations such as the United Nations and NATO. It also examined the security situation and logistical issues surrounding the set-up of a new office

Based on this assessment, an office was opened in the town of Gjakove/Djakovica, in western Kosovo, on 16 July. Following the team's recommendations, the Tirana office obtained additional equipment, including VHF radios, additional IT equipment and satellite phones. This new equipment facilitated the data entry process, while securing greater ease of communications between the Kosovo and Tirana bases. Project field personnel were able to maintain constant contact with one of the bases, thereby fulfilling a key security element. The Project also arranged the provision of mine awareness and related emergency medical training to staff in Tirana.⁹

The Project's choice of base in the town of Gjakove/Djakovica was made for a variety of reasons, largely of a practical nature. The western region of Kosovo was an area that was particularly targeted during both the 1998 and the 1999 campaigns of the FRY/Serbian forces and already there were many accounts of horrific events throughout the area. It was decided that a base away from Prishtina/Pristina, the provincial capital, was essential in order to establish the necessary local relationships in the west and ensure the most effective conduct of operations. Gjakove/Djakovica is a relatively large town where there was a considerable pool of local staff with the relevant language skills and a relatively stable source of water and electricity (at least until October). Moreover, the assessment team located a suitable building for the establishment of a Project office with relative ease in Gjakove/Djakovica. In addition, being situated in the middle of the western region, roughly equidistant from Peje/Pec and Prizren/Prizren, a base in Gjakove/Djakovica allowed relatively easy access to much of the west.

The method of operation in Gjakove/Djakovica followed the basic principles established in Albania, with the Project relying upon local resources and organisations and assisting Kosovar NGOs involved in the information gathering process. When combined with the presence of a significant number of international staff, this mode of operation demonstrated an international interest in events in Kosovo during the conflict, as well as in the local population as they sought to rebuild their homes and lives. Working in partnership with local organisations also ensured that interviews were conducted between Kosovars in Albanian and

⁹ Such training was also provided to staff on further occasions in Kosovo.

were as comfortable and beneficial for the witnesses themselves as possible in the circumstances. International legal staff were on hand to answer questions regarding the Project and monitor that the interviews were conducted pursuant to Project principles and processes and were compatible with the requirements of the electronic database.

However, the circumstances in which the Project operated in Gjakove/Djakovica differed significantly from those prevailing in Albania and, therefore, flexibility and creativity were required to ensure its continued effectiveness. In Albania, the Project was able to gather information from refugees concentrated in camps and other centralised areas and field trips thus meant ready access to hundreds of potential witnesses. In Kosovo, information and witnesses were dispersed, necessitating continued travel to different areas and villages. In addition, many potential witnesses were unable or unwilling to travel to a central Project base to give statements.¹⁰ As a result, it was decided that the best way to reach the widest possible audience was to send out mobile teams consisting of international legal officers, local NGO representatives and translators.

In addition, it quickly became clear that the requirements of the Kosovar organisations who were the primary gatherers of witness information differed to a large extent from those in Albania. Practically all of the organisations the Project developed working relationships with had suffered greatly during the conflict, as well as in the years previous to it. Many had been targeted for harassment, property damage and killings by the FRY/Serbian forces and had been unable to meet or communicate for many months. The Project had to adapt its operational policy to take account of the particular needs of these organisations. As a result, a much closer working relationship with them was established than had been necessary in Albania.

The international legal staff were divided into groups of two or three in order to foster relations with local groups based in the municipalities of western Kosovo. They provided a range of advice on legal issues and interview techniques, including the most effective interview format (i.e. a narrative statement from the witness, rather than a rigid question and

¹⁰ This was often influenced by cultural and societal factors, particularly in relation to female witnesses.

response approach), the imperative need for accuracy and confidentiality, what information to focus on in interviews and when not to take interviews.¹¹ The Project employed many of the members of the local organisations conducting interviews, including individuals belonging to the Sub-Committees of the CDHRE. It also selected and hired additional local staff to conduct interviews in areas where there was no local human rights group presence, or to address particular minority groups, and also to supplement the work of the existing Kosovar NGOs. There was indeed, an extremely ready supply of well-qualified individuals who wished to assist in the goals of the Project and who required employment at a time when the local economy remained decimated.

It was anticipated that the presence of the Project in Gjakove/Djakovica might provoke a significant response from local residents interested in recounting incidents occurring during the conflict. As a result, in addition to field trips, the Project opened its office to interviews in August. Further staff were hired and procedures instituted to handle the expected influx of witnesses. In order to reach those individuals reluctant to come to the office, rotating teams of local interviewers also conducted interviews in virtually every neighbourhood of Gjakove/Djakovica town.

At the same time, statements continued to be processed in the Tirana office, which maintained and, indeed, expanded its statement translation and data entry staff. International personnel were rotated between Kosovo and Tirana approximately every two weeks during this period. This allowed all legal staff to remain well acquainted with database requirements and procedures, gave them the opportunity to be involved in the totality of the statement gathering and processing system, and also provided regular breaks from the intensity of the post-conflict environment itself.

The first field trips in Kosovo were conducted in regions closest to the office, primarily in the Gjakova/Djakovica municipality, and north and east into Decane/Decani and Rahovec/Orahovac. As the Project expanded, it became apparent that a more formalised structure was needed. The western region was thus divided into a number of “areas of

¹¹ For example, when the witness had previously provided a statement to another organisation.

responsibility” (AORs). The AORs corresponded largely with the existing municipalities of Kosovo and the divisions between various Sub-Committees of the CDHRE. Typically, two members of the international legal staff were assigned to a particular AOR to work closely with the local NGO partners. The benefit of having staff members permanently assigned to an AOR lay in consistency of approach, relationship building with local partners and communities, and the development of a body of knowledge by international staff members about the situation in a particular municipality, both during and after the conflict. Project staff members, including international and local staff, accompanied local NGOs into the field to assist with and attend interviews. Regular debriefing sessions regarding the interviews conducted in an AOR assisted both the interviewers, who drew upon the knowledge of international legal staff, and the international staff themselves, who could build a picture of the possible violations of humanitarian law that had been committed in Kosovo. This proved to be of tremendous help as the Project reconstructed events that happened in western Kosovo during the conflict and developed the outline for the present report.

Initially, AORs were established in Decane/Decani and Gjakova/Djakovica. AORs followed in Rahovec/Orahovac, Malisheve/Malisevo, Prizren/Prizren, Istog/Istok and Suhareke/Suva Reka.¹² In addition, due to the need for specialised interviewers and the sensitive nature of many issues concerning Kosovo Serbs, Roma, Catholic Kosovo Albanians, Slavic Muslims and other minorities, a separate team was developed to deal exclusively with minority populations in all of the municipalities covered by the Project. Given that the vast majority of the population in Kosovo were Kosovo Albanian and that many members of minority groups had left the province during and following the conflict, it was recognised that the Project would obtain only a limited number of minority statements. Nevertheless, staff felt that the gathering of information from non-Kosovo Albanian witnesses was essential in order to arrive at a more complete picture of events in Kosovo prior to the withdrawal of the FRY/Serbian forces. In addition, most of the incidents recounted by witnesses from minority groups occurred after the cessation of the NATO bombing

¹² Interviews were also conducted in Peje/Pec municipality and entered into the Project database. However, due to the particular circumstances in Peje/Pec, this municipality was never fully developed as a distinct AOR.

campaign, thus raising the complex legal question of when the conflict in fact ended and how this affects the application of international humanitarian law and the jurisdiction of the ICTY. Rather than become preoccupied with such issues, it was considered more useful to allow organisations focusing on violations of human rights in Kosovo, primarily the United Nations High Commissioner for Refugees (UNHCR) and OSCE, to take the lead on minority issues. Therefore, whenever witnesses from minority groups were interviewed by the Project, staff sought their consent to pass on this information to the OSCE, UNHCR and the ICTY.

Operations in Kosovo required further changes in the database procedures. In consultation with local staff and NGO partners, international staff developed standard interview forms as guides for interviewers, based on the information required by the ICTY. The forms were designed to reflect the database interface as much as possible. All contained preliminary questions in order to obtain the consent from the witness to turn the statement over to the ICTY (and, in the case of minorities, to OSCE and UNHCR) and discover whether the witness had previously provided a statement to another relevant organisation.¹³ The latter question sought to ensure that a witness' statement was not repeatedly memorialised, thus potentially introducing factual discrepancies that might contribute to challenges to that witness, should he or she ever be called to give evidence in legal proceedings. More importantly, to require a witness to recount their experiences on several occasions may have the effect of exacerbating existing trauma. The development of such forms was a small yet essential part of ensuring consistency and completeness of information gathered.

During field trips in Albania, the main questions refugees had asked Project staff concerned their return to Kosovo and the whereabouts of their families. Once back in Kosovo, the needs and concerns of the local population naturally changed and turned more to questions of shelter, the fate of loved ones and general survival needs, particularly as the cold weather approached. The relative isolation of some villages meant that some groups were often receiving little international humanitarian and

¹³ Such as the OSCE, whose monitors had been gathering statements in the refugee camps of Albania and Macedonia since their withdrawal from Kosovo on 20 March and the subsequent sudden influx of refugees to these countries.

development aid. As a consequence of the conflict and the activities of the FRY/Serbian police and paramilitaries, there were fewer young male Kosovars to carry out vital reconstruction work and a greater number of vulnerable individuals, including members of newly created single-parent families and unsupported elderly persons. Project staff often operated in rural areas where communities suffered from a high level of destruction, a significant number of people killed or missing and where there were many persons suffering from a variety of forms of trauma. Consequently, in keeping with the staff's belief that the needs of victims and witnesses (and potential witnesses) were paramount, the Project undertook an additional function of facilitating humanitarian and mental health support.

Project staff often brought neglected or remote areas to the attention of other international NGOs and assisted in distributing humanitarian items such as shoes, clothes, hygiene packs, blankets and coffins. Staff members and their local partners were well situated to identify people who were particularly vulnerable because they had lost family support and proper shelter. This position enabled them to refer people in need to organisations which specialised in the provision of different types of humanitarian and other assistance.

In the course of the interviewing process, it was also noted that a number of those interviewed were possibly suffering from Post-Traumatic Stress (PTS) and other related disorders. There was additional concern for the mental health of the local staff themselves, who were performing functions that placed them under an unusual degree of emotional and psychological stress on a daily basis, in addition to their need to recover from their own personal losses as a result of the conflict. In recognition of this, the Project requested mental health support services from another NGO operating in the Gjakove/Djakovica area, Medecins du Monde Sweden (MDM Sweden).

The Project and MDM Sweden entered into an agreement for the latter to provide PTS awareness training and counselling services for local staff by setting up a War Crimes Trauma Unit. This led to the establishing of a unique referral service through which those witnesses identified by Project staff as possibly suffering from PTS disorder were offered the

services of MDM social workers and psychologists. The Project further cooperated with the War Crimes Trauma Unit by hosting a series of open lectures for its staff and mental health professionals working in the Gjakove/Djakovica area. Guest speakers from the World Health Organisation, the University of Prishtina/Pristina and the Centre for the Protection of Women and Children gave talks on a variety of subjects, including rational psycho-social drug use, relaxation techniques, preventing psychological distress from becoming a psychiatric disorder and psycho-social issues relating to rape. The object of this training, counselling and seminar provision was to limit the amount of mental stress faced by all Project staff, improve their interview techniques and bring information and open discussion of these issues to a wider audience, as well as provide those in need with more effective therapies.

International staff assumed other incidental responsibilities when working in the field. They were sometimes requested to address reports of the discovery of bodies (in wells, yards and fields), mass graves, mines, unexploded ordnance and booby traps. Always equipped with Global Positioning Systems (GPSs) and digital cameras, international staff documented such reports and passed such information to the appropriate authorities, typically ICTY investigators or the Kosovo Protection Force (KFOR).¹⁴ Staff members were also invited to attend reburials and exhumations. Given the investigative and forensic nature of these events, the Project deferred to the ICTY (and OSCE) in this regard. However, when these other organisations were unable to be present, international staff attended in their official capacity. This provided an international presence at exhumations and reburials that was much desired by the local people and which contributed to relationship building within an AOR.¹⁵

Throughout operations in Albania and Kosovo, and in accordance with the Project's primary purpose, staff worked with the ICTY to assist in fulfilling its mandate to prosecute all persons responsible for serious violations of international humanitarian law committed in Kosovo. This

¹⁴ Following the passing of the United Nations Security Council resolution 1244 on 10 June 1999, the Kosovo Protection Force was deployed into Kosovo as the international security presence required by the resolution.

¹⁵ Information about grave sites, including GPS co-ordinates and photographs, was also handed over to the ICTY.

primarily consisted of regularly transferring the database as it was updated on to a CD-ROM and sending it to the ICTY in Prishtina/Pristina and The Hague. The Project also provided the ICTY with various referrals - such as reports of sexual assault and mass killings and GPS co-ordinates of various incidents - in order to highlight witnesses with information on areas of particular concern. This enabled the ICTY to locate places and witnesses in need of urgent attention, which was particularly crucial with the approach of winter and the consequent likely destruction of much of the remaining physical evidence.

D. 20 September to the end of the Project

By late August, operations in the field and in the office in Kosovo were fully underway. The next major development entailed the closing of the Tirana office and the transfer of all data processing operations to the Kosovo office.¹⁶ Local and international staff in Albania worked tirelessly to process a backlog of statements and prepare the office for the move. This considerable logistical and personnel feat was scheduled for and achieved by 20 September.

Consolidation required significant personnel changes for the Kosovo office. New data-entry personnel were hired and, with the initial assistance of local staff from the Tirana office, trained in the requirements of the database. A comprehensive training programme for local staff was put in place, focusing on developing database skills, translation and interpretation techniques and familiarisation with the ICTY's requirements. Such comprehensive training allowed staff to become familiar with all aspects of the office, and permitted a rotation of staff to provide a break from the stresses of fieldwork.

October and November saw the expansion of the Project's statement gathering operations. Successful relationships were developed with international NGO partners in temporary evacuation sites in Europe, in particular in Italy with the Centro Italiano per i Rifugiati and the

¹⁶ In August, an extension of the Project was sought from ECHO, from the original four-month period to seven months. Such an extension required consolidating Project operations in one location.

Conorzio Italiano di Solidarietà, who conducted interviews with refugees and asylum seekers from Kosovo. These statements were then passed on to the Project for database entry. New AORs were opened in Istog/Istok and Suhareke/Suva Reka at this time. However, certain events disrupted or otherwise impacted Project operations. In October there began chronic and often prolonged power outages, which became more pronounced in November. These power failures were extremely problematic for an operation so dependent upon an electronic infrastructure. Project staff responded with adjusted office hours to take advantage of daylight, and the purchase of a number of generators to power the computer network. Weather and the change of seasons posed additional challenges for the Project. As winter drew near and loss of heat and power became a daily occurrence, some potential witnesses became less inclined to provide statements, preferring to focus their attention on issues of shelter and winterisation. Also, the loss of daylight meant that, for security reasons, field trips would be shortened. Despite these difficulties, all AOR and office operations continued.

In accordance with the regulations of the Project's funding agreement with ECHO, Project staff were requested to identify needs within their respective AORs, so as to transfer all equipment to appropriate local NGOs. They solicited proposals from local Kosovar and Albanian NGOs and educational institutions regarding the distribution of Project electronic equipment, such as laptop computers, printers, scanners, digital cameras, GPSs and CD-ROM writers. This equipment distribution fitted well into the Project's capacity-building work. Throughout the Project, measures had been taken to assist Albanian and Kosovar NGOs, by providing material support and capacity-building, through, among other things, logistical support, advice on funding applications, and assistance with institution building. Prior to distribution, the Project provided a basic introduction to the equipment and related software to members of the CDHRF Sub-Committees. Upon review of the many proposals received, the Project distributed equipment to 24 organisations, including a school in Gjakovë/Djakovica, Prishtina/Pristina University and several psycho-social/medical NGOs and human rights NGOs (including the CDHRF Sub-Committees). The Project ensured that capacity-building efforts begun before the equipment distribution would continue beyond the Project's end, and it arranged for continuing

computer training and technical support for all NGO equipment recipients in partnership with the Kosovar Foundation for an Open Society.

As the Project drew to an end, the staff closed down AOR operations in advance of the completion of data translation and entry. This permitted their concentration on processing the remaining statements. Shortly after the cessation of data translation and checking operations, electronic equipment was distributed to the recipient organisations. During this period, local staff not previously involved in database operations received introductory computer training and assistance in securing other employment. The last Project personnel departed Kosovo on 29 December 1999. Following the closing of the office, the final referral forms and updated database were provided to the ICTY,¹⁷ and databases containing minorities statements were handed to the Prishtina/Pristina offices of OSCE and UNHCR.

The present report does not and cannot reflect the huge range of tasks performed by all of the staff during the course of the Project. Instead, the focus here is on an analysis of the information gathered and the application of the relevant international law. It was decided early on in the Project that the provision of such an analysis was an extremely important element of it and the intention is to be both clear and comprehensive, in so far as possible. The following chapters should thus be read sequentially, to assure a full understanding of the events that occurred in Kosovo at the close of the century, and the law that applies to them. It is hoped that this will serve to emphasise the importance of the latter in relation to the former, if such horrific events as are here described are to be prevented in the future.

¹⁷ The entire database underwent a substantial final review process in order to verify the consistency and accuracy of all its information.

III. APPLICABLE LAW

A. Introduction to the law

It is not the function of the present report to provide an in-depth academic analysis of the norms of international human rights and humanitarian law relevant to the Kosovo conflict. Nonetheless, it is important to specify those rules that currently exist to regulate the conduct of parties to an armed conflict and make clear that the kinds of violence, destruction and ill-treatment that were visited upon the Kosovar population in early 1999 are violations of those rules, for which there should be penal consequences, regardless of political position or rank of the offenders.

A first distinction that should be made, in order to aid clarity, is between human rights and humanitarian law. These two fields of law are conceptually quite different and have separate origins, despite the fact that they have witnessed some convergence in recent years. The rules of international humanitarian law (or, the “laws of armed conflict”, or “laws of war”) have a long history, but were codified primarily in the late nineteenth and early twentieth centuries in order to mitigate some of the consequences of the many wars which pervaded the world. Essentially, this body of law was concerned with ensuring that wars were conducted in the most “civilised” manner possible, such that unnecessary suffering was not inflicted upon enemy soldiers. The various rules created thus dealt with the use of particular kinds of weapons, the treatment of prisoners and provision for the sick and wounded. Additionally, it was considered necessary to develop specific rules on legitimate targets and methods for distinguishing between soldiers and civilians, in order that individuals could determine from whom they might expect to be attacked. The protection of persons not taking an active part in hostilities became a basic principle of humanitarian law and, as the

nature of war began to change, there developed a plethora of provisions extending to civilian populations caught up in the theatre of conflict.

The most definitive expression of international humanitarian law came to be embodied in the four Geneva Conventions of 1949, later supplemented by two Additional Protocols.¹⁸ In addition to these treaty provisions, the customary law of armed conflict incorporates many of the Regulations attached to Hague Convention IV Respecting the Laws and Customs of War on Land, of 1907.¹⁹ Traditionally, however, the laws of armed conflict were principally concerned with the conduct of hostilities between two or more different States, i.e. *international* armed conflicts. Conflicts that were internal to a particular State did not attract the same legal attention, for such affairs were considered within the “domestic jurisdiction” of the concerned State and could not be addressed by outside parties. The four Geneva Conventions of 1949 codified some minimal protections for persons not actively participating in internal armed conflicts, through article 3, common to all four Conventions.

The creation of an international law of human rights is a more recent phenomenon, resting on several moral, philosophical and political underpinnings. Without engaging in a lengthy discussion of these, it is sufficient to say that, since the Second World War, human rights and human rights law has been an area of tremendous growth and is based on the premise that every human being possesses fundamental worth and dignity. Numerous international instruments detailing the various rights to which every individual is entitled, without qualification or distinction, have been drafted and adopted by a large number of States.²⁰ Moreover,

18 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 August 1949, 75 U.N.T.S. (1950) 31; Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 12 August 1949, 75 U.N.T.S. (1950) 85; Geneva Convention relative to the Treatment of Prisoners of War, 12 August 1949, 75 U.N.T.S. (1950) 135; Geneva Convention relative to the Protection of Civilian Persons in Time of War, 12 August 1949, 75 U.N.T.S. (1950) 287; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, 1977, 1125 U.N.T.S. (1979) 3; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, 1977, 1125 U.N.T.S. (1979) 609.

19 The main sources of international law are generally regarded as being (a) treaties and (b) custom. Customary law is identified by state practice of some consistency coupled with a general belief that this practice is required by law. Customary international law is clearly of a constantly developing nature and may incorporate some of the rules and principles also set out in treaties. The body of both international humanitarian and human rights law contains treaty and customary rules.

20 The primary international instruments are the Universal Declaration of Human Rights (1948), the International Covenant of Civil and Political Rights (1966) and the International Covenant of Economic, Social and Cultural Rights (1966). There are also a range of subject-related instruments and of regional instruments.

many of the rights enunciated in these instruments are also considered to be part of customary international law. Despite these huge advances in the law, and the acceptance of the principle that human rights violations committed within a State are rightly subject to the scrutiny and condemnation by other States and international organisations, it remains the case that massive violations of these fundamental rights prevail in many parts of the world. People continue to be beaten, killed, tortured, sexually abused, evicted from their homes and property, prevented from or punished for expressing their opinions and beliefs, denied access to adequate food, education or health-care, and so on.

The overlap between the two legal spheres is readily apparent when one considers the modern conduct of wars and the consequences of these for civilian populations. All too often, men, women and children not engaged in combat become the innocent victims or targets of fighting between forces from different States, or forces within one State. Thus, their fundamental human rights to life, security of person, property, etc. may be denied by a soldier or group of soldiers at the same time as, legally speaking, that soldier or group is violating the laws of armed conflict concerning the legitimate targets of military operations, or the treatment of civilians. In other words, while international humanitarian law requires the existence of some kind of armed conflict in order to apply, human rights law applies in all situations and must always be respected.²¹

A distinction commonly made in the past was that human rights law concerned the relations between a State and persons within its territory - imposing duties on the State to provide certain things and prohibiting it from engaging in certain conduct - whereas humanitarian law related to the interaction of the armed forces of one State and the armed forces plus non-combatants of another. Thus, for civilians, the former was applicable in times of peace, and the latter in times of war, when an army invaded territory and fighting occurred between the invading and defending forces. However, in the last fifty years many conflicts have broken out and festered within the confines of one State, involving massive suffering and loss of life to civilians at the hands of their fellow countrymen. The laws

²¹ Some international human rights instruments provide that certain provisions may be derogated from in times of armed conflict or national emergency, but this raises many controversial issues beyond the scope of the present discussion.

applicable in internal armed conflicts have therefore taken on a much greater importance, along with the provisions of human rights law, and it is clearly established that a person can be the victim of a violation of international humanitarian law committed by his or her own State (or government). It must be emphasised once again that a determination that international humanitarian law regulates a particular situation in no way renders the provisions of human rights law redundant. Thus, while the present report is concerned primarily with the application of the former to the Kosovo situation, this should not be read to imply a determination that the norms of the latter may not be considered.²²

The laws of armed conflict are set out in a manner conducive to their enforcement by criminal prosecution, by either a military tribunal, a domestic court, or, potentially, an international tribunal. The Geneva Conventions indeed prescribe the criminal prosecution of perpetrators of “grave breaches” of their provisions and require all States Parties to prosecute persons accused of such offences, or to hand them over to other States Parties willing to conduct such prosecutions. This is the doctrine of mandatory, universal jurisdiction. It is, however, no exaggeration to say that the concept of human rights has significantly altered the focus of the laws of armed conflict and this is evidenced by the recent phenomenon of criminal prosecutions for violations of the latter. The trials by international tribunals of “major war criminals” from the Second World War, at Nuremberg and Tokyo, are often viewed as the beginning of a more international and aggressive approach to enforcement of humanitarian law, but the more fundamental shift in perspective has been far more recent, with the establishment of the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR) and the negotiation of the Rome Statute for an International Criminal Court. Nonetheless, the Nuremberg trials developed the category of “crimes against humanity”, straddling the field between human rights and humanitarian law,²³ and led to the conclusion

²² As stated at the outset, it has been necessary to place a number of restrictions on the scope of this report and it was due to the nature of the Project itself and the activities of the ICTY that it was decided to describe the events occurring in Kosovo from the perspective of the law applied by the International Tribunal. It is interesting to compare such an analysis with that of the OSCE, which focuses on violations of human rights principles and norms. See OSCE, *As Seen, As Told*.

²³ “‘Crimes against humanity’ were a canny, cautious, half-way house to human rights. They were so to speak invented (in fact distilled, like human rights proper, from a confluence of cultural streams) in order to make possible the prosecution of Axis leaders for the dreadful things they had done distant from battle-fronts and in time of peace as well as war; crimes which the traditional law of war could by no means be stretched to cover.” Geoffrey Best, *War and Law Since 1945*, Clarendon Press, 1994, at p.67.

of the Genocide Convention in 1948, prohibiting genocide as the most serious crime against humanity. For both of these categories of offences there is universal jurisdiction.

B. Establishment and Jurisdiction of the International Criminal Tribunal for the former Yugoslavia

Without being rigorously or universally applied, the notion that persons responsible for violating the fundamental provisions of international humanitarian law should be held criminally responsible for their actions and omissions has now achieved widespread acceptance. Moreover, it is recognised that prosecution at an international level is perhaps the only, or the preferable, recourse in relation to individuals committing such serious offences as crimes against humanity or genocide, for national courts may be simply unable to try such persons, particularly in situations of violent societal transition, or may be unwilling to do so.

Discussions surrounding the creation of a permanent international criminal court have thus long echoed in the corridors of the United Nations and the International Law Commission (ILC). It was only in 1998, however, that final agreement was reached on the Statute for such a court, during a conference of State representatives held in Rome.²⁴ It is partly due to the achievements of the International Criminal Tribunal for the former Yugoslavia, and its counterpart for Rwanda, that the discussions for the ICC reached this successful conclusion.

The ICTY was established by the United Nations Security Council, in May 1993, by a resolution adopted under Chapter VII of the UN Charter.²⁵ While many reasons may be advanced as to why the Security Council chose to create such a tribunal in this particular situation, the sense of horror and outrage engendered by reported acts of barbaric cruelty and of widespread civilian suffering, primarily in Croatia and Bosnia and Herzegovina, certainly provided a strong impetus for such a response. The function of the new institution was to prosecute and punish persons

²⁴ Rome Statute for an International Criminal Court, 17 July 1998 U.N. Doc.A/CONF.183/9 (1998).
²⁵ Security Council Resolution 827, 25 May 1993 UN Doc.S/RES/827.

responsible for these atrocities, characterised as “serious violations of international humanitarian law committed within the territory of the former Yugoslavia since 1991.”²⁶ It was intended that such prosecution and punishment would contribute to the restoration and maintenance of peace in the region and discourage the further commission of similar atrocities in this and other parts of the world.

The Tribunal Statute therefore limits its temporal (“since 1991”) and geographical (“the territory of the former Yugoslavia”) jurisdiction, before proceeding to outline the norms of international humanitarian law that fall within its subject-matter jurisdiction. Articles 2, 3, 4 and 5 of the Statute thus set out four categories of crimes, as follows:

Article 2

Grave breaches of the Geneva Conventions of 1949

The International Tribunal shall have the power to prosecute persons committing or ordering to be committed grave breaches of the Geneva Conventions of 12 August 1949, namely the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

- (a) wilful killing;
- (b) torture or inhuman treatment, including biological experiments;
- (c) wilfully causing great suffering or serious injury to body or health;
- (d) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
- (e) compelling a prisoner of war or a civilian to serve in the forces of a hostile power;
- (f) wilfully depriving a prisoner of war or a civilian of the rights of fair and regular trial;
- (g) unlawful deportation or transfer or unlawful confinement of a civilian;
- (h) taking civilians as hostages.

²⁶ Article 1 of the Statute, annexed to Security Council Resolution 827.

Article 3

Violations of the laws or customs of war

The International Tribunal shall have the power to prosecute persons violating the laws or customs of war. Such violations shall include, but not be limited to:

- (a) employment of poisonous weapons or other weapons calculated to cause unnecessary suffering;
- (b) wanton destruction of cities, towns or villages, or devastation not justified by military necessity;
- (c) attack, or bombardment, by whatever means, of undefended towns, villages, dwellings, or buildings;
- (d) seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science;
- (e) plunder of public or private property.

Article 4

Genocide

1. The International Tribunal shall have the power to prosecute persons committing genocide as defined in paragraph 2 of this article or of committing any of the other acts enumerated in paragraph 3 of this article.

2. Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within the group;
- (e) forcibly transferring children of the group to another group.

3. The following acts shall be punishable:

- (a) genocide;
- (b) conspiracy to commit genocide;
- (c) direct and public incitement to commit genocide;
- (d) attempt to commit genocide;
- (e) complicity in genocide.

Article 5 Crimes against humanity

The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population:

- (a) murder;
- (b) extermination;
- (c) enslavement;
- (d) deportation;
- (e) imprisonment;
- (f) torture;
- (g) rape;
- (h) persecutions on political, racial and religious grounds;
- (i) other inhumane acts.

As has been stated at the outset, the present report is concerned solely with those events within Kosovo that fall within the jurisdiction of the ICTY. Thus, the issue of whether and when there was an “armed conflict” in Kosovo, in a legal sense, must be addressed. As will be discussed below, it is necessary for the Prosecutor to be satisfied that such an armed conflict existed in order for charges to be brought under three of the four categories of crimes laid out in the ICTY Statute. It should, however, be emphasised once again that there is substantial evidence of abuses that may constitute violations of international humanitarian law, or of human rights law, which have not been included in the discussion below, for reasons of excess caution and legal rigour. Most notable among these are

incidents of violence towards and intimidation of minority groups after the conclusion of the NATO operation against Serbia. Such incidents deserve close attention, investigation and redress, for they constitute both domestic crimes and violations of international human rights obligations when sufficient steps to prevent them are not taken, or they are left unpunished.²⁷

It is readily apparent that the conflict in Kosovo satisfies the geographical and temporal requirements of the Statute and it is therefore necessary only to discuss the applicability of the four categories of crimes described above.

C. Grave breaches of the Geneva Conventions

It has already been noted that the four Geneva Conventions of 1949 mandate the prosecution of persons committing “grave breaches”, offences deemed serious enough to require punishment by any State, no matter where the crime occurred. Thus, the State with custody over an accused person is obliged to prosecute him/her, or hand him/her over to another State willing to conduct such a prosecution. The drafters of the ICTY Statute compiled a list of such “grave breach” offences for inclusion in Article 2 and these therefore became offences punishable by the Tribunal, as well as by national courts.

Article 2 states that the Tribunal’s power to prosecute is activated when any of the listed acts are committed against “persons or property protected under the provisions of the relevant Geneva Convention.” It is this concept of “protected persons” and “protected property” that has entailed a significant degree of debate, both within the Tribunal and among the external legal community. The essence of the controversy is over whether it is required that a particular armed conflict be of an *international* character in order to apply the grave breaches provisions, or whether such offences may also be prosecuted when occurring in the course of a *non-international* armed conflict. Related to this question is

²⁷ For further details, see OSCE/UNHCR, *Assessment of the Situation of Ethnic Minorities in Kosovo*, September 1999; *Assessment of the Situation of Ethnic Minorities in Kosovo*, November 1999; *Assessment of the Situation of Ethnic Minorities in Kosovo*, November 1999 - February 2000, all available at <http://www.osce.org>.

the issue of how an individual gains “protected” status and whether under the Fourth Convention, relating to the protection of civilians, it is required that the individual in question be of a different nationality than the perpetrator of the prohibited act.

An examination of the jurisprudence of the ICTY to date sheds some light on these issues, although it should be noted that the law remains in a state of development. The first key judicial pronouncement, rendered by the Appeals Chamber, in a Decision on Jurisdiction, in the case of *Prosecutor v. Dusko Tadic (Tadic case)*,²⁸ expressed the view that it was indeed a requirement for the applicability of Article 2 of the Statute that the relevant events took place in the course of an international armed conflict.²⁹ The Appeals Chamber excluded the possibility of prosecuting violations of common article 3 of the Geneva Conventions as “grave breaches.”³⁰ Furthermore, the Appeals Chamber opined that it was for the Trial Chamber adjudicating each particular case to determine whether the victims of the alleged crimes were “protected persons” within the Conventions’ definitions. It drew attention to the fact that article 4 of Geneva Convention IV requires that, in order to be considered a protected civilian, an individual must be “in the hands of a party to the conflict” of which he is not a national. In other words, the Fourth Geneva Convention specifies that only those persons in territory controlled by, or finding themselves at the mercy of, *foreign* soldiers can count upon the Convention’s protection. The Trial Chamber in the *Tadic* case, employing these criteria, found that it could not apply Article 2 of the Statute to the events in question, for it was not convinced that the victims should be classified as “protected persons” within the meaning of Geneva Convention IV.³¹ However, on appeal by the Prosecutor, this issue was overturned, the judges of the Appeals Chamber agreeing substantially with the interpretation of the “protected persons” requirements outlined by the Trial Chamber in the case of *Prosecutor v. Zejnil Delalic, Zdravko Mucic, Hazim Delic and Esad Landzo (Delalic et al. case)*.³²

²⁸ *Prosecutor v. Dusko Tadic* Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, IT-94-1-AR72 (*Tadic* Jurisdiction Decision).

²⁹ It should be noted that this finding was contrary to the original finding of the Trial Chamber on the matter, and was also the subject of some dispute within the Appeals Chamber itself, as evidenced by the Separate Opinion of Judge Abi-Saab.

³⁰ As noted above, common article 3 of the Geneva Conventions concerns conflicts of an internal nature.

³¹ *Prosecutor v. Dusko Tadic* Judgement, 7 May 1997 (*Tadic* Trial Judgement), at paras. 578-607.

³² *Prosecutor v. Zejnil Delalic, Zdravko Mucic, Hazim Delic and Esad Landzo* Judgement, 16 November 1998, IT-96-21-T (*Delalic et al.* Judgement).

In the *Delalic et al.* case, a broader and more purposive approach to interpretation of the Fourth Geneva Convention was taken. The Trial Chamber found that the Bosnian Serb victims of violence and ill treatment at the hands of Bosnian Muslim and Bosnian Croat perpetrators were protected by the Convention, despite the fact that it might appear that both victims and perpetrators had the same (Bosnian) nationality. The Trial Chamber stated that,

“the Security Council, in persistently condemning the widespread violations of international humanitarian law committed throughout the conflict in Bosnia and Herzegovina and, indeed, in establishing the International Tribunal to prosecute and punish such violations, did not consider that the protection of the whole corpus of international humanitarian law could be denied to particular groups of individuals on the basis of the provisions of domestic citizenship legislation. The International Tribunal must, therefore, take a broad and principled approach to the application of the basic norms of international humanitarian law, norms which are enunciated in the four Geneva Conventions. In particular, all of those individuals who took no active part in hostilities and yet found themselves engulfed in the horror and violence of war should not be denied the protection of the Fourth Geneva Convention, which constitutes the very basis of the law concerned with such persons.”³³

The Appeals Chamber, in the *Tadic* Judgement on Appeal,³⁴ confirmed this approach, stating that,

“Article 4 of Geneva Convention IV, if interpreted in light of its object and purpose, is directed to the protection of civilians to the maximum extent possible. It therefore does not make its applicability dependent on formal bonds and purely legal relations.”³⁵

³³ *Ibid.*, at para.275.

³⁴ *Prosecutor v. Dusko Tadic*, Judgement, 15 July 1999, IT-94-1-A (*Tadic* Appeal Judgement).

³⁵ *Ibid.*, at para.168.

However, while the Trial Chamber in the *Delalic et al.* case was clearly of the view that the grave breaches provisions should be considered as extending to violations of the Conventions committed in internal armed conflicts, it was not required to make a specific legal finding on this question, given its opinion that, as a matter of fact, the conflict in Bosnia and Herzegovina with which it was concerned was international in character. Thus, the requirement of internationality remains the predominant view and has been reaffirmed by the Appeals Chamber in the *Tadic* Judgement on appeal.³⁶ In order to avoid controversy in this complex area of law, the present report takes a cautious approach and does not seek to argue that Article 2 of the ICTY Statute should be applied to internal armed conflicts.

D. Violations of the laws or customs of war

Article 3 of the Statute again lists a number of acts constituting violations of the laws or customs of war. It makes clear, however, that this list is not exhaustive and it is therefore possible to prosecute other types of offences contrary to the customary law of armed conflict under this provision. Indeed, the Appeals Chamber, in its Decision on Jurisdiction in the *Tadic* case, has made clear that Article 3 is designed to make the jurisdiction of the Tribunal “watertight” such that no serious violations of international humanitarian law are excluded from its sphere of competence. In the same decision, the Appeals Chamber took the position that Article 3 of the Statute may be applied whether the relevant conflict is deemed international or internal in character. By making this finding, the Appeals Chamber brought violations of common article 3 of the Geneva Conventions into the scope of the ICTY jurisdiction. To reiterate, common article 3 contains prohibitions on certain types of conduct in internal armed conflicts, principally designed to protect persons taking no active part in hostilities. The article reads as follows:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

³⁶ Ibid, at para.82.

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular, humiliating and degrading treatment;
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Subsequent Trial Chambers have confirmed that violations of common article 3 are within the jurisdiction of the ICTY by virtue of Article 3 of its Statute, and a number of accused persons have been convicted for violations of that provision.

E. Genocide

Article 4 of the ICTY Statute defines genocide in terms identical to those contained in the Genocide Convention of 1948.³⁷ This definition is also used in the Statute of the ICTR, the Rome Statute of the International Criminal Court and has unquestionably entered the realm of customary international law. Despite this deceptively simple legal definition, the term “genocide” has become one of the most highly charged words used in public debate. Claims and counter-claims that a particular incident or series of incidents should be, or should not be, classified as genocide have been asserted vigorously over the past fifty years, by politicians, journalists, academics and lawyers alike.

Given that the crime of genocide was conceived as the ultimate crime against humanity, being acts or a course of conduct deliberately intended to eradicate an entire section of a population, or, at the very least, a significant part of it, it is only natural that it should engender such heated debate. Nonetheless, it may indeed be detrimental to the cause of international peace and justice to use terms without proper consideration of their true scope and meaning. Thus, if the genocide label is attached to situations that perhaps do not satisfy the legal definition, it loses substantial force and effect as an expression of the most supreme horror and condemnation. A further consequence is that those who genuinely seek to argue that genocide has occurred, or is occurring, are perhaps not taken as seriously as they might deserve to be. It is with these considerations in mind that the current report examines the definition of genocide and whether Article 4 of the Statute is applicable in the Kosovo context.

The essence of the crime of genocide is contained in Article 4, paragraph 2, being the special intent (*dolus specialis*) associated with the crime. Thus, genocide may be viewed as a species of persecution (considered as a crime against humanity) committed “with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.”³⁸

³⁷ Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. (1951) 277 (“Genocide Convention”).

³⁸ The relationship between genocide and persecution is discussed further below, in the section on crimes against humanity.

It is this element of special intent that distinguishes genocide from other acts that are, without question, evil in nature, but committed for discriminatory or other nefarious reasons. The centrality of the intent element has been enunciated in the jurisprudence of the ICTY and of the ICTR, as well as by the International Law Commission (ILC) in its consideration of a Draft Code of Crimes Against the Peace and Security of Mankind. In its Judgement in the case of *Prosecutor v. Jean-Paul Akayesu* (*Akayesu case*),³⁹ Trial Chamber I of the ICTR stated that,

“Genocide is distinct from other crimes inasmuch as it embodies a special intent or *dolus specialis*. Special intent of a crime is the specific intention, required as a constitutive element of the crime, which demands that the perpetrator clearly seeks to produce the act charged.”⁴⁰

Thus, the perpetrator of one of the acts listed in paragraph 2 does so with a wider objective in mind. As stated by the ILC, in the crime of genocide, “the group itself is the ultimate target or intended victim of this type of massive criminal conduct. The action taken against the individual members of the group is the means used to achieve the ultimate criminal objective with respect to the group.”⁴¹ The mental element of the crime (often termed the *mens rea* element) is therefore key and the ICTR has opined that,

“for the crime of genocide to occur, the *mens rea* must be formed prior to the commission of the genocidal acts. The individual acts themselves, however, do not require premeditation; the only consideration is that the act should be done in furtherance of the genocidal intent.”⁴²

Moreover, although the very scale and nature of genocide would tend to require the involvement of a State or State institutions, it is not necessary

³⁹ *Prosecutor v. Jean-Paul Akayesu*, Judgement, 2 September 1998, ICTR-96-4-T (*Akayesu Judgement*).

⁴⁰ *Ibid.*, at para. 498.

⁴¹ International Law Commission Draft Code of Crimes Against the Peace and Security of Mankind, Commentary to Article 17, Report of the International Law Commission on the work of its Forty-Eighth session, 6 May-26 July 1996, General Assembly Official Records - Fifty-first session, Supplement No. 10 (A/51/10).

⁴² *Prosecutor v. Clement Kayishema and Obed Ruzindana*, Judgement, 21 May 1999, ICTR-95-1-T (*Kayishema and Ruzindana Judgement*), at para. 91.

for each individual acting in pursuance of the genocidal plan or policy to know its full details.⁴³

While it is generally accepted that proof of the requisite intent is crucial to determining that the crime of genocide has been committed, it is also recognised that finding evidence of such intent can be an extremely difficult task. In its Judgement in the *Akayesu* case, Trial Chamber I of the ICTR tackled this issue and took the view that,

“intent is a mental factor which is difficult, even impossible, to determine. This is the reason why, in the absence of a confession from the accused, his intent can be inferred from a certain number of presumptions of fact... [such as] the general context of the perpetration of other culpable acts systematically directed against that same group, whether these acts were committed by the same offender or by others. Other factors such as the scale of the atrocities committed, their general nature, in a region or country, or furthermore, the fact of deliberately and systematically targeting victims on account of their membership of a particular group, while excluding the members of other groups, can enable the Chamber to infer the genocidal intent of a particular act.”⁴⁴

The matter was discussed once again in the Judgement in the case of *Prosecutor v. Clement Kayishema and Obed Ruzindana*, wherein the Trial Chamber stated that,

“intent can be inferred either from words or deeds and may be demonstrated by a pattern of purposeful action. In particular, the Chamber considers evidence such as the physical targeting of the group or their property; the use of derogatory language toward members of the targeted group; the weapons employed and the extent of bodily injury; the methodical way of planning, the systematic manner of killing. Furthermore, the number of victims from the group is also important.”⁴⁵

⁴³ Ibid, at para.94.

⁴⁴ *Akayesu* Judgement at para.523.

⁴⁵ *Kayishema and Ruzindana* Judgement at para.93.

Another issue that has been the subject of considerable controversy is the question of the enumerated “groups” within the genocide definition. Many take the view that the four types of groups explicitly mentioned should not be regarded as the only collectives that may be victims of the crime. For example, political or social groups might be subject to a policy of annihilation qualifying as genocide under the rest of its definition. In the *Akayesu* Judgement, the Trial Chamber took the position that the drafters of the Genocide Convention intended to ensure the protection of any stable and permanent group. In the Judgement in the case of *Prosecutor v. Georges Anderson Nderubumwe Rutaganda (Rutaganda case)*,⁴⁶ the Trial Chamber held that the drafters of the Convention intended to exclude groups defined on a political or economic basis, on the grounds that these are “mobile groups” which an individual chooses to join. Thus, the Chamber found that it should proceed on a case-by-case basis in determining whether a group should be considered as included within the ambit of the Genocide Convention (and hence the Statute of the ICTR), and would therefore take into account the relevant evidence proffered and the political and cultural context.⁴⁷ This controversy aside, for the purposes of the present report it is important to note that an “ethnic” group has been defined as,

“one whose members share a common language and culture; or, a group which distinguishes itself, as such (self identification); or, a group identified as such by others, including perpetrators of the crimes (identification by others).”⁴⁸

It is worth noting that the ICTY has taken the position that the policy of “ethnic cleansing” evidenced by events in Bosnia and Herzegovina presents “genocidal characteristics.”⁴⁹

One final point must be added in relation to genocide, in order to dispel some popular misconceptions. While genocide is indeed the ultimate

⁴⁶ *Prosecutor v. Georges Anderson Nderubumwe Rutaganda*, Judgement, 6 December 1999, ICTR-96-3-T (*Rutaganda* Judgement).

⁴⁷ *Ibid.*

⁴⁸ *Kayishema and Ruzindana* Judgement, at para. 98.

⁴⁹ See confirmation of the Indictment against *Radovan Karadzic and Ratko Mladic* (IT-95-18-I), by Judge Riad, at page 4. Furthermore, in its Review of the Indictment pursuant to Rule 61 in the case of *The Prosecutor v. Dragan Nikolic* (IT-95-2-R61), and again in its Review of the Indictment pursuant to Rule 61 in the case of *The Prosecutor v. Radovan Karadzic and Ratko Mladic* (IT-95-5-R61 and IT-95-18-R61), Trial Chamber I invited the Prosecutor to consider recharacterising certain acts of “ethnic cleansing” as genocide.

crime against humanity, and the term should therefore be used carefully, as explained above, it is not a sufficient or necessary condition of genocide that there be large numbers of persons killed. Those who seek to deny that genocide has occurred on the basis of a body count do the term an injustice. It is clear from the very words of the definition in the Convention that more than killing is envisaged. The target of the crime is the group and the destruction of the group, or part of it, is the objective. There are many ways in which to destroy a group, the killing of its members being only one, as the tragic events of the Holocaust and subsequent instances of massive, collective violence have so painfully proven.

F. Crimes Against Humanity

The very name of the category of offences outlined in Article 5 of the ICTY Statute conveys the seriousness and scale of such crimes - humanity as a whole suffers from their commission, and not just the individual victim. The UN Secretary-General, in his Report pursuant to Security Council Resolution 808,⁵⁰ succinctly stated the basis for the inclusion of crimes against humanity within the Tribunal's jurisdiction thus:

“47. Crimes against humanity were first recognized in the Charter and Judgement of the Nürnberg Tribunal, as well as in Law No. 10 of the Control Council for Germany. Crimes against humanity are aimed at any civilian population and are prohibited regardless of whether they are committed in an armed conflict, international or internal in character.

48. Crimes against humanity refer to inhumane acts of a very serious nature, such as wilful killing, torture or rape, committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds. In the conflict in the territory of the former Yugoslavia,

⁵⁰ Report of the Secretary-General pursuant to paragraph 2 of Security Council Resolution 808 (1993), 3 May 1993, UN Doc.S/25704.

such inhumane acts have taken the form of so-called ‘ethnic cleansing’ and widespread and systematic rape and other forms of sexual assault, including enforced prostitution.”

The most recent judicial expression of the nature and breadth of “crimes against humanity”, from the ICTY, is in the Judgement in the case of *Prosecutor v. Zoran Kupreskic, Mirjan Kupreskic, Vlatko Kupreskic, Drago Josipovic, Dragan Papic and Vladimir Santic, aka Vlado, (Kupreskic et al. case)*.⁵¹ This Judgement reveals the necessary elements of these particular types of crimes, when falling within the Tribunal’s jurisdiction, and should be examined in some detail, along with other relevant Tribunal jurisprudence.

In the *Kupreskic et al.* Judgement, the Trial Chamber firstly states that the essence of crimes against humanity “is a systematic policy of a certain scale and gravity directed against a civilian population.”⁵² The Chamber then proceeds to outline the core elements of the crimes, being:

“first, the existence of an armed conflict; second, that the acts were part of a widespread or systematic occurrence of crimes directed against a civilian population (the requirement that the occurrence of crimes be widespread or systematic being a disjunctive one) and finally, that the perpetrator had knowledge of the wider context in which his act occurs.”⁵³

The requirement that an armed conflict exist in order for the Tribunal to have jurisdiction under Article 5 is one that was inserted by the drafters of the Statute and does not reflect customary international law. It is widely recognised that crimes against humanity can occur both during times of peace and during armed conflict,⁵⁴ and the limitation of the Tribunal’s jurisdiction in Article 5 may appear puzzling. Nonetheless, the explicit reference in Article 5 to armed conflict, whether international or internal in character, undeniably renders the existence of such a conflict necessary for prosecution of crimes against humanity by the Tribunal.

⁵¹ *Prosecutor v. Zoran Kupreskic, Mirjan Kupreskic, Vlatko Kupreskic, Drago Josipovic, Dragan Papic and Vladimir Santic, aka Vlado*, Judgement, 14 January 2000, IT-95-16-T (*Kupreskic et al.* Judgement).

⁵² *Ibid.*, at para.543.

⁵³ *Ibid.*, at para.544 (footnotes omitted).

⁵⁴ See *ibid.* at para.545, and the *Tadic* Jurisdiction Decision.

The next issue discussed in the *Kupreskic et al.* Judgement is the definition of “civilian population.” The Trial Chamber adopts a wide definition, on the basis of “the object and purpose of the general principles and rules of humanitarian law.”⁵⁵ The Chamber thus follows the approach taken by Trial Chamber I in the Rule 61 Decision⁵⁶ in *Prosecutor v Mile Mrksic, Miroslav Radic, Veselin Sljivancanin*,⁵⁷ wherein it is stated that,

“[a]lthough according to the terms of Article 5 of the Statute of this Tribunal, the combatants in the traditional sense of the term cannot be victims of a crime against humanity, this does not apply to individuals who, at one particular point in time, carried out acts of resistance. As the Commission of Experts, established pursuant to Security Council resolution 780, noted, ‘it seems obvious that Article 5 applies first and foremost to civilians, meaning people who are not combatants. This, however, should not lead to any quick conclusions concerning people who at one particular point in time did bear arms. ... Information of the overall circumstances is relevant for the interpretation of the provision in a spirit consistent with its purpose.’ (Doc S/1994/674, para. 78). This conclusion is supported by case law, particularly the Barbie case. In that case the French Cour de Cassation said that ‘inhumane acts and persecution which, in the name of a State practising a policy of ideological hegemony, were committed systematically or collectively not only against individuals because of their membership in a racial or religious group but also against the adversaries of that policy whatever the form of the opposition’ could be considered a crime against humanity. (Cass. Crim. 20 December 1985).”⁵⁸

⁵⁵ (*Kupreskic et al. Judgement*), at para. 547

⁵⁶ Rule 61 of the Tribunal’s Rules of Procedure and Evidence creates a procedure allowing for the review of the evidence against an accused, or accused persons, by a Trial Chamber, in certain circumstances, without the presence of the accused. Upon the review of the evidence presented by the Prosecutor, the Trial Chamber issues a Decision and may also issue an international arrest warrant for the accused. See, *Prosecutor v. Ivica Rajic*, Review of the Indictment pursuant to Rule 61, (IT-95-12-R61) Separate Opinion of Judge Sidhwa.

⁵⁷ *Prosecutor v Mile Mrksic, Miroslav Radic, Veselin Sljivancanin*, Review of the Indictment pursuant to Rule 61, 3 April 1996, IT-95-13-R61 (*Mrksic et al. R61 Review Decision*).

⁵⁸ *Ibid.*, para. 29.

Trial Chamber II concludes that,

“the presence of those actively involved in the conflict should not prevent the characterization of a population as civilian and those actively involved in a resistance movement can qualify as victims of crimes against humanity.”⁵⁹

A further question is whether a single act by an individual perpetrator can, in itself, constitute a crime against humanity. Trial Chamber II opines that such a single act may be so classified, when occurring in the necessary context. An *isolated* act, however, cannot. Once again, this is in line with the view of Trial Chamber I in the *Mrksic et al.* R61 Review Decision, which is thus enunciated:

“Crimes against humanity are to be distinguished from war crimes against individuals. In particular, they must be widespread or demonstrate a systematic character. However, as long as there is a link with the widespread or systematic attack against a civilian population, a single act could qualify as a crime against humanity. As such, an individual committing a crime against a single victim or a limited number of victims might be recognised as guilty of a crime against humanity if his acts were part of the specific context identified above.”⁶⁰

The policy element of crimes against humanity, engendered by their part in a widespread (referring to scale) or systematic (referring to organisation) attack, is such that these crimes are normally perpetrated by State organs. However, Trial Chamber II emphasises that this is not necessarily so, and “there may be cases where the authors of such crimes are individuals having neither official status nor acting on behalf of a governmental authority.”⁶¹ In addition, the *Tadic* Trial Judgement sheds further light on the policy element. Trial Chamber II in that case took the view that,

⁵⁹ *Kupreskic* Judgement, at para.549.

⁶⁰ *Mrksic et al.* R61 Review Decision, at para.30.

⁶¹ *Kupreskic* Judgement at para.555.

“Importantly, ...such a policy need not be formalized and can be deduced from the way in which the acts occur. Notably, if the acts occur on a widespread or systematic basis that demonstrates a policy to commit those acts, whether formalized or not.”⁶²

Somewhat more controversial, within the ICTY, has been whether a person accused of crimes against humanity is required to have had a discriminatory intent when perpetrating the acts in question. In other words, is it necessary that a person engaged, for example, in the killing of civilians did so with an intent to discriminate against those particular civilians, on political, racial or religious grounds? While Trial Chamber II in the *Tadic* Judgement found that such discriminatory intent is required for the classification of an offence as a crime against humanity, the Appeals Chamber has taken the opposing position that this particular intent element is *only* required in relation to the crime of persecution, under Article 5(h).

The nine types of offences that might constitute crimes against humanity in the above-described circumstances are listed in Article 5 of the ICTY Statute. It is not necessary, in the present report, to enter into a discussion of the legal parameters of murder, extermination, enslavement, deportation, imprisonment, torture, or rape, although it should be noted that these have been the subject of some debate. Rather, the focus here is on “persecution” as a crime against humanity, for this would seem to include all of the other offences listed, as well as ones not explicitly mentioned. So, for example, an attack on the civilian population of a village, on discriminatory racial grounds, might involve acts of killing, rape, torture and property destruction, and be classified as persecution under Article 5(h).⁶³

“Persecution” is the most all encompassing of the listed crimes against humanity in Article 5 and may be viewed as simply one step away from genocide. It is worth quoting from Trial Chamber II in this regard:

⁶² *Tadic* Trial Judgement, at para.653.

⁶³ Note that the Trial Chamber in the Kupreskic case found that attacks on property, including the burning of residential property, can constitute persecution (*Kupreskic* Judgement at para.631).

“[P]ersecution as a crime against humanity is an offence belonging to the same *genus* as genocide. Both persecution and genocide are crimes perpetrated against persons that belong to a particular group and who are targeted because of such belonging. In both categories what matters is the intent to discriminate. While in the case of persecution the discriminatory intent can take multifarious inhumane forms and manifest itself in a plurality of actions including murder, in the case of genocide that intent must be accompanied by the intention to destroy, in whole or in part, the group to which the victims of the genocide belong. Thus, it can be said that, from the viewpoint of *mens rea*, genocide is an extreme and most inhuman form of persecution.”⁶⁴

It should be noted, however, that the discriminatory grounds required for the crime of persecution are listed as only political, racial or religious, whereas genocide targets national, ethnical, racial or religious groups. It is submitted that the relevant jurisprudence supports the view that these inconsistencies do not amount to differences of substance in relation to the broader offence, and that discrimination on ethnical or national grounds would therefore also be sufficient to satisfy Article 5(h).⁶⁵ Applying the above quoted distinction between persecution and genocide to the facts of the *Kupreskic* case, the Trial Chamber looked at the purpose of the massacre and expulsion of Bosnian Muslim civilians from their homes in the village of Ahmici, in central Bosnia, in April 1993. The Chamber concluded that,

“it was a well-planned and well-organised killing of civilian members of an ethnic group, the Muslims, by the military of another ethnic group, the Croats. The primary purpose of the massacre was to expel the Muslims from the village, by killing many of them, by burning their houses and livestock, and by illegally detaining and deporting the survivors to another area.

⁶⁴ *Ibid.*, at para. 636.

⁶⁵ See, e.g., *Kupreskic* Judgement at para. 751 - “Persecution is grounded in discrimination. It is based on the notion that people who share *ethnic*, racial or religious bonds different to those of the dominant group are to be treated as inferior to the latter.” [emphasis added] The ILC Draft Code on Crimes Against the Peace and Security of Mankind does include ethnic grounds in Article 18(e), as within the prohibited discriminatory ambit of “persecution.” Similarly, the Rome Statute for an International Criminal Court provides, in Article 7(1)(h), for jurisdiction over “persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender..., or other grounds that are universally regarded as impermissible under international law.”

The ultimate goal of these acts was to spread terror among the population so as to deter members of that particular ethnic group from ever returning to their homes.”⁶⁶

The Trial Chamber thus found that this was a clear case of criminal persecution, and not genocide. Five of the six accused in that case were convicted under Article 5(h) of the ICTY Statute, for the roles they played in this persecution, and were sentenced to various terms of imprisonment. Without yet focusing attention on the question of the intent behind the campaign of violence against the Kosovar civilian population in 1999, the similarities between the massacre at Ahmici and many of the attacks and operations carried out within Kosovo, as described in Chapter V below, are striking.

G. The “armed conflict” requirement

Before proceeding further, a brief discussion of the legal concept of “armed conflict” is needed. As outlined above, in order for the provisions of international humanitarian law, in the traditional sense, to apply, there must be an armed conflict between two or more parties. The nature of this armed conflict - international or internal - retains some significance in terms of the relevant law, although recent developments at the ICTY mark some progress against this firm division. Article 5 of the Statute specifically requires the existence of an armed conflict, of any nature, although it is generally agreed that crimes against humanity can be committed in times of peace, as much as in times of war - a feature placing these kind of crimes within the realm both of human rights and of humanitarian law.⁶⁷

The question of what exactly constitutes an “armed conflict” was raised early on in the jurisprudence of the Tribunal and was addressed by the Appeals Chamber. In its Decision on Jurisdiction in the *Tadic* case, the Chamber stated the following:

⁶⁶ *Ibid.*, at para. 749.

⁶⁷ There is no question that genocide may be committed in the absence of any armed conflict: Genocide Convention, Article 1.

“[A]n armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State. International humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached; or, in the case of internal conflicts, a peaceful settlement is achieved. Until that moment, international humanitarian law continues to apply in the whole territory of the warring states or, in the case of internal conflicts, the whole territory under the control of a party, whether or not actual combat takes place there.”⁶⁸

This definition has been applied both in the *Tadic* Judgement and in subsequent cases before the Tribunal and may be considered as expressing a useful guideline, from which the present report will not deviate.⁶⁹ Discussion of how it applies to the Kosovo conflict and the various aspects of that situation will be deferred until Chapter VI below.⁷⁰

H. Summary

This Chapter has sought to introduce the basic elements of the crimes within the jurisdiction of the ICTY, in order to situate the subsequent description of the FRY/Serbian campaign in Kosovo in 1999. A clear understanding, by many actors and at many levels, of the scope of and limitations on these crimes and the exercise of jurisdiction by the Tribunal is extremely important: by the UN and other international organisations; by national governments; by the media and human rights groups; and, fundamentally, by every individual who feels revulsion and horror at the sheer cruelty and brutality displayed by those responsible for the events in Kosovo and elsewhere.

⁶⁸ *Tadic* Jurisdiction Decision, at para.70.

⁶⁹ It is recognised that this standard for an armed conflict is not universally applied, as for example, in the case of *Juan Carlos Abella v. Argentina*, before the Inter-American Commission on Human Rights (Case 11.137, Inter-Am. Comm'n H.R.271, OEA/ser.L/V/II.98, doc.7 rev. (1997) wherein the Commission found the existence of an internal armed conflict and applied the norms of international humanitarian law. However, it has been accepted in the context of the ICTY and is therefore preferred in the present report.

⁷⁰ See also the discussion in the NPWJ report, which explores the question of whether there was an armed conflict in Kosovo in 1998 in some detail.

The interplay between human rights and humanitarian law is now complex, and often difficult to untangle. Despite their different origins and development, it is possible to state some general principles that apply in all situations, whether or not there exists an armed conflict, and whatever its particular character. Primarily, there is a duty on States, governments, their armed forces, and the forces of non-State parties to armed conflicts to respect the inherent human dignity of all persons and ensure that any military operations minimise pain and suffering. In particular, persons taking no direct part in fighting must not be the targets of attack or military operations, nor must their homes or means of living be attacked or destroyed. The duty to protect civilians has indeed been described by the ICTY as “sacrosanct”, and “the bedrock of modern humanitarian law.”⁷¹ Chapter V of this report describes many incidents within Kosovo, in early 1999 and before, that will strike the reader as clear infringements of these principles and rules.

Violations of the duty to refrain from harming civilians may, in certain circumstances, constitute the crime of genocide, or, in other circumstances, crimes against humanity. Actions of a different scope or target might qualify as grave breaches of the Geneva Conventions of 1949, or violations of the laws or customs of war. While these are often viewed on a sliding scale, from most to least egregious, it is of paramount importance to emphasise that all are *crimes* of an extremely serious nature, and therefore require fair and expeditious prosecution and punishment.

⁷¹ *Kupreskic et al.* Judgement, at paras. 513 and 521

IV. BACKGROUND AND GENERAL DESCRIPTION OF THE FRY/SERBIAN CAMPAIGN IN KOSOVO IN 1999

As has been repeatedly stated, the purpose of the present report is a narrow one, related to the application of international humanitarian law to events in Kosovo in early 1999. For this reason, and due to the recent proliferation of background literature on the conflict and the NATO action against the FRY, it is not considered necessary to enter a detailed discussion on the origins of, or political issues surrounding, the incidents and operations described in the report. Nonetheless, in order to properly understand and situate these events, and identify the actors involved, this Chapter presents an extremely brief outline of the relevant context. The reader is referred to the NPWJ report and a number of publications from the ICG and other organisations, which provide a more extensive examination of these broader issues.⁷²

It should also be firmly reiterated at this stage that neither the report nor the Project itself is concerned with the political claims or motivations of any party to the Kosovo conflict. The application of international humanitarian law to a particular situation conveys no more significance than that an armed conflict exists and the parties are therefore obliged to respect the relevant rules. The report simply seeks to identify where those rules have been breached and describe the legal consequences of such breaches.

⁷² See the various ICG reports on Kosovo, available at <http://www.crisisweb.org>, especially *Kosovo Spring*, 20 March 1998; selected Human Rights Watch Reports, available at <http://www.hrw.org>; OSCE, *As Seen, As Told*; publications of the Humanitarian Law Centre in Belgrade (HLC), available at <http://www.hlc.org.yu>; and selected materials from the United Kingdom Foreign and Commonwealth Office and the United States Department of State, available at <http://www.mod.uk/news.kosovo> and <http://www.state.gov/www/regions/eur/kosovo> respectively.

A. Historical background⁷³

Prior its dissolution in 1991, the Socialist Federal Republic of Yugoslavia (SFRY) was made up of six constituent republics (Serbia, Montenegro, Macedonia, Croatia, Slovenia and Bosnia and Herzegovina) and two autonomous provinces (Kosovo and Vojvodina). The SFRY Constitution of 1974 granted the two provinces very similar rights to those of the republics, providing them with their own parliamentary assemblies and seats in the collective Federal Parliament and on the Federal Presidency, despite the fact that they were considered as parts of the Republic of Serbia. However, when the SFRY broke up, the international community recognised only the claims to statehood of the republics. Kosovo and Vojvodina thus remained within Serbia, which, with Montenegro, formed a “rump” federal State, the Federal Republic of Yugoslavia (FRY).

The armed conflicts in Slovenia, Croatia and Bosnia and Herzegovina, between 1990 and 1995, brought violence and brutality unseen in Europe since the end of the Second World War. As has been discussed in Chapter III above, one response of the international community to the endless accounts of acts of barbarism reported in the media and by international observers was the creation of the International Criminal Tribunal for the former Yugoslavia. It was hoped that the Tribunal, along with the eventual conclusion of the Dayton Peace Agreement, would facilitate long-term peace and reconciliation in the entire region.

While attention was focused on Croatia and Bosnia and Herzegovina, the government of Serbia strove to entrench its authority in the provinces. In 1989, Slobodan Milosevic, the Serbian President, took steps to remove the autonomy of Kosovo and reinstate direct control from Belgrade. The Kosovar population, the large majority of whom identified themselves as Kosovo Albanian,⁷⁴ responded with strident protests and demonstrations, which were met with the declaration of a ‘state of emergency’ and severe measures by the Serbian police. Over the following months and years, the

⁷³ See NPWJ report and *Kosovo Spring*.

⁷⁴ In the text of this report which follows, when the term “Kosovar” is used this indicates a member of the Kosovo Albanian population. The minority Serb population in Kosovo is identified by the term “Kosovo Serbs.” The total population of Kosovo is difficult to assess, as the Kosovo Albanians boycotted the most recent census in 1991. According to the previous census, in 1981, of a total of 1,585,000 inhabitants, 1,227,000 were Kosovo Albanian and 210,000 Kosovo Serb. Prior to the 1998 and 1999 conflicts, it is estimated that the total population was between 1,800,000 and 2,100,000, of which around 85-90% were Kosovo Albanian.

situation in Kosovo deteriorated, with intimidation and mistreatment of the Kosovar population at the hands of the Serbian police becoming widespread. In addition, the local economy was placed entirely in the hands of the Kosovo Serbs and others from Serbia proper. There were large-scale dismissals of Kosovar managers and professionals from businesses and the removal of a large number of Kosovar teachers, doctors and academics from schools, hospitals and universities. Despite these measures, the Kosovars created and maintained their own “parallel” structures and political system, which themselves became targets of attack by the Serbian police and security apparatus. Prominent figures in the Kosovar community were often arrested and sentenced to long terms of imprisonment on a variety of charges, and reports abounded of mistreatment of such political prisoners.

By 1997, the attitude of much of the Kosovar population had begun to harden, for their struggle to regain autonomy, or achieve independence, through non-violent means appeared to be yielding no concrete results, apart from the rising hostility of the FRY/Serbian institutions. Increasingly, calls were for independence or nothing, and certain forces advocated armed resistance as the only means to attain this goal. A group calling itself the Kosovo Liberation Army launched a series of attacks on Serbian police stations and vehicles, as well as on Kosovo Serb individuals and others perceived as loyal to the Belgrade regime. The police responded harshly and justified further repressive measures in order to combat this threat of terrorism. A significant turning point came in February 1998, when Serbian security forces mounted an operation in the Drenica region, resulting in the deaths of over eighty Kosovars, including women and children.⁷⁵ The details of these massacres quickly spread throughout Kosovo and served to radicalise the population further and swell the ranks of the KLA.

B. The forces involved in the Kosovo conflict

Before proceeding further with a description of the military/security action in Kosovo in 1998 and 1999, it is useful to provide an outline of the several forces involved. It is indeed the complex relationships

⁷⁵ See Human Rights Watch, *Humanitarian Law Violations in Kosovo*, October 1998, and Humanitarian Law Center, *Spotlight on Kosovo, Human Rights in times of Armed Conflict*, May 1998.

between the various types of forces acting on the side of the FRY/Serbia that have sown the seeds of confusion in the minds of many observers and commentators. It is, naturally, extremely important to remove such confusion when discussing the issue of criminal responsibility for violations of international humanitarian law.

As will become apparent from the following description of events, both army and police forces were utilised by the FRY/Serbian governments to pursue their aims in Kosovo. The VJ (Vojska Jugoslavije - Yugoslav Army), the structure of which is outlined below, is the standing federal military institution of the FRY,⁷⁶ born out of the previous JNA (Jugoslavenska Narodna Armija - Yugoslav National Army) of the SFRY. The VJ is made up of professional officers and soldiers, along with large numbers of conscripts, and is constitutionally mandated to protect the State from external attack and defend its “constitutional order.”⁷⁷ Its chain of command leads up to the Chief of Staff and a Supreme Defence Council, headed by the FRY President.⁷⁸ The relevant police forces have a separate chain of command, through the Ministry of Interior of the Republic of Serbia.⁷⁹

It is abundantly clear that many different groupings of regular and irregular security forces operated in Kosovo in 1998 and 1999. The accounts given by witnesses of attacks, arrests and other violent incidents convey a picture of groups and individuals in a broad array of uniforms, with different insignia or other markings and distinctive weapons, equipment, and apparel. To give some examples, the witness statements gathered in the course of the current Project contain references to men in camouflage uniforms of a variety of colours, as well as all-black uniforms, with badges bearing eagles, wolves, and skulls; some are described as having red or yellow scarves or bandannas, or other distinctive headgear and hats; others are reported to have had their faces masked, “painted” or blackened; others are said to have carried knives, or axes; some had long beards, shaved heads, or long hair, sometimes tied in

⁷⁶ It contains both a standing army and reserve units.

⁷⁷ Constitution of the Federal Republic of Yugoslavia, 1992, Article 133.

⁷⁸ “In war and peacetime, the Army of Yugoslavia shall be under the command of the President of the Republic, pursuant to decisions by the Supreme Defence Council ... The President of the Republic shall preside over the Supreme Defence Council.” *Ibid.*, at Article 135.

⁷⁹ The Republic of Montenegro has its own Interior Ministry police forces. These had no role in Kosovo and so all references to police forces in this report refer to the police of the Republic of Serbia.

braids;some had ribbons of a particular colour around their sleeves;some were seen regularly driving particular kinds of vehicles. Moreover, there are many reports of soldiers, police and other irregular forces changing uniforms,or parts thereof, on a periodic basis.

It is worthwhile to describe the regular Serbian police formations,before addressing the subject of irregular, paramilitary and mercenary forces.It should be noted,however, that information about all of these groups is not easy to gather from open sources and the reconstruction of police structures and command has thus been made on the basis of a variety of information gathered during the Project and the research for the NPWJ report. Furthermore, it must also be stated at the outset that the formal distinctions between the various groups here described tended to become fluid when operations were mounted on the ground in Kosovo. In other words, it is apparent that individuals might be allied with one particular group or unit for the purposes of one operation or attack and then move to another group or unit for a subsequent one. This cross-over likely occurred between the various police divisions as well as into the paramilitary realm and possibly also between the police and VJ on occasion.It is borne out by the evidence of uniform changing mentioned above,as well as by the practice of wearing coloured ribbons on top of uniforms, which is described by many witnesses.The purpose of these ribbons would appear to be to temporarily distinguish groups formed for a particular operation or attack, much as teams might be distinguished during a sports game by wearing different coloured bibs.

In addition, it should be added that the picture here presented is based on information current during 1999, when the events in issue occurred. Subsequent changes in structures, or the removal of individuals from particular positions of authority or command,are not taken into account.

The Ministry of Interior police - *Ministarstvo Unutrasnjih Poslova* (MUP)⁸⁰ come under the overall authority of the Serbian Minister of Interior, Vljeko Stojilkovic, who himself answers formally to the Prime Minister and President of Serbia. The police are divided into two branches, the

80 Throughout the report,the terms "MUP"and "police"are used interchangeably.

Department of Public Security and the Department of State Security, the former headed by Vlastimir Djordevic and the latter headed by Radomir Markovic.⁸¹ Within the public security branch, there would appear to be three main formations, of increasing specialisation. The regular police wear blue camouflage uniforms, often bearing the “*Milicija*” insignia on the sleeve. In Kosovo, they were commanded by General Sreten Lukic and it has been estimated that they numbered in the region of 5,000 in March 1998.⁸² A more specialised MUP formation is the PJP (Posebne Jedinice Policije - Special Police Units) which consists of more highly trained members of the regular police, armed with heavier weapons and equipment. Estimates of the strength of the PJP approximate 5,000, split into detachments of around 700,⁸³ and their uniforms are generally the same as the regular police, although some have the letters PJP written on one sleeve. It would appear that the PJP came under the overall command of one Obrad Stevanovic during the period relevant to this report, although the question of its operational command and control on the ground in Kosovo is addressed further below. The most highly specialised MUP forces within the Department of Public Security are the SAJ (Specijalne Antiteroristicke Jedinice - Special Anti-terrorist Unit), which only number in the region of 500 total. These commando-style police units tend to be made up of younger men, trained to use more sophisticated equipment and techniques. The preponderance of information about the SAJ describes them as dressed all in black, often wearing balaclavas and bullet-proof vests. It is not clear whether the SAJ also came under the command of General Stevanovic, nor who controlled them on the ground in Kosovo.

In Kosovo, the main MUP police bases were in Prishtina/Pristina, Prizren, Gjakove/Djakovica, Peje/Pec, Ferizaj/Urosevac, Mitrovice/Kosovska Mitrovica and Gjilan/Gnjiljane. In addition to these, there were many substations in other towns and villages. Alongside the regular police officers housed in these bases, members of the PJP would be brought in for short periods of time while specific operations were being conducted. Thus the police in a particular area could be augmented quickly, as the need arose,

⁸¹ Markovic succeeded Jovica Stanisic as Chief of State Security towards the end of 1998.

⁸² Report on the Serbian Ministry of the Interior and State Security Service, by Julian Moir, 1 April 1999, United Kingdom Ministry of Defence.

⁸³ Moir statement.

by PJP sent from all over Serbia. Furthermore, it appears likely that SAJ troops were moved around Kosovo for “lightning strike” style operations. Information gathered in the course of the Project, from witnesses and other local sources, indicates that the introduction of large numbers of police forces into Kosovo, in 1998 and again in 1999, required the utilisation of houses belonging to local Kosovars for accommodation purposes. Other buildings such as hotels, schools, factories and warehouses were also used as temporary bases. Often, violence and threats were the preferred method for ensuring that these houses and buildings were made available, and when the police and other forces finally vacated them they were generally wrecked, looted and/or burned.

Even less transparent than the structure of the MUP public security branch is that of the State security. However, it is possible to divide the functioning of State security into two elements. The first of these is the “regular” plainclothes secret police. There is some information to the effect that plainclothes officers were based throughout Kosovo, both prior to and during the conflict, housed in the ordinary MUP stations, although acting separately from the public security police. These officers were responsible for investigating political activities and crimes and would conduct their own interrogations inside the police stations, not being involved directly in combat operations.

The State Security Department also had an operational arm, about which information is scarce and often conflicting. Nonetheless, there is no doubt that this arm, here referred to as the JSO (Jedinica za Specijalne Operacije - Special Operations Unit) was directly involved in the conflict in Kosovo. The JSO are sometimes given the name “Red Berets,” although this should not be confused with the VJ Special Forces units of the same title, and appear to be a disparate grouping, recruiting individuals from the other specialised units within the MUP structure, described above, and the army special forces. The JSO is considered particularly close to FRY President, Slobodan Milosevic,⁸⁴ primarily through his personal connection with one Franki Simatovic, who is often named as its commander. Even more murky is the relationship between the JSO and

84 After two terms in office as President of Serbia, Slobodan Milosevic was elected FRY President in July 1997.

the paramilitary and mercenary forces utilised in the Kosovo conflict. One such paramilitary unit, about which there are many reports, is indeed called the “Frenkis” or “Frenki’s Boys.” Mr. Simatovic is clearly considered the leader of this unit, whether it be an element of the JSO itself, or an independent formation controlled and run by him in a more private capacity.

Thus we are led to the involvement in Kosovo of various irregular groups and units, often described as paramilitaries or mercenaries. A word of caution must be given whenever dealing with this subject, for a variety of reasons. First, it is clear that different people use these terms to refer to different things, and there can be some confusion about what is exactly meant, often resulting from the translation of information from Albanian or Serbian into English. Secondly, it is naturally difficult for eye-witnesses to particular events to distinguish between the kinds of soldiers or forces attacking or harming them, especially in light of the huge variety of uniforms and distinctive symbols used by these forces and described above. Thirdly, it would seem that in some situations local Kosovars were told by their Kosovo Serb neighbours or Serb police that a notorious paramilitary unit was coming to “deal” with them. This was done deliberately to spread fear and terror and induce compliance with demands made, as certain units had reputations for particular cruelty and violence. Thus, local people might assume that soldiers or other forces who looked unfamiliar to them were from a notorious paramilitary unit or formation, when in fact they might not have been.⁸⁵

Nonetheless, the overwhelming number of witnesses who describe the presence of distinctively dressed or equipped individuals during Serbian operations is such that it must be concluded that irregular, paramilitary forces were involved in the conflict, working closely alongside the more regular formations.⁸⁶ This is borne out by many, many reports in the media, including interviews with individuals claiming to be members of paramilitary groups operating in Kosovo. Most infamous among these are the above-mentioned Frenkis and the “Tigers” led by Zeljko Raznatovic,

⁸⁵ These factors should all be borne in mind when reading Chapter V, as witnesses often describe the presence and involvement of paramilitaries in the attacks against them.

⁸⁶ The majority of these reports relate to the presence of paramilitary forces in late 1998 and early 1999. When exactly they first appeared is unclear, but an increased involvement over time is noticeable and will be discussed in relation to particular areas in Chapter V below.

also known as Arkan. The Frenkis were often recognised by the distinctive hats that they favoured (variously described, but most often said to resemble cowboy hats) and some of them seem to have worn their hair long, or in braids. There is much speculation that many Frenkis were criminals released from prison in Serbia and induced to fight in Kosovo through the promise of material gain from the looting of Kosovar property. The Tigers have a history stemming from the wars in Croatia and Bosnia and Herzegovina and their leader, Arkan, assassinated in Belgrade in January 2000, was an extremely well-known figure in Serbia and Kosovo. Arkan was, indeed, indicted by the ICTY for crimes committed by himself and his forces during these previous conflicts. His soldiers appear to have been well-paid and extremely organised and wore a variety of uniforms, as well as civilian attire.

Other groups have also received mention in the context of attacks on Kosovar villages and the commission of atrocities.⁸⁷ Some of these have a history dating back several years and are tightly-knit units, while others might have been formed more recently, perhaps by local Kosovo Serbs or by volunteers from Serbia itself. In addition, there is significant mention of groups or individuals speaking languages such as Russian, Hungarian, Bulgarian and Ukrainian, leading to the conclusion that foreign mercenaries were operating throughout Kosovo. Once again, there is some speculation that the link between all of these various paramilitary groups and mercenary fighters and the overall FRY/Serbian government plan of operations in Kosovo was through Franki Simatovic.⁸⁸

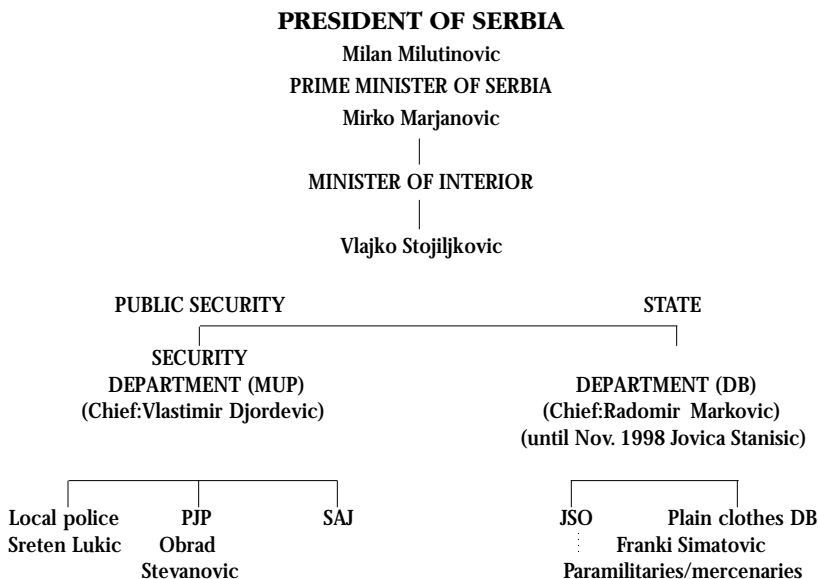
One final point that should be made in relation to all of these regular and irregular security forces relates to their link with FRY President Milosevic. As has been mentioned above, the police forces operating in Kosovo came under the authority of the Serbian Ministry of Interior, and from there up to the President of the Republic, Milan Milutinovic. However, one would be fostering an entirely false picture of the chain of command of the police forces if the role of the FRY President were ignored. While President Milosevic does not hold formal control of the Serbian police

⁸⁷ Where information was gathered about specific groups in particular areas, this is noted below in the sections dealing with those particular areas.

⁸⁸ Moir statement. See also OSCE, *As Seen, As Told Part II*, Chapter 3, 'The Military/Security Context'.

forces in normal circumstances, as he does over the VJ under the Federal Constitution, there is no doubt that he has *de facto* control. It should not be forgotten that he was the President of Serbia for eight years, before moving into the position of FRY President, and that he and his wife, Mira Markovic, control the main political parties in Serbia. With Jovica Stanisic as Chief of his State Security until late 1998, President Milosevic created a close network of personal links with such individuals as Franki Simatovic, Arkan and other local army and police commanders, whom he could control directly, by-passing the Serbian Minister of Interior. In addition, Stanisic is widely regarded as having been an extremely powerful individual within Serbia and the FRY, who bridged the formal divide between the Republic and the Federal administration by acting as Chief of the Serbian State Security and simultaneously as the National Security Adviser to FRY President Milosevic.

Before moving on to a description of the VJ forces in Kosovo, it is useful to represent the Serbian police structures on a simple diagram:



The role of the VJ in Kosovo is not a simple one and this has significant consequences in terms of assigning criminal responsibility for violations of international humanitarian law. As has already been noted, the VJ is the Federal Army, under the command of the Chief of Staff, and ultimately the Supreme Defence Council, chaired by the FRY President. Until late 1998, the Chief of Staff was General Momcilo Perisic, an officer with many years of experience, including in the wars in Croatia and Bosnia and Herzegovina. General Perisic was, however, replaced by General Dragoljub Ojdanic⁸⁹ in late 1998 and there were many reports in the press that this was due to a dispute between Perisic and President Milosevic over the proper role of the VJ in Kosovo. During 1998, the VJ were based primarily along the border between Kosovo and Albania, and Macedonia, there being a five kilometre border zone within which they could operate.⁹⁰ Despite this, there is no question that the VJ was utilised within Kosovo in 1998 and 1999 and was involved in attacks on towns and villages, as well as in defence once the NATO bombardment of the FRY began. What is less clear is the nature of the relationship between the VJ and the MUP forces during these operations. Initially, it would seem that the VJ played a supporting role to the MUP, such that its heavy artillery and equipment were used in conjunction with large numbers of MUP regular infantry. Later, however, the VJ began to play a more active, and perhaps lead, role, as will become apparent from the events described below.

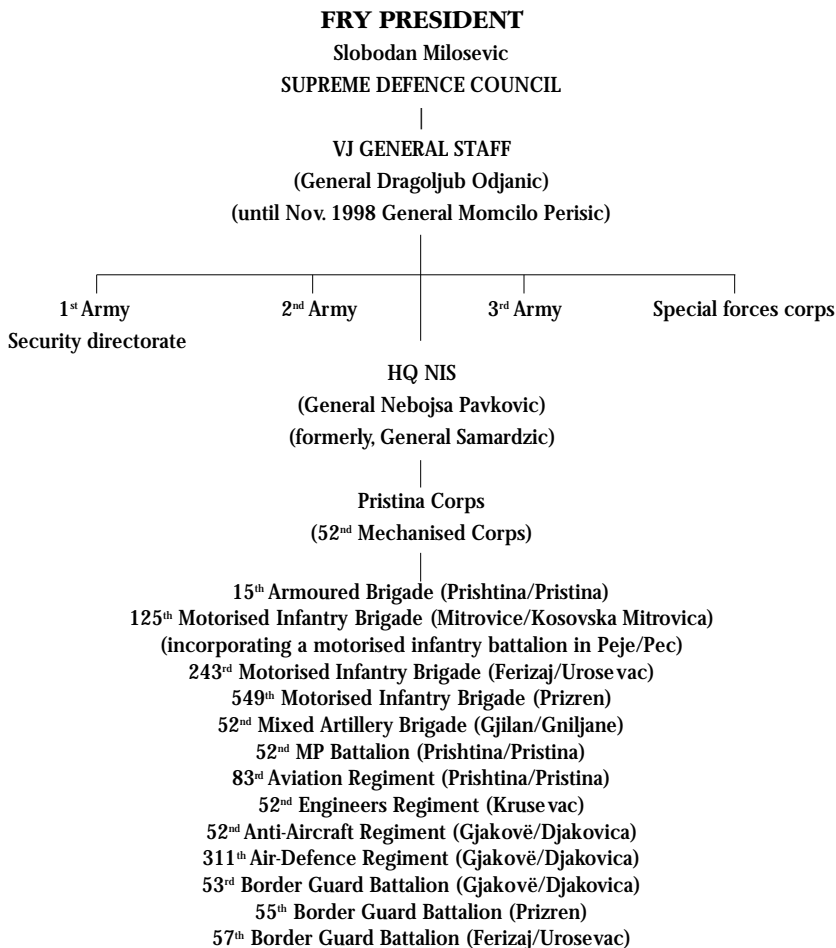
The VJ is divided into three Armies, plus the Air and Naval forces, Special forces corps and the security directorate. The Armies have a variety of equipment,⁹¹ but are largely under-resourced, such that soldiers are not always paid. The 3rd Army, based in Nis, Serbia, had primary competence in Kosovo and had many bases throughout the region. In 1998, the 3rd Army was commanded by General Samardzic and its Prishtina/Pristina Corps by General Nebojsa Pavkovic. Towards the end of the year, however, General Pavkovic was promoted to overall command of the 3rd Army and control of the Prishtina/Pristina Corps went to Vladimir Lazerevic. Estimates of the number of VJ troops in Kosovo in mid-1998

89 General Ojdanic was recently promoted to the position of FRY Minister of Defence, with the new VJ Chief of Staff being General Nebojsa Pavkovic.

90 This zone was subsequently extended to ten kilometres.

91 This equipment included T-55 and M-84 tanks, M-80 AFVs, M-60 APCs and BOV M-86 vehicles, 2S1 (122mm), D-30, M-1 and M-84 guns, M-63 (128 mm) and M-77 (128 mm) multiple rocket-launchers, M-69 (82 mm) and M-74/75 (120 mm) mortars, and M-53/59 Pragas (armoured, cannon-mounted vehicles). See OSCE, *As Seen, As Told Part II*, Chapter 3.

approximated 7,000, from the Prishtina/Pristina Corps. By early 1999, these forces had been further augmented by units from other VJ formations and totalled around 15-16,000,⁹² later rising to around 20,000.⁹³ The relevant structure may be represented as follows:



⁹² See Yugoslavian Order of Battle, available at <http://www.stratfor.com/crisis/kosovo/yugorderofbattle.htm>.

⁹³ See OSCE, *As Seen As Told Part II*, Chapter 3.

The relationship between the VJ and MUP forces has, at times, been tense, particularly due to the fact the President Milosevic was perceived to favour the police over the army and provided it with greater resources, so that professional VJ officers often joined the MUP. Despite this, there remains a core of professional officers within the VJ and it possesses most of the heavy equipment, which was used throughout Kosovo in mid 1998 and early 1999 with devastating effect.

This description of the FRY/Serbian forces should be sufficient to situate the following chronologies of events in 1998 and 1999 and introduce the necessary chains of command and control. A more detailed discussion of how these structures actually functioned in Kosovo and the concept of command responsibility is left until later chapters. Before proceeding further, however, it is important to comment briefly on the forces of the KLA, the other party to the conflict in Kosovo relevant to our discussion of violations of international humanitarian law.⁹⁴

The precise origins of the KLA and the persons responsible for its creation are not known and it appears likely that it developed incrementally in the 1990s, involving a variety of individuals. By 1997 it had declared itself publicly and claimed responsibility for attacks on Serbian police stations and vehicles in Kosovo. At this time, weapons and other equipment became available from Albania, due to the looting of military bases in that country and the porous nature of the border, allowing the establishment of KLA training camps in northern Albania. The increasingly violent actions of the FRY/Serbian forces in Kosovo in early 1998 led many Kosovars to turn to the KLA and it is believed that by June of that year it had over 10,000 members, as well as a strong network of support. Particular regions of Kosovo, such as Drenica and the western areas became known as KLA strongholds, and it could control large amounts of territory, utilising the hills, forests and small roads to great effect in its guerrilla-style warfare.

The KLA structure also developed over time, from small, loosely linked village networks to a more centrally controlled organisation. By the end of 1998 it had a General Staff and was divided into several zones, which

⁹⁴ See NPWJ report particularly and its section on the KLA, and Zoran Kusovac, *The KLA: braced to defend and control*, 7 April 1999, available at Jane's Defence World, <http://www.jdw.janes.com/>.

varied in terms of composition and tactics. No one KLA leader emerged until early 1999, when the question of representation in the Rambouillet process arose. Nonetheless, well before this time it was clear that there were several very influential individuals within the organisation, including persons based in Switzerland, Austria and the USA, who arranged funding and the supply of equipment, as well as providing training and command. Generally, the KLA soldiers were armed with light assault rifles, primarily AK-47s and similar models, but they also possessed an array of other weapons, such as surface-to-air missiles, anti-tank guns, rocket-propelled grenades and some heavy machine guns. Their shortage of heavier weapons rendered them unable to mount full-scale attacks against the VJ or MUP forces, or control stretches of the main roads for any significant periods of time. There was no standard KLA uniform as much depended on availability, but their distinctive badge - a black double-headed eagle on a red background, with the letters UÇK below - was easily recognised and worn by the majority of its members.

The role of the KLA during the NATO bombardment of the FRY is subject to some speculation, with many claiming that it was closely involved in providing intelligence information to the NATO forces and assisting in targeting for attacks. One of the factors leading to conflicting rumours is that the organisation often did not speak with one voice. However, in the period since the end of the NATO action, it is clear that there has been some consolidation of control. Two names now most widely associated with the KLA are Agim Ceku, considered the military commander, and Hashim Thaqi, the political leader.⁹⁵

C. The conflict until 16 October 1998

Having thus described the main groups of actors in Kosovo, it is possible to provide a description of the campaign mounted by the FRY/Serbian forces in 1998, as well as the attacks and operations launched by the KLA. However, it is not the purpose of the present report to focus on this particular time-period, which was the subject of previous research. The

⁹⁵ For a detailed discussion of the post-conflict KLA organisation, see *Who's Who in Kosovo*, ICG Balkans Report No.76, 31 August 1999, and *What Happened to the KLA*, ICG Balkans Report N°88, 3 March 2000.

Project therefore adopts the conclusions reached in the NPWJ report, particularly noting its discussion of the existence of an armed conflict, in the legal sense described in Chapter III above, in Kosovo in 1998. A detailed description of the events and crimes described in the NPWJ report is thus not here repeated, although it bears mentioning that many witnesses interviewed during the course of the Project gave accounts of these same events and others in the same time-period. This information, as with all else gathered by the Project, has been handed over to the investigators of the ICTY, to be used by them for the strengthening of existing, or the preparation of additional, indictments.

As with the rest of this Chapter, the following outline of the 1998 campaign is general in nature and is provided primarily to illustrate the typical style of the operations carried out by the FRY/Serbian forces and their escalation into 1999. It is by no means intended to minimise the horrific nature of the crimes committed in the earlier period or to ascribe them lesser legal significance. Once again, the reader is referred to other published material relating to the 1998 Kosovo conflict.⁹⁶

While the many attacks and operations carried out in 1998 vary, depending in part on the types of forces involved (VJ, or MUP, or various combinations) and on the level of fighting with the KLA, certain patterns emerge from an analysis of the entire period between March and October. The first observation that can be made is that there is evidenced a significant degree of co-ordination among the various FRY/Serbian forces involved, and some substantial planning, to allow them to work together and perform their separate tasks without hindering one another. It is indeed possible to identify a roughly standard MUP and VJ *modus operandi* when they were engaged in operations in a particular town, village or area and this may be described thus:

“[T]he pattern of attack of these combined MUP and VJ forces consisted of a process lasting three or four days. Having chosen a particular village or area for action, the MUP and VJ forces would approach with armoured vehicles, often including tanks,

⁹⁶ Supra, footnote 72.

seal off the roads leading to the area, and set up positions around or on two sides of the area. From these, the area would then be shelled over a continuous period of time, often a day and a night. This shell-fire was not generally designed to inflict substantial damage on the village or area itself, although civilian casualties often resulted, but to encourage the local population to leave their property and homes. For this purpose, the attacking forces would generally leave a corridor open to allow the fleeing population to move in the desired direction.

After this process was largely completed, the MUP infantry "troops" would enter the village or area and move from house to house, searching for those residents who had chosen to remain in their homes. Such persons would be gathered together in a central area and the men may be separated from the women and taken to a nearby police station for further questioning and detention. The accounts of the witnesses to such events relate the threats, intimidation and physical violence to which they were subjected during this process. At the same time, the police forces in the villages would engage in large-scale looting and destruction of property. Any items of value were taken away on trucks and houses and crops were often subsequently set on fire and livestock killed. In addition, snipers would often be located throughout the relevant area and would often-times fire upon those of the local residents who had been allowed to remain in their homes, or who had been released. After this phase of the operation, the majority of the forces involved would be withdrawn and only a small police contingent left behind to patrol the area and continue the intimidation of the population over the following days."⁹⁷

One also notices how certain operations and attacks coincide with specific events, either internal or external, such as casualties inflicted or advances made by the KLA, negotiations between President Milosevic

⁹⁷ NPWJ report, at p.24. (footnotes omitted)

and the then Kosovar leader, Ibrahim Rugova, or particular meetings at the level of the international community, including the passing of resolutions by the UN Security Council.

As has been noted previously, the start of the clampdown on the KLA and the escalation into armed conflict is generally viewed as occurring around late February and early March 1998, in the Drenica region. This part of Kosovo was an area of particular KLA strength and hence Serbian special police forces were utilised to mount attacks on specific families and villages considered to have close KLA connections.⁹⁸ Significant numbers of civilians were killed as a result and fear and panic quickly spread among the entire population. Rather than achieve the desired goal of discouraging support for the KLA, however, this produced the opposite effect, and the Kosovar fighters continued their guerrilla-style attacks on police checkpoints and vehicles, as well as on occasion kidnapping or executing local Serbs. The police presence in Kosovo was consequently strengthened with the introduction of additional PJP units, and reports began to circulate about the arrival of various, more shadowy, groups, probably associated with the JSO or related paramilitaries.

It should be noted that there were, at this time, members of the European Community Monitoring Mission (ECMM) conducting patrols throughout the FRY, as well as based across the borders in Albania and Macedonia. These monitors were able to observe the build-up of FRY/Serbian forces and the destruction to property inflicted as a result of their operations, although they were not granted full freedom of movement, especially when military operations were under way.

The second main area of operation during April and into May was in western Kosovo, particularly on the road between Gjakove/Djakovica and Peje/Pec, centring on Decane/Decani town and its surrounding villages. As has already been discussed, the VJ had bases in this region, in the Albanian border zone, and it became clear that they were involved in the shelling of towns and villages and the consequent removal of the local population.

⁹⁸ Some of these attacks may also be regarded as retaliation for local KLA activities.

Around mid-May there was a further intensification of fighting with the KLA, and of operations to clear large areas of their Kosovar inhabitants. Of particular note at this time were attacks in the Gjakova/Djakovica municipality, moving from the north-east towards Rahovec/Orahovac. International observers, the local and international media, and humanitarian organisations all reported incident after incident of shelling and burning of homes, organised looting of civilian property, arrests, mistreatment and arbitrary executions, intimidation, ill-treatment and sexual assault of Kosovars. Massive displacement of the population was also reported, within Kosovo and spilling over into Albania, Macedonia and Montenegro. Increasingly, the ECMM was being excluded from particular areas, often for weeks at a time, while operations were being conducted.

These operations continued, despite their condemnation by the international community and the imposition of an arms embargo on the FRY by the UN Security Council. The UN Secretary-General wrote several subsequent reports to the Security Council, describing the violence and calling for an immediate cessation of hostilities.⁹⁹ By June, many parts of the Decane/Decani region had been emptied, with some villages totally razed. Despite this, the KLA were making substantial gains in certain parts of Kosovo, and were establishing their own checkpoints on the back roads, as well as, for short periods of time, on some of the main roads. In response, the VJ further extended its operations into the interior of Kosovo and they engaged the KLA in direct clashes. Of primary importance to the FRY/Serbian forces was keeping their supply routes open, requiring control of all major roads, and they strove to separate the KLA strongholds in Drenica from those in the west. Fighting spread closer to the provincial capital, Prishtina/Pristina, and north towards Mitrovice/Kosovska Mitrovica.

99. See UN Doc S/1998/1221 Report of the Secretary-General prepared pursuant to resolutions 1160 (1998), 1199 (1998) and 1203 (1998) of the Security Council, 24 December 1998; UN Doc S/1998/1068 Report of the Secretary-General prepared pursuant to resolutions 1160 (1998), 1199 (1998) and 1203 (1998) of the Security Council, 12 November 1998; UN Doc S/1998/912 Report of the Secretary-General prepared pursuant to resolutions 1160 (1998) and 1199 (1998) of the Security Council, 3 October 1998; UN Doc S/1998/834 Report of the Secretary-General prepared pursuant to resolution 1160 (1998) of the Security Council, 4 September 1998; UN Doc S/1998/712 Report of the Secretary-General prepared pursuant to resolution 1160 (1998) of the Security Council, 5 August 1998; UN Doc S/1998/608 Report of the Secretary-General prepared pursuant to resolution 1160 (1998) of the Security Council, 2 July 1998; UN Doc S/1998/470 Report of the Secretary-General prepared pursuant to resolution 1160 (1998) of the Security Council, 4 June 1998; UN Doc S/1998/361 Report of the Secretary-General prepared pursuant to resolution 1160 (1998), 30 April 1998.

Around this time, President Milosevic agreed to the presence in Kosovo of small numbers of international diplomatic observers, who divided into three groups (the European Union; the United States and Canada; and Russia) known as the Kosovo Diplomatic Observer Missions (KDOM). Despite the terms of the agreement, KDOM patrols were denied access to many areas over the following weeks and months, as had been the ECMM before them, although they sometimes arrived immediately after an attack and could assess the damage to property and, to some extent, the casualties involved.

The end of July appears to mark another turning point, in particular after heavy fighting in and around Rahovec/Orahovac, leading to the killing of large numbers of Kosovar civilians and the departure of the KLA towards Malisheve/Malisevo. After these events, the details of which were recorded widely and with significant controversy in the press, it seems that the final push against the KLA was mounted by the FRY/Serbian government forces. Further reinforcements were brought in from Serbia and August and September witnessed the most intense period of “sweeps” on towns and villages throughout Kosovo. During the course of these, violations of international humanitarian law such as killings and mistreatment of civilians, the deliberate targeting of civilian property and dwellings, the destruction of livestock and crops, the plunder of private property, the indiscriminate bombardment of civilian areas, the pollution of sources of drinking water, and the forced expulsion of people from their homes, were widespread. Moreover, these atrocities cannot be ascribed to “rogue elements” within the Serbian/FRY forces, for they were carried out on such a scale and in such a manner that a policy to violate the laws of armed conflict is evident.¹⁰⁰

By the beginning of October, there was a marked decline in the attacks mounted by the FRY/Serbian forces, primarily due to the fact that they had largely achieved their objectives, coupled with strong international pressure. The Prime Minister of Serbia had already announced that all “anti-terrorist activities” in Kosovo had been completed, after the passing of Security Council Resolution 1199, under Chapter VII of the UN Charter.

¹⁰⁰ See conclusions of the NPWJ report.

This resolution called for an immediate cease-fire and an international monitoring presence in Kosovo. At this time, the UNHCR estimated that 294,100 Kosovars had been displaced by the conflict,¹⁰¹ the majority of whom remained within the territory, having been moved from area to area as the fighting progressed. On 16 October 1998, following the threat of NATO air-strikes, President Milosevic agreed to a full cessation of hostilities, a reduction in the number of military and security forces in Kosovo, and the presence of an international verification mission under the auspices of the Organisation of Security and Co-operation in Europe.

D. Developments over the winter and the spring offensive

A detailed account of the mandate and activities of the OSCE monitors, collectively known as the OSCE Kosovo Verification Mission (KVM), their insertion into Kosovo, the problems that they faced in carrying out their tasks, and their eventual withdrawal can be found in the OSCE report entitled *Kosovo/Kosova: As Seen, As Told*.¹⁰² It is sufficient to note in the present context that the KVM conducted patrols throughout Kosovo, beginning in November 1998. It quickly became evident that the government of the FRY was not complying with its undertaking to withdraw large numbers of VJ and MUP forces from the province. Rather, it is possible in retrospect to perceive that these forces were simply being prepared for a new offensive to destroy the KLA once conditions were more favourable. The KLA itself used the lull in fighting, of November and December, to re-arm, re-equip and gather and train new recruits.

By the end of December, reports of further FRY/Serbian troop movements and clashes with the KLA were being reported in the international press. Fears grew for the safety of members of the KVM, who were simply unarmed monitors and not peace-enforcers. In mid-January 1999, their position became even more precarious, after the killing of forty-five Kosovars in the village of Recak/Racak. The KVM attempted to investigate the massacre and condemned the Serbian authorities deemed responsible, provoking demands from Belgrade that its Head of Mission, Ambassador William Walker, leave Kosovo.

101 UN Inter-Agency Situation Report 66, 30 September - 6 October 1998.

102 OSCE, *As Seen, As Told*.

Political and diplomatic initiatives to resolve the dispute over the status of Kosovo and end the conflict between the FRY/Serbian governments and the KLA were again pursued in early 1999 and a conference was convened at Rambouillet, in France, at the beginning of February. Serbian and Kosovar Albanian leaders met over a period of two weeks to discuss the terms of a settlement, that had been put together by representatives of the Contact Group countries.¹⁰³ However, these terms ultimately proved unacceptable to the Serbian government representatives¹⁰⁴ and it became evident that they were simply using the negotiations as a diversion. Their forces were again being built-up in the province and by mid-March had recommenced their campaign against the KLA and the Kosovar population as a whole. On 20 March, the KVM monitors were swiftly withdrawn as NATO, utilising the activation orders issued by NATO on 13 October 1998,¹⁰⁵ issued a final ultimatum demanding Serbia's agreement to the proposed settlement. On 23 March, the government of the FRY issued a decree declaring an imminent threat of war and the following day, as NATO forces began the aerial bombardment of targets within the FRY, declared a state of war.

E. Overview of the FRY/Serbian campaign from March to June 1999

As indicated in the introductory and methodology chapters of this report, our primary focus is on certain areas of western Kosovo, areas in which the Project operated and gathered many hundreds of witness statements. Interviews with refugees in Albania during the earlier phase of the Project, however, related to many incidents occurring throughout the territory and it is certainly the case that events in towns and villages not expressly discussed in Chapter V below may also constitute serious violations of international humanitarian law. In addition, insofar as a pattern is demonstrated by the more detailed descriptions of events within this report, these may be considered as extending further to the

¹⁰³ The Contact Group comprises the UK, France, Italy, Germany, Russia and the US.

¹⁰⁴ Representatives from the FRY were present in addition to the Serbian President, Milan Milutinovic.

¹⁰⁵ See "Statement to the Press by the Secretary General following Decision on the ACTORD", (13 October 1998). On 30 January 1999 the North Atlantic Council permitted the NATO Secretary General to authorise air strikes against targets on FRY territory, "Statement by the North Atlantic Council on Kosovo", NATO Press Release 99/12.

rest of Kosovo.¹⁰⁶ Bearing this in mind, it is useful to make a few remarks on the campaign conducted by the FRY/Serbian armed forces in Kosovo in the latter weeks of March until mid June 1999.

As will be discussed in more detail below, it is important to examine the 1999 conflict on a number of levels. From the preceding sections it is clear that hostilities between the FRY/Serbian forces and the KLA had been ongoing since, at least, early 1998. While fighting between them was at some times more and at other times less intense, it continued into 1999 and throughout the period of the NATO air-strikes. Given the evacuation of international personnel from Kosovo towards the end of March, it is difficult to gauge the progression and extent of the clashes between the KLA and the FRY/Serbian forces in this latter period, although media and other reports reveal that they were indeed significant. In addition, the FRY/Serbian forces in Kosovo were engaged in the defence of the State as a whole from the attacks by NATO. This encompassed air-defence, as well as preparations for a possible ground invasion of Kosovo, either through Albania, or through Macedonia. The FRY/Serbian forces thus went to great lengths to shield themselves from being struck by NATO bombs, concealing personnel and equipment in civilian areas and buildings such as factories and warehouses, and moving locations frequently. They also engaged in activities such as the laying of anti-personnel and anti-tank mines, primarily in the border regions.

With these two elements in mind, it is crucial to discuss the 1999 conflict in Kosovo at another level - that of a campaign conducted against the Kosovar population as a whole, intended to terrorise them into submission and expel them from the province. The goal driving the campaign may have borne some relation to the ongoing conflict with the KLA and/or the conflict with NATO, but it was not coterminous with them, nor are its aims or methods in any sense justifiable in response to them.

By the time the NATO air-strikes commenced, thousands of Kosovars were already fleeing their homes, which were coming under heavy attack

¹⁰⁶ It is not intended to imply that all areas witnessed the same degree of violence or were the sites of the same number of individual attacks and operations, but simply that patterns identified may have been repeated in other areas not discussed and the policy element should be considered as part of a policy towards Kosovo and its inhabitants as a whole.

from the VJ, MUP and paramilitary forces that had been steadily built up in the region since the beginning of the year. This fact alone should serve to dispel the myth propagated in Belgrade that the flow of refugees out of Kosovo was due to the NATO bombardment itself. A further misconception widely spread was that, by bombing the FRY, NATO had somehow instigated the attacks on and mistreatment of the Kosovar population that soon became evident. This view demonstrates a misunderstanding of the background to and circumstances of the most recent violence against the Kosovo population, which it is hoped the present report will remedy.

VJ and MUP forces, acting together with paramilitary groups, launched attacks in the municipalities of Glogovac/Glogovac, Istog/Istok, Kacanik/Kacanik, Rahovec/Orahovac, Decane/Decani, Gjakova/Djakovica and Malisheve/Malisevo several days before the NATO operation commenced. These involved the shelling of many towns and villages, followed by the forced eviction of their Kosovar inhabitants. In other areas, this initial period of days was one in which local political, intellectual and religious leaders, as well as journalists, lawyers, doctors and human rights activists, were increasingly harassed, arrested and mistreated. Many of these individuals fled Kosovo with their families at this time. In larger towns such as Peje/Pec and Prizren, tension was high and shootings and other violent incidents multiplied, particularly involving groups of paramilitaries there present.

On and after 24 March, the attacks by combined FRY/Serbian forces reached a new level of intensity, with thousands of witnesses, from many parts of Kosovo, reporting that their homes were suddenly shelled, their livestock killed and their property burned or stolen. In addition, as will become apparent in Chapter V below, the standard format for these attacks involved killings, beatings, sexual assaults, and other forms of physical and mental abuse.

Not only the rural areas were targeted in these attacks. In the provincial capital, Prishtina/Pristina, FRY/Serbian forces began violently expelling the Kosovar occupants of neighbourhoods such as Dragodan and Vranjevac, as well as from the villages close by. This occurred in similar style in the towns of Podujeve/Podujevo, Suhareke/Suva Reka,

Gjakovë/Djakovica, Peje/Pec and Prizren. In Prishtina/Pristina, large numbers of civilians were herded to the railway station and on to trains going to Macedonia. In other areas, the direction of expulsion was also controlled by the FRY/Serbian forces, who either ordered the expelled Kosovars to go to particular locations, or simply channelled them in the desired direction. In many urban areas, it appears that lists were used by the FRY/Serbian forces to select particular individuals and families for execution, mistreatment or arrest/abduction. In Mitrovica/Kosovska Mitrovica, such lists contained the names of Kosovar political activists and other community leaders. This method, also reported in other parts of Kosovo, including in some villages, permitted the FRY/Serbian forces to target known or suspected KLA members and their families on the basis of information often provided by local Kosovo Serbs.

The imprisonment of Kosovar men deemed of fighting age, who were known or suspected to belong to the KLA, is widely reported. Such men were rounded up and taken away before, during and after FRY/Serbian operations in towns and villages across Kosovo. They were then held in prisons and MUP stations, both in Kosovo and in Serbia, throughout the conflict and were violently interrogated and subjected to various forms of mistreatment. Many individuals remain missing, despite the attempts of their families to trace them.¹⁰⁷ They were often not formally charged, nor taken before any judicial authority to determine whether they had committed a crime.

For example, witnesses recall that on 21 May, MUP forces in dark blue camouflage uniforms entered the village of Hajvali, south of Prishtina/Pristina, and detained 300-400 men suspected of KLA membership. All were given a paraffin test on their hands to see if they had recently fired guns. Forty-one were then further detained, divided into two groups and taken to Lipjan/Lipljan prison.¹⁰⁸ Witnesses state they were beaten both on the way to and on arrival at the prison. There, due to overcrowding, they had to sleep on the floor with only their shoes to use as pillows. Daily rations consisted of only one piece of bread and

¹⁰⁷ As of 1 February 2000, the International Committee of the Red Cross estimated that 2,987 persons from Kosovo remained unaccounted for. See "Missing Persons from the Kosovo Crisis: the ICRC Response," available at <http://www.icrc.org>.

¹⁰⁸ Witnesses assert that they had not fired any weapons or handled explosives and yet were among those detained after having been tested with paraffin.

some water. Witnesses state that many people could be heard screaming and sustained injuries during interrogations. In early June they were taken to Serbia in a convoy of buses, which stopped at different prisons in different cities, the first stop being Nis. At some places the buses were stoned by Serb civilians and hit with rifle butts. Some prisoners were incarcerated in Srem prison in Sremska Mitrovica. There, according to witnesses, ninety people were kept in a cell of six metres by fifteen metres. Once again, they were subject to interrogations, involving being beaten by several guards. Other witnesses, arrested at different times and in different locations, describe similar acts of violence and a variety of mistreatment while being held in prisons such as Prizren/Prizren and Smrekonice/Smrekovnica (Vushtrri/Vuciturn municipality).

There are fewer reports of women being detained for prolonged periods of time, although this also occurred. Women were, however, targeted for particular forms of abuse, such as rape and sexual assaults, killing, insults, and threats against themselves and their children. The documentation of crimes against women, particularly of a sexual nature, is often extremely difficult and is even more so in the context of Kosovar society and culture. Women who speak out about being raped or abused sexually risk serious social consequences and even ostracism and it is for this reason, in addition to the normal psychological trauma and sense of shame, that many remain silent. Nonetheless, some women, either victims of or witnesses to rape and sexual assault at the hands of the FRY/Serbian forces, have recounted their experiences and it is likely that further accounts will emerge as time progresses.

The systematic expulsion of civilians, with the attendant brutality and killing illustrated by events described below, was conducted swiftly, in a wave across Kosovo, at the end of March and beginning of April. In some areas, the main offensive came slightly later, such as in Mitrovica/Kosovska Mitrovica and Lipjan/Lipljan, but in general houses were emptied early on in the conflict, with their occupants either forced to flee to neighbouring countries, or else displaced internally. Those remaining within Kosovo often did not move far from their homes and villages. They would take shelter in nearby forests or hills, in the hope of returning to their houses after the FRY/Serbian forces had passed through. Often, however, they would return to find their property stolen

or destroyed, their houses uninhabitable and sometimes mined, and they would also fall victim to the groups of FRY/Serbian forces patrolling round an area and engaging in further looting and destruction.

Thus, through the second half of April and into May, the majority of attacks on towns and villages were either in the nature of secondary “sweeps”, or were directed against more remote areas. They also incorporated raids on the homes of specific individuals or families about whom particular information had been gathered. It should be noted that persons associated with the departed OSCE-KVM monitors were marked for such “special” treatment, as were those connected with organisations such as the Mother Theresa society, the LDK (the Democratic League of Kosovo) and other political parties, the CDHRE, the Humanitarian Law Centre and the well-known Kosovar newspaper, Koha Ditore. These organisations’ offices and buildings were often also targets of particular attack, as were mosques and other buildings of religious or cultural significance.

While the expulsion campaign conducted by the FRY/Serbian forces was primarily directed at the Kosovar Albanian population of the province, statements gathered in the course of the Project also relate to the mistreatment of minority groups such as the Roma, who, in certain areas, were expelled along with their Kosovar neighbours. The treatment of these minority groups seems to have varied from region to region. Some witnesses report Roma, in particular, as involved in the activities of the FRY/Serbian forces. Others reveal that the Roma were threatened and forced by the FRY/Serbian forces into performing tasks such as the digging of trenches, the collection, burial, exhumation and reburial of corpses and the tending of cattle. There are also reports of the arrest and mistreatment of members of minority groups, both by the FRY/Serbian forces, who suspected them of involvement with the KLA, and by the KLA, who accused them of collaborating with the Serbs.

By early May, approximately 723,000 Kosovars from towns and villages in Peje/Pec, Gjakova/Djakovica, Decane/Decani, Rahovec/Orahovac, Prizren/Prizren, Suhareke/Suva Reka, Malisheve/Malisevo, Kline/Klina, Istog/Istok, Skenderaj/Srbica, Glogovc/Glogovac, Lipjan/Lipljan, Ferizaj/Uroševac, Kacanik/Kacanik, Shtime/Stimlje, Prishtina/Pristina,

Kopiliq/Obilic, Vushtrri/Vuciturn, Podujeve/Podujevo, Mitrovica and most of the other municipalities had left the province as a result of the campaign of violence and expulsion levelled against them.¹⁰⁹ Thousands more remained internally displaced. It should be noted that the outflow of Kosovars into Albania and Macedonia was closely controlled by the Serbian/FRY forces on the Kosovo side of the borders through coordinated opening and closing of the border crossings. There are also countless reports of these forces seizing identity documents and vehicle licence plates, as well as other valuables, from the departing refugees.

Images from the border-points with Albania and Macedonia and from the rapidly expanding refugee camps and centres in these countries and others were shown daily in the international media. Political and diplomatic attempts to negotiate an end to the NATO air-strikes and insert an international military force into Kosovo to monitor the withdrawal of Serbian/FRY forces and return home of the displaced Kosovars intensified. On 24 May 1999, FRY President Milosevic, along with four others including the President of Serbia and the VJ Chief of Staff, was indicted by the International Criminal Tribunal for the former Yugoslavia, for crimes against humanity and violations of the laws or customs of war, committed in Kosovo.¹¹⁰ Finally, on 10 June, after the signing of a Military Technical Agreement by representatives of the FRY and of NATO and the beginning of a Serbian/FRY withdrawal from Kosovo, the NATO air-strikes were suspended. The same day, the UN Security Council passed Resolution 1244 under Chapter VII of the UN Charter, laying out the general principles for a political solution to the conflict and authorising the deployment of an international security presence in Kosovo. On 12 June, NATO forces making up the Kosovo Protection Force took up positions in Prishtina/Pristina and oversaw the complete withdrawal of FRY/Serbian forces from the province.

After this withdrawal of the FRY/Serbian forces and the deployment of KFOR, a new wave of displacement occurred, this time of the minority Kosovo Serb population and of other minority groups such as the Roma. From the beginning of June onwards, members of these groups were

109 OSCE, *As Seen, As Told*, citing the UNHCR statistics for 5 May. This rose to around 862,000 refugees by 9 June 1999.

110 *Prosecutor v. Slobodan Milosevic, Milan Milutinovic, Nikola Sainovic, Dragoljub Ojdanic, Vlastko Stojiljkovic*, Indictment, 24 May 1999, IT-99-37 ("Milosevic Indictment")

persistently targeted for harassment, abuse, abduction and killing, and often had their homes attacked and burned.¹¹¹ It is widely speculated that members of the KLA were involved in many of these attacks, although this was officially denied, and there can be no doubt that they were generally acts of retribution against people considered to be connected with the previous campaign mounted against the Kosovars.¹¹²

¹¹¹ See OSCE/UNHCR report, *supra* footnote 27.

¹¹² As stated above, these acts are not the focus of the present report, being more in the nature of criminal acts also constituting serious abuses of human rights, committed after the conclusion of an armed conflict.

V. SEVEN MUNICIPALITIES IN KOSOVO: THE 1999 FRY/SERBIAN CAMPAIGN

Having given a general overview of the campaign conducted by the military and security forces of the FRY, and particularly the Republic of Serbia, in the first half of 1999, it is useful to describe in some more detail several defined regions of Kosovo. By doing so, it is possible to examine some specific incidents or operations and fit these into a more general pattern, which can then be discussed in relation to the legal provisions outlined in Chapter III.¹¹³ It must be emphasised that the particular geographical areas discussed are not the only, or even the primary, locations of the commission of serious violations of international humanitarian law. Rather, those areas examined are the municipalities where the Project conducted the majority of research. As has been stated in the methodological outline above, a number of practical considerations led to the decision that the Project should start operating in the Gjakova/Djakovica municipality, and from there spread outwards, and these reasons need not be revisited.

The following section is therefore constituted by an analysis of the events in the municipalities of Decane/Decani, Gjakova/Djakovica, Rahovec/Orahovac, Malisheve/Malisevo, Istog/Istok, Suhareke/Suhareke and Prizren. The picture of events here presented has been compiled by each of the Project international legal staff assigned to these areas, on the basis of the statements gathered from witnesses to those events and more general discussions with local and international sources. It should be noted that the creation of such a picture for each of the individual municipalities depended very much on the number of witnesses available and the period of time in which the international legal staff were able to gather and analyse this and other information. Thus, for some municipalities where the Project operated for a longer period of time,

¹¹³ This section will merely outline the factual elements of the 1999 campaign. Chapter VI will discuss the legal consequences of the facts thus described.

there was a larger pool of witness statements from which to draw. These sections are therefore longer than those relating to municipalities where less time was available and thus where less information was gathered. In addition, differences in style and structure among the municipality sections reflect the nature of this report as a combined work, involving several individuals. It further goes without saying that the events and incidents here described by no means represent the totality of potential violations of international humanitarian law that were committed in any of these municipalities.

It should also be added that the Project assigned specific international legal staff to the investigation of the abuse of minority populations in Kosovo. Approximately 160 statements were gathered from Kosovo Serbs, Muslim Slavs, Turks, Catholic Albanians and Roma groups (including Roma, Gypsies and “Egyptians”). Where such information indicates the commission of violations of international humanitarian law in the time period here in question, it is included in the following sections on a geographical basis.

Finally, in order to render the text of the following sections more readable, it has been decided not to render all place names in the manner Albanian/Serbian in the remainder of this section. Given that the majority of information gathered by the Project was from persons using the Albanian version of names, and that it has already been stipulated that no meaning is attached to the use of one language or another, it is this version which is used predominantly in this section. Appendix B details the Serbian names of all the towns and villages here referred to in the Albanian.¹¹⁴

A. Decane/Decani

1. Introduction

The municipality of Decane is located at the western edge of Kosovo. It is bordered to the north, east, and south by the municipalities of Peja and Gjakova, to the north-west by the Republic of Montenegro, and to the

¹¹⁴ Place-name spellings used in Appendix B are largely drawn from OSCE, *As Seen, As Told*. For some villages no alternate name could be identified.

southwest by Albania. Prior to the spring of 1998, Decane had a population of approximately 62,000, of which more than 95 per cent of were Kosovar Albanian and the other 5 per cent were made up of Kosovo Serbs and Roma. Following the conflict between the KLA and FRY/Serbian forces in 1998, Decane's population had declined to between 15,000 and 20,000 people. There are approximately 42 towns and villages in the municipality, where farming and trade are the chief economic activities. The largest towns are Decane, Junik, Isniq and Strelc i Eperm.

The chief source of information for this section of the report was a body of some 300 statements taken from witnesses to events in Decane by human rights activists in Albania and Kosovo, in partnership with the Project. Other sources of information included interviews with members of the local community, representatives of various international organisations and publicly available material, which were used to contextualize the events described by witnesses.

While it is not intended to here discuss incidents occurring in Decane in 1998 in any detail, it is extremely important to an understanding of the 1999 campaign in this particular municipality to note the consequences of the earlier campaign on the population. As mentioned above, armed clashes in Decane began towards the end of March 1998, when the KLA began to strengthen their positions in the region and attacks by the VJ and MUP forces commenced. These FRY/Serbian forces began a military build-up throughout Decane and paramilitaries also appeared, widely thought to be based in or near the Serbian Orthodox monastery in Decane town. The paramilitary forces reportedly included Serbs from both Kosovo and Serbia, and were believed to have been responsible for scattered atrocities committed in April and May.

In the late spring and summer of 1998, the KLA controlled the towns of Junik, Jasiq, and Gjocaj near the Albanian border, and a 75-100 square kilometre area east of the Gjakove-Peje road, stretching from Strelc east to Vranoc and south to Gramaqel. For a period of some four weeks in May and June, the KLA even managed to block the main road approximately two kilometres south of Prejlep. A similar attempt to block the main road north of Decane near Strelc failed and FRY/Serbian forces never lost control of Decane town itself.

In response to the gains made and offensives launched by the KLA, the FRY/Serbian forces targeted their fundamental support-base, the towns and villages throughout the municipality. As a result of heavy shelling, primarily by the VJ forces located along the border, thousands of people began to flee their homes around May 1998. MiG fighter planes and helicopters were also reportedly sent from the large army base at Zgermle (Peje) to bomb the area. Local sources report that the bombing began early each morning and continued daily from May until September. Also participating in these attacks were MUP forces who shared the Baballoq and Bites bases with the VJ, and paramilitaries who maintained a presence at the Hulaj army base. According to local witnesses, the MUP used light weaponry and helicopters, while the paramilitaries shared heavier weaponry, as well as planes, tanks and helicopters, with the VJ.

As discussed previously, reinforced contingents of VJ soldiers, MUP forces and paramilitaries gradually pushed their way into KLA-controlled areas throughout central and western Kosovo. In Decane, Junik fell to VJ forces on 13 August 1998, after prolonged shelling and a ten-day siege. Soldiers reportedly razed the town and ordered residents to leave for Albania. Meanwhile, the KLA-controlled area east of the main road contracted over a period of several weeks, finally collapsing in early September, when a unit of KLA fighters retreated into the mountains.

The northward advance of FRY/Serbian forces from their bases at Baballoq and Bites sparked another mass displacement of civilians from Decane in August 1998. Some of these displaced people fled west by night to Albania, but this was a dangerous crossing and so many others moved northwards within Decane as the KLA fighters retreated. Many who remained in their villages after this KLA retreat were ordered by VJ, MUP and paramilitaries to go to Decane town, which remained firmly under FRY/Serbian control, so that by September many homes in the town held two or three families. Meanwhile, internally displaced persons (IDPs) fleeing attacks in the regions north and east of Decane, including Peje, Kline, Malisheve and Rahovec, flooded into the area north-west of Decane town, particularly around the villages of Broliq, Dubove, and Isnjq. By September this area had swelled with some 40,000 IDPs, while much of the remainder of Decane had been depopulated.

The final mass movement of civilians in the summer of 1998 took place when MUP troops forced these 40,000 IDPs to leave Isniq in early September. Around 10,000 fled westward into the mountains on 9 September. According to a Decane resident who was part of this group, they reached Montenegro after a four-day trek through the mountains. In Montenegro they were held and ill treated by police and army special forces before being loaded on to trucks and driven to the Albanian border. The other 30,000 either left Kosovo at another time, returned to their homes, or remained displaced within Kosovo. Overall, this period of conflict in Decane resulted in some 200 civilian deaths, the displacement of at least two thirds of the population, and the destruction of approximately 50% of the civilian dwellings.¹¹⁵

While both the KLA and the FRY/Serbian forces regrouped following the October agreement between President Milosevic and Ambassador Holbrooke (Holbrooke-Milosevic agreement), by December further clashes between them ensued in Decane. Due to its location on the border, FRY/Serbian forces retained a heavy presence in the municipality, with MUP troops manning dozens of stations and observation posts, many of which changed location on virtually a daily basis.¹¹⁶ These MUP troops, including commanding officers, were rotated in and out of Decane every three weeks, while VJ troops were more permanently stationed at their Zgermle, Hulaj, Junik, Baballoq, and Suka bases. KVM monitors reported that VJ and MUP forces engaged in joint exercises during this time and also noted the presence of MUP special forces. Restrictions on travel and access to information prevented KVM from confirming the presence of other police or irregular forces in Decane in this period, but members of the local population reported that paramilitary forces maintained their presence at or near the Decane monastery, at the Hulaj base, and at the new VJ base at Podi i Geshtenjave, where 'Panthers,' the name of one paramilitary group, is spray-painted on the walls of one building.

Both international and local observers noted constant troop movements in January and February 1999 and a clear build-up of both VJ and MUP

¹¹⁵ OSCE, *As Seen, As Told*.

¹¹⁶ According to a KVM observer present in Decane during this time, monitors were given maps with observation point locations noted on them, but by the time the maps were printed and distributed these had shifted to other locations.

forces in March, after the collapse of the Rambouillet talks. The KLA was also active in Decane during this time, fighting FRY/Serbian forces near Irzniq in late March and around Maznik, Ratishi, and Saptej. A KVM monitor from Junik observed in early March that large numbers of VJ reserves were arriving, notable for the poor quality of their equipment and clothing. Vehicles, equipment, and weaponry were also observed arriving on trucks in Decane town. These forces and war materiel would soon be put to use in clearing out virtually the entire remaining population of the municipality.

2. The campaign in Decane, late March to May 1999

The pattern of violence, intimidation and expulsion of the Kosovar population in the Decane municipality mirrors that of many other regions of Kosovo following the commencement of the NATO bombardment on 24 March 1999. Individual villages were attacked by FRY/Serbian forces, their Kosovar inhabitants driven out through fear, or on the direct order of these forces. Most of the homes in the villages were burned as the residents fled, or soon thereafter. In addition to such attacks, it is clear that in Decane the FRY/Serbian forces were operating a system of collection points which they could use to control masses of displaced people and efficiently herd them out of Kosovo. The town of Isniq served as the main regional collection point, from which the several tens of thousands of people who gathered there in late March and early April were easily pushed along the main road to Albania. Smaller collection points included the village of Beleg and a small area of north-west Gjakova, where IDPs from Junik were concentrated. The Kosovar residents of Decane municipality were thus funnelled on to two main routes out of Kosovo, one leading from Isniq south along the main road to Prizren and the Albanian border; the other leading from Junik through the towns of north-western Gjakova to Gjakove town and then on to the same main road to Prizren. The movement of hundreds of thousands of persons along these routes was closely monitored and controlled by FRY/Serbian forces, who manned a highly efficient series of checkpoints along the way.

This operation was completed in Decane by the end of April, leaving the municipality virtually empty. The following description provides a

people fled south-east towards Sheremet, Bistrazhin, Meje, and Gjakove, as discussed in section B below. The village of Llocan was also shelled on 27 March, from bases at Podi i Geshtenjave, Polane, and Pobergje. Once again, VJ, paramilitaries, and police forces then entered the village and proceeded to set fire to a number of village homes. Some of the MUP forces involved also shot into a crowd of fleeing villagers, killing three women. Those who fled at this time went through Lluke e Eperme to Decane town and from there to Isniq.

Lluke e Eperme was also attacked on 27 March, where the inhabitants there were given just thirty minutes to leave their homes by VJ soldiers and paramilitaries. South of Decane town, FRY/Serbian police and paramilitaries also entered the village of Carrabreg in armoured vehicles and forced the local population to vacate their houses. These villagers moved towards Gjakova, but were turned back at Hereq. The next day, the FRY/Serbian forces returned to Carrabreg, rounded up the population in similar manner, and sent them to Beleg.

Witnesses report that, on 28 March, VJ troops, MUP forces and paramilitaries with their faces "painted" entered the village of Strelc i Eperm and ordered the inhabitants to leave within two hours. The women and children fled to Strelc i Poshtem, whereas many men sought refuge in the nearby mountains. These witnesses further report that the FRY/Serbian soldiers, police, and paramilitaries returned on 2 April to loot and burn the village. The village of Lubinje i Poshtme was also shelled on 28 March, by unspecified FRY/Serbian forces, and the villagers fled in different directions, many eventually moving through Isniq and there joining a convoy travelling south on the main road towards Prizren and the Albanian border. Also in this column from Isniq were residents displaced from Lebushe and Papraqan, who had been ordered out by MUP and police forces and told to go to Albania that same day.

On 29 March 1999, the FRY/Serbian attack on Beleg began, which will be described in some more detail below. There are many witness accounts of police, soldiers, and paramilitaries with automatic rifles dividing the Kosovar men from the women, robbing them, holding the men under armed guard in one building and holding women in a different house overnight. Nine men are known to have been shot dead during this

arrests/abductions and mistreatment of the remaining Kosovar population. However, FRY/Serbian forces did attack the village of Ratishi on this day, and are reported to have killed three men in the process. In Gramaqel, Serbian paramilitaries (possibly incorporating some Russian mercenaries) abducted four local men, accusing them of being members of the KLA. The four were found killed the next day, having been shot at close range and their bodies mutilated. Three local residents subsequently approached the VJ for permission to bury the bodies. They were told to walk toward Saptej in order to pick up the bodies, and, according to local residents, were ambushed and killed by paramilitaries along the way. Similarly, on 14 April, masked Serbian paramilitaries, described by one witness as members of the Black Hand organisation, arrived in the village of Dubrave and abducted and killed two Kosovar males, one of whom lived long enough to tell local residents that the paramilitaries had demanded money.

The campaign was swift and effective. Local sources estimate that by mid April no more than 2,000 Kosovars, including several hundred men hiding in mountains near Strelc i Eperm, Beleg, and Ratishi, remained from a pre- 24 March population of approximately 20,000.

The witness statements point to a high degree of co-ordination and co-operation between the various FRY/Serbian forces involved in the expulsion campaign. Members of the MUP appear to have participated in almost all of the above-described actions, usually with, but on occasion without, VJ or paramilitary support. Paramilitary groups and VJ soldiers acted alone at times, although generally more for performing 'mop-up' functions rather than as expulsion forces, and they continued the harassment of and the infliction of violence upon the few remaining Kosovar residents. No witness statement identifies VJ units as having acted alone to expel residents from a town or village.

As the chronology suggests, the methods employed by FRY/Serbian forces to expel Decane residents were efficient, brutal, and largely uniform across the municipality. Witnesses from throughout the municipality independently described their displacement in almost identical terms: police working alone or with paramilitaries and soldiers would enter the village and order the villagers to leave, sometimes

grouping them in the centre of town and herding them toward a main road under armed guard, sometimes giving them a time limit of as little as fifteen minutes to pick up and leave. The village would then be torched. An elderly witness who refused to leave Isnqi reports that police came to his home on 5 April, and told him they had an order to burn the town. The next day, forces in multi-coloured uniforms, some with shaved heads and yellow ribbons tied around their necks, systematically burned some 275 houses. These forces returned in the following days to loot household goods from the remaining homes. Another witness who remained hiding in Strelc i Poshtem after the other residents had been expelled reported that soldiers went systematically from house to house, throwing small incendiary canisters through the windows.

Sometimes expulsion took place without warning when FRY/Serbian forces would begin shelling or burning a town or village. In addition, military aged men were often arrested and held after the rest of the population had departed. Some of these men were killed, some taken away to prison, many remain unaccounted for. Particular individuals were in several cases singled out for execution. Witnesses said that those who attempted to remain in their village - whether old people unable or unwilling to leave, or young men hiding out - risked being shot on sight by FRY/Serbian forces who continued patrolling villages after they had been depopulated.

4. Case study: Beleg

Having described the FRY/Serbian campaign in Decane in chronological sequence, a more specific focus on the village of Beleg and its surrounding area provides further insight into the type of violence and brutality inflicted upon the Kosovar population in the course of the campaign as a whole. Clearly, not every single attack or operation involved exactly the same level of violence and destruction and much might depend on the presence of particular individuals or groups during and after operations. Indeed, it is sometimes possible to trace the movement of such individuals and groups on the basis of their particular "style" of killing and terrorisation. However, while the

the region. Furthermore, a number of witnesses identified the Decane Chief of Police as having been in general charge of the operation, as well as participating directly.

5. Expulsion from Isniq

Of further note in relation to the Decane municipality is the strategic use of certain locations by the FRY/Serbian forces to channel the Kosovars they expelled out of Kosovo. The main collection point in Decane was the town of Isniq, to which tens of thousands of displaced people fled in late March and early April, and from which they were promptly driven in a mass convoy leading south along the main road to Prizren and the Albanian border. Smaller collection areas for displaced people from Decane included Beleg and a series of villages in north-western Gjakova.

Isniq, located approximately 10 kilometres north-east of Decane town, had also been a gathering point for displaced persons in August and September 1998, when several tens of thousands of Kosovars fleeing attacks on their towns and villages by the FRY/Serbian forces sought refuge there. Again in 1999, civilians from all parts of Decane, with the exception of the Junik area,¹²⁰ as well as from Peje, again moved toward Isniq in the days after 24 March. According to witness statements, residents from towns and villages to the east of Isniq (including Lumbardh, Papraqan, Broliq, Vranoci i Vogel, Kodrali, and Maznik), to the north and west (including Strelc i Eperm, Strelc i Poshtem, and Lebushe) and even to the south (including Llocan, Carrabreg, Decane town, and Katuni i Ri) came to Isniq in late March and early April, at which point they were systematically pushed south. The number of IDPs who passed through Isniq in late March and early April is not precisely known; witness estimates range from 26,000 to as high as 75,000.

The circumstances surrounding this concentration of people in Isniq strongly suggest that the swelling of the town with IDPs was not

¹²⁰ Most residents of this area moved south, into Gjakova.

27 April. The VJ had assumed control of Junik at the outset of the NATO campaign,¹²² giving FRY/Serbian forces easy access from the north when the time came to push the people in these villages south-east along the road leading to Gjakova and the main road to Prizren. A map of the area left behind by VJ soldiers in Isniq, marked with radio codes, force positions ringing the villages on three sides, and arrows in three colours indicating the direction in which the populations were to be moved, virtually confirms that this was the intended plan.

The IDPs and residents gathered in these villages were in turn expelled, in the same manner as the pattern described throughout this section, on 14 April. A large convoy began moving along the road towards Gjakove town. Just after the convoy reached the main road, near the bridge at Bishtazhin, it became the target of a NATO air-strike, resulting in many casualties. One witness reported that a tractor in front of him and two behind him were hit, and that approximately 70 people were killed by the bombing. Most of those who survived were ordered back by FRY/Serbian forces to the same villages from which they had been driven that morning. The IDPs from Junik and the residents of north-western Gjakova thus remained in this collection area until 27 April. Several Kosovar men from the convoy are also reported by witnesses to have been killed by FRY/Serbian forces on 14 April, at a checkpoint near the Tabakut bridge in Gjakove town.

From all of the above information, it is clear that the expulsions from Decane proceeded quickly, efficiently, and brutally. This was aided by the creation of a system of FRY/Serbian checkpoints, located at strategic points along the route to Albania. The first of many checkpoints that the IDPs from Isniq encountered was in Decane town itself. Witnesses report seeing persons in blue MUP uniforms, some dressed all in black with red armbands, some dressed in green and yellow camouflage uniforms, and some in civilian clothes, manning this checkpoint. This served the same two purposes as did countless similar checkpoints set up throughout Kosovo during late March, April, May and early June: to rob people of their money, valuables, and sometimes their vehicles, and to select individual Kosovars for arrest, mistreatment or simple execution.

¹²² Several witnesses from Junik report that VJ soldiers were quartered in their homes from late March until they pulled out in early June. Upon leaving the soldiers generally burned the houses they had been staying in.

departed. A more detailed description of the violence inflicted upon these IDPs as they passed through Gjakova is given in the following section dealing with that municipality. Of particular note, however, is the checkpoint at Meje, where VJ, MUP and paramilitaries separated men from women and robbed and extorted money from them. Around 35 men from Junik were taken away with others and remain unaccounted for.¹²³

As with the expulsion operations themselves, not every checkpoint was the locus of the same degree of intimidation, brutality and violence, and much depended on the presence of particular groups or individuals among the FRY/Serbian forces. Each was, however, terrifying and humiliating in its own right. The civilians who passed through the checkpoints risked being subjected to demands for money, documents, and valuables, as well as beatings, abductions, sexual assaults, and killings. One witness who passed through Carrabreg on 2 April saw police recording the license plate numbers of passing tractors. This witness's son was pulled from the convoy a few miles further south and taken away, while the witness was ordered to keep moving with the convoy.¹²⁴ At a checkpoint at the roadside in Duzhnje, Gjakova on 27 March, 8 men were reportedly murdered by local police from Decane. Other witnesses saw corpses in vehicles and beside the road, as they travelled.

6. Summing Up

Witness statements indicate that blue camouflage-clad MUP forces participated in virtually every attack perpetrated against a town or village in Decane in 1999. As noted above, KVM monitors stationed in Decane in early 1999 saw some PJP troops and several witness statements from Decane refer to perpetrators wearing all black, although none explicitly refer to the SAJ.

Local sources and the OSCE suggest that overall command of the Kosovo expulsion operation rested with the VJ, despite the superior numbers, resources, and local experience of the MUP and paramilitary forces. In any case it seems likely the VJ was in command in Decane between March and

¹²³ It has since been confirmed that between two and four hundred men were executed at Meje on 27 April 1999. Details of this are included in the subsequent section on Meje itself in section B.

¹²⁴ The witness learned months later that his son was killed by the police.

the main road from Prizren to Peje. The population prior to the FRY/Serbian campaign of 1999 was 131,700, with approximately 93 per cent of this total being Kosovo Albanian. The principal town of the municipality is Gjakove town. The minority Kosovo Serb population was concentrated in Gjakove, and Roma and Maxhup populations lived in the neighbourhoods of Gjakove and the villages.

In 1998, the border region in the west and the area north and east of Gjakove town had a strong KLA presence. The FRY/Serbian expulsion campaign from May to September of that year was concentrated in, but not limited to, those areas. While many villages were attacked and damaged in 1998, the campaign in Gjakova did not result in the level of destruction and displacement seen in neighbouring Decane municipality at that time. Nevertheless, the type of operation was similar to that conducted in neighbouring municipalities and in Gjakova the following year.

Commencing in May 1998, in an apparent attempt to prevent the KLA from concealing themselves amongst the civilian population and also to target their support network, VJ forces conducted cordon and search operations backed by tanks and armoured personnel carriers (APCs). These operations were designed to de-populate villages, first by surrounding and shelling them, then entering and ordering the inhabitants to leave immediately or after a specified time. Upon entering such villages, or after their occupants had left, the FRY/Serbian forces, typically VJ, police and paramilitaries would loot and burn houses. In addition to this expulsion, the same forces conducted a terror campaign, involving seemingly random acts of violence directed against individuals, groups or families. FRY/Serbian forces, usually police and/or paramilitaries, would, on occasion, shoot people on the street, or after entering their homes. They forced individuals or families from their homes, robbed them of valuables and beat them, before destroying or burning property. Witnesses also report a number of arrests and abductions at this time, with men being sent to police stations in Gjakova or other municipalities, where they were questioned and mistreated, before being released or sent to prison elsewhere.

This section will outline chronologically the events in Gjakova municipality from March to May of 1999. Following this, the events

The village of Rogove lies south-east of Gjakove town, along the road to Prizren and on the border with Rahovec. On 25 March, FRY/Serbian forces encircled the village, bombarded it and looted and burned houses as villagers fled to the nearby mountains, where they were joined by villages fleeing from Celine and Krushe e Madhe.

On the morning of 26 March a major attack occurred in the village of Batuse, in the north-west, near Junik and the Decane border. VJ and paramilitaries arrived in tanks and jeeps (equipped with automatic guns, hand grenades, pistols, knives and flame-throwers) and surrounded the village. They began shooting at it from all directions and told the villagers to leave or they would all be burned alive. The VJ then moved through the village using flame-throwers to burn houses, sometimes with people still inside. Most of the houses in the village were thus destroyed.

The village of Deve, in the south-west, was attacked on 27 March. Police and paramilitaries in masks and black clothes ordered the inhabitants to go to Duzhnje. Those villagers who fled to the nearby mountains were pursued by the VJ and ordered again to go to Duzhnje. A convoy was formed and, as it was leaving the village, FRY/Serbian forces, wearing green, dark green and black uniforms with white eagles on their arms, stopped it. They separated six men from the rest of the villagers, took them to the forest and killed them. The convoy was again stopped on the bridge leading into Duzhnje. There, at 3 p.m., paramilitaries and police took ten men out of the convoy, forced them to lie on the ground and shot them in the back. The remaining people were ordered to continue on their way and fired upon as they left. The following day, their tractors were confiscated and they were ordered to go to Albania on foot.

Combined FRY/Serbian forces launched an operation against the village of Gushe, just north-west of Deve, on 27 March. VJ, MUP and paramilitaries, masked or with "painted" faces, entered the village in the morning. VJ and MUP escorted about 300 villagers to the main road and ordered them to go to the village of Korenice, from where all of the residents of Gushe and Korenice were to go to Albania together. When people from the village eventually returned, they found their houses looted and burnt.

FRY/Serbian forces also commenced a two-day operation against the village of Mulliq on 27 March. On the first day of this operation, VJ and MUP personnel ordered the villagers to leave within two hours. Paramilitaries were also involved in the expulsion from the village. They came in armoured vehicles and were armed with automatic guns, anti-tank weapons, pistols and knives. The VJ burned the houses of the village as soon as their occupants left. A group of villagers went to Dobrosh by tractor. The following day, VJ armed with machine guns, pistols and knives, driving armoured vehicles, entered this village and ordered everyone to leave at once. As the Kosovars left, VJ set fire to approximately 130 of the houses. At a nearby police checkpoint, fifteen young women aged between 15 and 25 were taken aside by masked FRY/Serbian forces dressed in multi-coloured, dark green and black uniforms with the white eagle emblem. In the evening, the girls were put on a truck and sent to Junik, where they were held in a big house surrounded by police. There were several other women in the house, where they were kept with very little food and water, only allowed to use the bathroom at midnight, and subjected to rape over a seven-day period.

Damjan, in the hilly region of the south-east, provides an example of an operation conducted in the south. By 28 March, VJ forces were already stationed in the village.¹³¹ Witnesses also describe a significant paramilitary presence, including groups believed to be part of Arkan's and Seselj's forces. Police and paramilitaries conducted a house-to-house operation, entering forcibly and giving the inhabitants fifteen minutes to leave and go to Albania. Most of the village fled and, as they were leaving the village, they were stopped at a bridge by police and paramilitaries wearing black clothes and masks. They were searched for weapons for two hours and when no weapons were found were ordered to continue on their way to Albania. After their departure, their houses were demolished and burned. Groups of paramilitaries escorted the convoy some way down the road. As the convoy was moving along, some VJ soldiers appeared and pulled one person from a car. They beat this man and his father, took the licence plates from the car, seized documents from the people in the convoy and tore them up.

131 No witnesses refer to VJ participation in operations in the village aside from directing villagers to leave.

Skivjan, Osek Hyle and Piskote are villages just north of Gjakove town, along the road to Peje. On 28 March, MUP forces surrounded Skivjan and ordered the residents to go to Albania. The villagers formed a convoy and departed and, as they left, police looted and burned the houses. The convoy moved through Osek Hyle, where it was stopped and the people robbed of money and identification documents. On 28-29 March, in Piskote, paramilitaries ordered Kosovars to leave their houses in five minutes, telling them that Arkan's forces were coming and would massacre them if they did not leave. Some of the inhabitants left for different regions within Kosovo, and to Albania.

Over the last two days of March, FRY/Serbian forces from the Has region, an area near Albania and along the Gjakova/Prizren border, attacked Rogove, shelling the village and forcing the remaining villagers to leave. Police - wearing blue camouflage and black uniforms, some masked and with a patch bearing the letters "DB" on their sleeves, some wearing dark berets - surrounded a house and set fire to it. They did so with full knowledge that there were people trapped inside, who were ultimately killed, and at gunpoint stopped others from helping them. As the villagers left, they spread the news of the attack to other Kosovars on the route to Albania. They were further robbed by regular VJ forces and their personal documents were confiscated in Zhur, before they finally crossed into Albania.

At the end of March, many IDPs moved to Kralan, located in the north-east region of Gjakova, after the KLA advised them it was safer there. However, there was a considerable VJ presence in the area, and a number of convoys arriving late in the month were held near Kralan for two days.

In April, FRY/Serbian forces returned to many of the same villages attacked the month before. They concentrated their operations in the west, north-west and north-east of the municipality. Moreover, some villages directly west of Gjakove town, which had not been targeted in March were also now attacked. The FRY/Serbian forces conducted what might be termed two separate offensives, one in the middle of the month and the other around 27 April. The pattern of these operations repeated those which de-populated many villages the previous month.

group and ordered the women to leave for Albania in a convoy through Qafe e Prushit, a mountain pass located in the west of Gjakova municipality.

The men were taken to a field and ordered to take their clothes off to the waist. It was raining that night and the group was forced to stand unsheltered in the field for three hours, while they were beaten with rifle butts by police forces. Some witnesses speak of the men being forced to kneel with their hands behind their heads. FRY/Serbian forces drove tanks near the lines of men and threatened to run them over with the tanks. Sums of money were demanded from them and those who could pay were allowed to go. Most of the group could not raise enough money, so they were left sitting for two nights, deprived of food, drink and sleep and for much of that time forced to kneel with their hands behind their heads. At some point during this period of detention, a group of approximately 70-120 men (aged 20-30) were separated from the rest of the group. Those not separated out, estimated at approximately 300, were escorted to the Albanian border on foot. The men who had been kept behind were separated into groups of ten, moved into several nearby houses and killed. Burnt bodies were later found in these houses.

At some point, the convoy of women, elderly and children ordered to go to Albania from Kralan, was stopped by FRY/Serbian forces while trying to leave the area. A number of women were removed from the convoy and apparently severely ill-treated. Nothing has been heard about these women since that time. At other points, MUP forces destroyed vehicles and robbed villagers of valuables and their identification documents.

Two other attacks occurred in the north-east around this time. The second attack on Cernjan occurred on 2 and 3 April, when VJ and paramilitaries entered the village, forced people to leave and burned houses. On 4 April, VJ and police surrounded Zhabel and some villagers fled to the mountains. The next day the VJ bombarded the village, wounding eleven people before police and paramilitaries entered, resulting in the departure of more people. After these villagers left, the FRY/Serbian forces involved looted and burned houses. They killed one man who had stayed behind, shooting him in the head. Villagers returning after the conflict found their houses, tractors and livestock burnt.

demanded money from the villagers, initially refusing to accept jewellery or other valuables instead of money. Children were threatened at knife-point. Personal documents, including the licence plates of cars and tractors, were taken and burned. MUP forces ordered people in the convoy to sing Serbian nationalist songs and then ordered them to go to Bistrazhin.

Early in the morning of 27 April, VJ forces surrounded Korenice, west of Meje and Gjakove town, and began burning houses. MUP and paramilitaries dressed in black, wearing red and blue ribbons on their arms, some with red headbands, accompanied the VJ forces. They started burning houses at the entrance to the village and proceeded to set fire to other homes throughout. MUP personnel entered houses and forced villagers to leave, saying things such as "Albania is your country, Kosovo is ours." The locals were given five to ten minutes to leave their homes and some people were beaten. When people were found inside houses, they were taken out by force and the men separated from the women. The men were detained and the majority of them have not been heard from since. The women were ordered to go to Albania. The FRY/Serbian forces also stole cars, jewellery and other valuables, confiscated identity documents and burned tractors and cars. Some people were killed in their houses and their bodies left there to burn. Additionally, as the villagers were leaving, VJ, MUP and paramilitaries executed fifteen men lined up in a trench near the village school.¹³⁶

In May the FRY/Serbian campaign was characterised not by large-scale expulsions, but by more singular operations directed against villages, families or individuals, apparently intended to terrorise the population as a whole. On 10 May, paramilitaries entered Dobrosh and began shooting with machine guns. They killed two men, burned more houses and forced the remaining villagers to leave through Mulliq and Brovine, Gjakove town and then on to Albania.

On 13 May, the VJ captured approximately 36 men in Jabllanice and accused them of possessing and planning to supply guns to the KLA. These men were beaten, interrogated, denied food and water and

¹³⁶ Sources indicate that bodies buried after these incidents were removed to unknown locations.

detained overnight. All but three were released the following day and the remaining men were reportedly taken on trucks at gunpoint to Serbia, where they were further interrogated by MUP personnel before being released and sent to Rozaje, Montenegro.

Witnesses relate several incidents directed at the part of Piskote inhabited by Roma, located just north of Gjakove town along the road to Peje. On 12 May, approximately 60 MUP personnel and VJ soldiers, as well as paramilitaries wearing cowboy-style hats, green uniforms, black scarves and red ribbons with white crosses on their arms, fired upon houses and threatened these Roma. Two Roma men were shot and another was beaten. Paramilitaries in red scarves, as well as local Kosovo Serb police, demanded and eventually confiscated the car of one man, and extorted 1,000 DM from him. Two days later, three Roma men were arrested by local Kosovar Albanians from Gjakove town, working with the Serbian MUP,¹³⁷ and transported to the police station in Osek-Hyle. One of the victims was tied to a pole and beaten and wounded with knives for 48 hours. During that time he was interrogated about the KLA and was given very little food.

On 21 May, local Kosovo Serb MUP personnel, along with some local Kosovars,¹³⁸ arrested six Roma men in Piskote. They were taken to Osek Hyle, held there for a day, and then transported to the 'social building' near the cultural centre in Gjakove, where they and about 70 Kosovars were held for another four days. They were given no food during this time. When they were released they were instructed to return every day to check in with the police.

3. Conclusions

Once again, a repeated pattern of expulsion is evident in Gjakova throughout the conflict. FRY/Serbian forces would first surround a village. Sometimes these forces, typically police or paramilitaries, would issue an ultimatum to the local inhabitants requiring them to depart by a

¹³⁷ Witnesses repeatedly mention a particular Kosovar group with links to organised crime, which allegedly had connections with local MUP, and who have been implicated in acts of particular brutality.

¹³⁸ These Kosovars were members of the group mentioned *ibid.*

certain time, or within as little as five minutes. The VJ would shell the targeted village, and then combined FRY/Serbian forces would enter. Local men were often separated from the women, with the men becoming the victims of abduction, abuse, beatings, execution or robbery. Whole populations were forced to depart, though generally in a controlled fashion. Those who fled to nearby mountains or forests were pursued and brought back, only to be told to depart for a particular village or for Albania. The burning and looting commenced either as soon as forces entered or after the departure of the inhabitants. Convoys of IDPs were directed to particular villages, sometimes repeatedly, or to Albania. These convoys were sometimes turned back at the border and forced to return to their place of origin, or to a different village, on a defined route. Throughout their journey, departing Kosovars were abused, beaten and otherwise mistreated, and sometimes killed.

This campaign required and exhibited a high degree of co-ordination among the various FRY/Serbian military and security forces operating in the municipality. All of these forces participated in three distinct operations in Gjakova. The first operation was widespread, encompassing the entire municipality. The second was directed at a select group of villages along the Trava valley. The last operation, in late April, targeted villages in the west and north-west and followed a strikingly uniform pattern from village to village. This operation was carried out on the same day in multiple locations. It involved VJ, police and paramilitaries, who were often described as wearing black uniforms. IDPs were forced down towards Meje, accompanied by combined FRY/Serbian forces, including local Kosovo Serb police. This progression - expelling people from villages, funnelling them down to Meje, where there were numerous brutal killings, ill-treatment and/or abductions, before their identification documents were confiscated, and forcing them to leave for Albania - reveals a co-ordinated operation intended to expel Kosovars, terrorise them, and prevent any ability or desire to return on their part.

An important part of the expulsion campaign was the countless acts of violence and terror directed at the Kosovar population by all the FRY/Serbian forces. These acts were not confined to the three operations described above, but were carried out by VJ, MUP and paramilitaries throughout the period covered. Some of these acts are examined in more

detail in the following case of Gjakove town, but it should be noted that they occurred in villages and surrounding areas, and along the routes of departure. In fact, witnesses describe a significant police and paramilitary presence along these routes, directing, harassing, robbing, mistreating and otherwise abusing those in convoys as they passed. As stated above, these convoys were tightly controlled by FRY/Serbian forces accompanying them along the route and through the system of MUP checkpoints. Convoys were also turned back at certain locations, e.g. Bistrahzin, sending them back up through the system of checkpoints once again.

While all of the FRY/Serbian forces were implicated in the acts described above, there appeared to be a broad division of responsibility in the municipality. Generally, the VJ directed operations in the villages, whereas MUP and paramilitaries directed operations in Gjakove town.¹³⁹ The VJ was involved in the shelling of villages and then the MUP and paramilitaries moved in. The VJ did not usually enter until the MUP and paramilitaries had started expelling and abusing the occupants and looting and destroying property. All FRY/Serbian forces were involved in controlling and abusing IDPs along routes of departure. Within Gjakove town, paramilitaries were generally more brutal in carrying out their activities than the members of the VJ. The MUP were likewise extremely violent, although the local Kosovo Serb police are those mentioned most frequently by name as perpetrating the extreme acts of violence. This may be due to the fact that witnesses were able to identify these people and so remembered their involvement in violent acts.

4. Case Study: Meje

The village of Meje is located two kilometres west of Gjakove town, where the Erenik and Trava rivers unite. From 27 March, convoys of IDPs passed through the village, either under the direction of FRY/Serbian forces, or of necessity, on the way to Prizren and on to Albania. A more detailed examination of Meje illustrates a key component of the FRY/Serbian expulsion campaign, i.e. the terrorisation of IDPs through acts of extreme violence, and the tight control of their movements.

¹³⁹ As discussed in Chapter IV, the configuration of forces on the ground may have depended very much on the presence of particular individuals in positions of command or higher up in the rather more informal hierarchy.

14 to 70 were separated out of the convoy and sent to the field of Shyt Hasani. These men were forced to hold their hands above their heads as they were led away. The women and the children and elderly were ordered to move on and some were beaten, particularly those who protested at the removal of the group of men. Part of this depleted convoy was halted by the field itself and the men could be seen there. Other parts of the convoy were stopped at various points in the village and men were taken out and also led to the field.

Large numbers of police and paramilitaries were involved in this operation. Paramilitaries are described as wearing black uniforms and masks, with red ribbons around their heads, some had beards and long hair. Witnesses also identified VJ, Russian mercenaries, and masked civilians, as well as local Kosovo Serb policemen from various villages who accompanied convoys up and down the road leading into and out of Meje. Kosovars who had been mobilised into the ranks of the police early in the conflict were also identified as separating people from the convoy. All of these forces were armed with machine guns, grenades, iron bars, pistols, knives and heavy artillery and they travelled in armoured vehicles, tanks and trucks.

Throughout the morning witnesses report seeing a large group of men in the field, kneeling with their hands on or above their heads, or lying on the ground. Men who were kneeling down were forced to shout things such as “Long life for Slobodan Milosevic!”, “Serbia Serbia!”, “Long Live Serbia!” as well as give the 3-fingered salute.¹⁴⁰ Witness accounts vary in relation to the numbers seen kneeling or lying in the field at various times, ranging from thirty in the morning up to 500 in the afternoon, but it is clear that a significant number of men were held there over an extended period. Witnesses also relate both seeing men being shot in the field and hearing gunfire from the area as they were forced to move on.

While it is evident that the men detained in the field were killed on 27 April, it is not entirely clear what happened to their bodies afterwards, though there are indications that some were moved to other places.

¹⁴⁰ The three fingered salute was a gesture originally used by members of the Chetnik group fighting German and other forces during World War II. It has since become a rallying symbol of ‘Serbian resistance’ adopted by the nationalist movement in its ‘defence’ of Serbia from internal and external enemies.

short period of time. In February, police and paramilitary groups burned some houses and fired guns, killing three people. Additionally, armoured vehicles, tanks and civilian cars blocked off some streets, while the police conducted house-to-house searches looking for KLA members, and arresting and interrogating people they suspected to have KLA connections.

In early March, incidents occurred in which police, paramilitaries and local Kosovo Serbs warned Kosovar inhabitants of the town to leave and these were accompanied by the looting and burning of houses. The police also arrested and detained people,¹⁴² as well as confiscating identity documents at checkpoints around the city. The local police appeared to have a prominent role in MUP and paramilitary operations against suspected KLA members, as well as in the harassment of townspeople.

Prior to the start of the NATO bombing, police conducted most of their operations with minimal paramilitary involvement and little to no VJ involvement. As time went on, the role of the paramilitaries grew and was quite substantial from the beginning of May, although they rarely acted completely alone and generally operated under police direction. In the town, the role of the VJ was primarily shelling and bombardment from the hills. Although they did occupy some houses, particularly in the Cabrati area, located in the western part of the town near the old quarter, they were less likely to participate in the actual house-to-house burning, looting and killing. Local civilians, mostly Kosovo Serbs, were mobilised directly into the police and paramilitary forces.

Towards the end of March, police and paramilitaries continued to target perceived activists and intellectuals. On 23 March, MUP personnel entered the offices of the Sub-Committee of the Council for the Defence of Human Rights and Freedoms (CDHRF), and abducted the six activists who were there, taking them to the police station. There, they insulted, beat and severely ill-treated the activists before releasing them and ordering them to report back to the police station a few days later.

¹⁴² When arrested and sent to the police station, people were interrogated and often beaten and robbed of their valuables or documents.

From 10 April to 14 April, witnesses indicate that the FRY/Serbian forces were operating in larger groups, from seven or eight to approximately thirty strong. Additionally, there was a mass exodus from the north-west of the municipality on 14 April, including people who had been forced down from Decane municipality. These IDPs travelled on the main road and were filtered through Ure e Tabakut. In one incident, police and paramilitaries stopped a large convoy and pulled five men from a tractor. These men were beaten and subsequently killed and buried nearby, in Brekoc. These same forces also stole documents from others in the convoy and then ordered them to continue on their way. Also around this time, VJ soldiers and police abducted approximately 100 Roma men from Brekoc, placed them on trucks and sent them to the border, where they were ordered to dig trenches and do other physical labour. They were sometimes beaten, harassed and denied food while being forced to work.

From 16 April, the presence of police and paramilitaries in Gjakove town appeared to increase, as did the level of violence. The numbers of persons involved in attacks, raids and killings also escalated. Furthermore, references to people being beaten to death as opposed to being shot are prevalent from this time. These killings were often carried out in front of family members.

From 20 April until the end of the month, FRY/Serbian forces also stole merchandise from shops, cars from the street and electrical goods from houses. They continued to enter houses and rob the occupants of money and other valuables and they burned houses and warehouses. They also continued to conduct searches for KLA members, targeting the remaining young men of the town in general.

As of late April and early May, essentially no one was permitted to leave Gjakove town. People attempting to depart were turned back, yet convoys from the villages were allowed to pass through to Albania. The system of checkpoints and registration¹⁴⁹ allowed for considerable

¹⁴⁹ Towards the end of April and the beginning of May, MUP personnel opened a small office in the centre of town. They compelled the heads of families to go to this kiosk and register, which entailed providing information about themselves, family members and any guests staying in the house. Following registration, MUP and paramilitary forces (reportedly Frenki's Boys) would check on families to see if the registration information was correct. These forces were also known to steal items from the houses while conducting the checks.

population control and registration cards and identification documents were examined at MUP checkpoints, enabling them to determine who came from specific villages and who could go or stay.

On 7 May, the FRY/Serbian forces commenced the second intense attack against the population of the town. The VJ began shelling from the Cabrati hills and this was followed by a force of approximately 600 MUP and paramilitaries, including paramilitaries identified as Frenki's Boys, and Russian mercenaries, who were deployed throughout the city. These forces conducted a systematic expulsion of residents through a combination house-burning, severe mistreatment and robbery, killing and ordering people to leave under threat of death. In many instances, the targeted population was specifically told to go to Albania. As before, some people were killed and then burned in their houses. At least seventeen were abducted in the streets and taken to a place on the road south, near the MUP headquarters, where they were then killed. Elsewhere, approximately thirty people were fired upon as they fled from the FRY/Serbian forces, resulting in further casualties and injury.

The same day, at approximately 6 p.m., a group of about 200 people were trying to leave Gjakove town when they were stopped by MUP personnel and paramilitaries at the Ure e Taliqit bridge. These forces took approximately thirty men from the convoy and separated them into two equal groups. One group was taken to the street Zenel Luzha in the neighbourhood which the locals referred to as Dashi. Paramilitaries and policemen, some masked, took the second group to Fetah Aga Mosque, located approximately 100 metres from the bridge. When they arrived at the mosque, their identification documents and money were demanded. Three of these men were ordered to break down the door of a nearby house, which was then set on fire. One of them was shot and killed and his body then thrown into the burning house. The others who broke the door down were shot and killed. The remaining men in the group were forced to enter the yard, where they were also shot *en masse*. The police then threw a grenade into the yard, saying, "It's finished, let's go to the other group." What happened to that second group (those who were sent to Dashi) is unknown and all are believed to have been killed.¹⁵⁰

¹⁵⁰ A witness reports seeing piles of bodies at Dashi, some shot and others burnt.

In this second period of operation, local police, reservists and paramilitaries carried out the majority of more violent attacks. Local sources indicate that approximately 300 regular police and Russian mercenaries, including snipers, were located on Cabrati Hill. There was indeed fighting on Cabrati hill between the KLA and the FRY/Serbian forces, which affected the movement of people within the town and corresponded with increased MUP and paramilitary activity in the neighbourhoods. The VJ did not participate to a large extent in the FRY/Serbian activities apart from their fighting on Cabrati hill. Previously, there were reports of the VJ stopping police from burning houses, but there are claims that during this period, as soon as the police entered an area, they were in charge of all operations.

On 10 May, MUP, VJ and paramilitary forces ordered people in the town to leave their houses and go to the centre. This began as early as 7 a.m., with the majority of witnesses reporting that they fled their houses at around 8 a.m. The FRY/Serbian forces involved beat people, shot at their feet and threatened to kill them in order to make them leave their houses. Once at the centre of town, the FRY/Serbian forces sent groups of men and women to the Elektromotorri factory, located on the outskirts of Gjakove on the road towards Prizren. Other Kosovars gathered in the town centre were separated by gender, with the women being sent on to the Elektromotorri factory and the men to different locations, probably the Ereniku and Shipade warehouses in the Qerim quarter on the road out of Gjakove to Prishtina.¹⁵¹ Some men were arrested/abducted outside the prefecture, also in the centre of town, and sent to an improvised prison in the basement of the Social Security Department, where a temporary MUP station had been set up.¹⁵² Others were stopped at checkpoints and taken to the same temporary police station, had their identification documents checked, most had their hands tested with paraffin for recent gun usage, and from there they were sent to the warehouses.

After approximately 300 people were gathered in the Elektromotorri factory, most of the men were separated from the women and taken to

151 It should be noted that most witnesses referred simply to warehouses on the outskirts of Gjakove, while some refer specifically to the Ereniku and Shipade warehouses.

152 Soon after the NATO bombing began, the MUP vacated their headquarters, near the road to Prizren, and relocated to various temporary stations in the centre of town.

the Ereniku and Shipade warehouses. Approximately 100 young men, mostly from the Cabrati neighbourhood, were released from the factory at this time. However, as these young men came to the petrol station opposite the MUP headquarters, they were stopped by paramilitaries, put into vehicles and taken away. They have not been heard from since that time. More women and children were sent to the factory after 10 May. Those in the factory were held there for periods ranging between 24 hours and 3 days, with the last people released on 12 May. As they were being released, the women and children were told to go to the Blloku i Ri neighbourhood, situated near the MUP headquarters in the south-Astrazup part of town. Local sources suggest that these people were directed to go to this area of town so that they could be registered and controlled. In fact, MUP did undertake a registration process of people shortly afterwards. It should be noted, however, that a large majority of Kosovars chose not to stay in this Blloku i Ri area, but instead went to stay with friends or relatives in other parts of the town until the end of the conflict.

On 10 May, a total of about 300 men were gathered in the Ereniku warehouse on the edge of town. Some men had their hands tied, and remained so for the entire period of detention. They were held for extended periods of time and given very little food or water. Some were mistreated, interrogated and forced to shout things like "Serbia" and show the 3-fingered salute. Kosovar men continued to be brought to the Ereniku and Shipade warehouses until 12 May. At some point during this period of detention, approximately sixty were released from the Ereniku warehouse. Five or six days after the original detention the remaining men were sent to prison in Peje. From there they were transported with other prisoners to Dubrave, and eventually sent to prison in Nis, Serbia.

The men who were sent to the Shipade warehouse were beaten with iron bars, clubs and fists, given no food and were not allowed to go to the toilet. Every day, the police would bring more people until the total number of men in this warehouse was approximately 300. They were then sent in groups of 4 to a police station, where they were interrogated and mistreated severely. After approximately a week of this treatment, roughly 50 were released from the Shipade, and their fate remains unclear.

From 13 May to 20 May, people in town who were stopped or temporarily detained by MUP personnel were released on the condition that they would not go back to their houses. Many of those walking home after being released from either the factory or the warehouses were stopped again by police and paramilitaries, who kicked and beat them, sometimes for a period of hours. Those returning to their homes often found the bodies of family members or traces of violence.

From 21 to 31 May there were increased incidents of FRY/Serbian forces entering houses, threatening families and children and stealing personal possessions and money. Witnesses describe paramilitaries with red handkerchiefs tied around their heads, operating in the absence of police, although in the majority of cases, MUP forces were present and actively participating in the actions of the paramilitaries. Furthermore, on 22 May, FRY/Serbian forces were seen removing at least seventy bodies from the cemetery using an excavator.

In the second week of June, retreating FRY/Serbian forces simply stole whatever they could from the population and burned houses and other property as they retreated. In addition, the FRY/Serbian forces continued to detain and interrogate people and sent some to prison in Peje.

The FRY/Serbian operations in the town of Gjakove can be seen to have changed in certain respects over the weeks of the NATO bombardment. These operations were marked by greater fluidity between forces as the conflict went on, such that lines of authority and different roles, which had been more defined early on, tended to blur later in the conflict. The MUP forces dominated early operations, with paramilitaries taking on a larger role as the conflict progressed. At all times, the FRY/Serbian operations appeared well organised and co-ordinated. These forces, often combined, targeted particular people, families, streets or neighbourhoods when conducting displacement and/or property theft and destruction operations. They also exerted tight control over the population, through registration and checks of identification documents, expulsions and detentions, followed by orders to move to specified neighbourhoods, or to Albania, and the regulation of entry into and departure from the town at checkpoints.

C. Rahovec/Orahovac

1. Introduction

The municipality of Rahovec is located in the central part of western Kosovo. It is surrounded by the municipalities of Gjakova to the west, Kline to the north, Malisheve and Suhareke to the east and Prizren to the south. It is largely an agrarian region, with a central portion of its economy being derived from the cultivation of the land. The town of Rahovec is located in the centre of the municipality. Additionally, there are at least two large commercial wineries in the municipality as well as many smaller private enterprises.

Like many municipalities in Kosovo, Rahovec has a culturally diverse heritage. The population of Rahovec is overwhelmingly Kosovo Albanian. Before the conflict there were, however, significant ethnic Serb populations, both in one quarter of Rahovec town and in the village of Hoce e Madhe. While many left the Serb quarter in Rahovec town in the weeks and months following the withdrawal of the FRY/Serbian forces in June 1999, a sizeable ethnic Serb population continues to reside in Hoce e Madhe. Additionally, Rahovec town is home to a smaller Roma population. A unique Albanian-Bulgarian hybrid language has traditionally been spoken in parts of the municipality. This may be attributed to the influx of Bulgarian soldiers at several points in the history of Rahovec, most recently during World War I.¹⁵³

Rahovec was one of the first municipalities in which the Project began collecting witness statements. This section is based on an analysis of many hundreds of incidents described by witnesses interviewed in the municipality, and previously in Albania, and recorded in the Project database. Information was also gathered from local sources, including the Rahovec Sub-Committee of the CDHRE. The knowledge of local activists was particularly valuable, as many of them remained in the region for the entire conflict, gathering information on the progression of attacks and operations mounted by the FRY/Serbian forces and their accompanying

¹⁵³ See Noel Malcolm, *Kosovo A Short History*, Harper Collins, 1998, pp.260-263.

acts of violence and destruction. Open source materials have also been consulted to ensure that adequate context is provided, where necessary.

The following sections seek to reconstruct for the reader, events as they occurred in the Rahovec municipality, beginning briefly with the 1998 campaign but focusing attention on the offensive which began in March 1999. A chronology is then provided of the period beginning in March and ending on 14 June 1999, with the arrival of KFOR in the municipality. This is then followed by some general conclusions. Finally, the characteristics and pattern of the 1999 expulsion campaign are illustrated in greater detail by examining events which occurred in March in the villages of Brestoc, Celine and Krushe e Madhe.

2. Actions targeted at the civilian population in 1998

A brief outline of the events which occurred in the Rahovec municipality in 1998 is important, as these events would be repeated, with a greater intensity, in 1999. Additionally, the actions of FRY/Serbian police, military, and paramilitary personnel at this time demonstrate the serious attempt which was made to intimidate and pressure the Kosovar community into leaving Kosovo. Due to numerous arrests, restrictions on movement and killings in the first half of 1998, an atmosphere of tension grew, culminating in July in such a climate of fear that many Kosovo Albanians fled their homes and sought safety in other villages.

The 1998 campaign in Rahovec municipality began in May, with the arrival, from Prizren, of regular armed MUP forces dressed in blue camouflage uniforms. The initial wave consisted of some 300 police who were stationed in the Hotel Park in the centre of Rahovec town, and in the "Technoremont" factory in the Pallatice complex. While other FRY/Serbian forces would withdraw from and then re-establish themselves in the municipality over the course of 1998 and 1999, these MUP units would have a continuous presence until 14 June 1999.

The police established permanent and mobile checkpoints in different parts of the municipality. Mobile checkpoints were erected on the roads into Rahovec at Bernjake, Xerxe, Gradish, and in the villages of Krushe e

Madhe and Hoce e Madhe. Additional checkpoints were created at the periphery of Rahovec town at both the Aliaga crossroad, in the southern section, and te Mella at the Astrazup crossroad. Further permanent checkpoints existed in the village of Kramovik, along the route from Gjakove to Kline, and at the Vrajstina Rock above the town of Rahovec. The Vrajstina Rock checkpoint was established in July of 1998 as a 'base' of sorts, as it provided a view of the entire town and surrounding area.

Groups described by witnesses as special police, dressed in blue and green camouflage with flak jackets, distinguishable from the regular blue of the MUP and more heavily armed than the regular police, were concentrated at the checkpoints along with local Kosovo Serb police from the municipality.¹⁵⁴ Their presence severely limited the freedom of movement of the civilian population, with pedestrians and the drivers of vehicles often being stopped and interrogated when they passed through. Additionally, mistreatment of the civilian population often occurred during these interrogations including incidents of robbery, abduction, and even murder.¹⁵⁵

At this time, arbitrary arrest and detention, abduction and violent interrogation of the Kosovar population by members of the police was not uncommon. Young men were regularly taken to the police headquarters in Prizren for questioning, where they were also beaten and seriously mistreated before being sent on to prisons in Serbia itself. The activities of human rights organisations, such as the CDHRE, were also under strict scrutiny by the police. Paramilitaries and police occupied civilian homes, forcing women to wait on them and constantly threatening violence. Killings occurred, generally directed at suspected KLA members and their families. These incidents and circumstances contributed to an intense feeling of tension and fear within the municipality, which peaked in July of 1998 when heavy fighting broke out and the KLA withdrew toward Malisheve. Witnesses describing the ensuing days and weeks, particularly residents of Rahovec town, recount events strikingly similar to those of the 1999 campaign.

¹⁵⁴ Local Kosovo Serb police have been identified on countless occasions by witnesses from the Rahovec municipality. In 1998, it appears that local police worked predominantly with the MUP and PJP, and some were later recruited for the paramilitary ranks along with local Kosovo Serb civilians.

¹⁵⁵ For example, in May of 1998, one witness was present when his brother was abducted from a checkpoint on the edge of Rahovec town. After hearing from a neighbour that he had seen the body of the young man, the witness located his brother's mutilated corpse. The witness claimed that his brother appeared to have been severely beaten before being shot four times at close range.

In mid-July, FRY/Serbian forces also established a larger presence in the municipality. VJ soldiers arrived with an arsenal which included tanks, armoured vehicles, and anti-aircraft weapons. Like the MUP, the VJ arrived from the direction of Prizren. Paramilitary troops also began to arrive at this time. FRY/Serbian forces began to conduct periodic shelling of Rahovec town. Witnesses report that killings were frequent at this time, and that they started to become more well-organised.¹⁵⁶ Witnesses also recount numerous incidents of expulsion from the town to Albania and the widespread looting and burning of Kosovar homes.

On 19 July 1998, a major attack took place on Rahovec town. Witnesses relate numerous attacks on Kosovars by MUP forces, including entering homes and killing the residents with guns and grenades. Witnesses of one multiple killing recall hearing MUP personnel commanding local Kosovo Serbs to kill and ill-treat the Kosovar population. Many fleeing residents were attacked by both snipers and tank-fire from FRY/Serbian positions in the hills surrounding the town and a large number of those who managed to escape were pursued, gathered together, and in some cases killed.¹⁵⁷ Much of Rahovec town was destroyed by fire, and witnesses tell of large-scale looting and robbing.

In August and September 1998, attacks by VJ, MUP and paramilitary forces, which included the shelling, looting, and burning of villages, occurred in the north-west and Astrazup¹⁵⁸ parts of the municipality. The Kosovar populations of these villages were terrorised and expelled, with IDPs seeking shelter with friends and family in nearby villages. As described in Chapter IV, the general *modus operandi* in these 1998 attacks was that the VJ would surround a populated area with tanks and heavy artillery and commence shelling. MUP and/or paramilitaries would then “sweep” through the area, giving the inhabitants a short period of

¹⁵⁶ Whereas earlier killings appeared to witnesses to be conducted by police and paramilitaries in a random fashion, in July 1998 they noted a more systematic targeting of civilians. Additionally, while in months past family members would generally find and bury the bodies of their loved ones, in the summer of 1998, a system appears to have been developed for the disposal of bodies in Rahovec town. For example, one witness was present at the street-side execution of a friend, whose body was later covered with plastic and loaded on a truck with other bodies. The witness identified two Roma from Rahovec as the operators of the truck.

¹⁵⁷ One witness survived the killing of 12 members of a single family who were killed as they tried to escape Rahovec through a field on the outskirts of the town.

¹⁵⁸ Including the villages of Oterushë, Zojishtë and Reti.

time in which to leave. Looting and burning of homes would ensue, and often groups of villagers, in particular men, would be gathered together for questioning.¹⁵⁹

Pursuant to the 16 October 1998 cease-fire agreement, and coinciding with the arrival of KVM monitors, large numbers of VJ and paramilitary personnel began to withdraw from the Rahovec municipality in late October and November. As mentioned above, MUP units maintained their heavy presence in the Rahovec municipality throughout these months and into 1999.

In summary, over 150 Kosovars were killed in Rahovec municipality in 1998 as the result of the activities of the MUP, VJ, and paramilitaries. Throughout 1998, people fled Rahovec town in large numbers due to the fear and tension which had been instilled in the community, principally by the MUP, and to avoid being caught in the crossfire of periodic skirmishes between FRY/Serbian forces and the KLA. In many cases these IDPs only returned to Rahovec when the international observer mission, KVM, arrived in the municipality and military and paramilitary forces withdrew.

3. Reinforcement of FRY/Serbian forces and the campaign, March-June 1999

The pattern and type of attacks directed at the civilian population in 1999 were strikingly similar to those of the previous year. While the VJ was heavily involved in the shelling and consequent de-population of villages, the MUP and paramilitary were implicated predominately in acts of killing, severe mistreatment, robbery and looting. Witnesses, however, reported incidents in both 1998 and 1999 of abduction, killing and robbery perpetrated by VJ soldiers, acting with police/paramilitaries or alone. The 1999 campaign involving VJ, police and paramilitaries can be distinguished from 1998 by an increase in violent acts directed at civilians

¹⁵⁹ For example, in September 1998, FRY/Serbian soldiers, police and paramilitaries shelled the village of Drenoc. The army entered and burned all but three of the 180 houses in the village. Some of the villagers fled to the mountains, where they were surrounded and detained. Those detained were gathered with the men from neighbouring villages in the Pastasel school where they were beaten, severely mistreated and questioned about the KLA before being released the next day.

and a more systematic approach to their expulsion. Large-scale killings, as well as the disposal of bodies and destruction of evidence, added a new dimension of brutality to the campaign in the Rahovec municipality beginning in March 1999.

In the early part of 1999, citizens of Rahovec continued to be restricted in their freedom of movement. Harassment by special police stationed at checkpoints was not uncommon. For example, on 25 January 1999, at the Kramovik checkpoint, police forces killed five Kosovars who were returning from work in a nearby field.

In February 1999, a heavy paramilitary presence was also re-established in the municipality. Witnesses stated that, from this time, Rahovec town came under the control of the so-called "Dora e Zeze" organisation, known in English as the Black Hand. The organisation is identified as being responsible for the kidnapping of at least five Kosovars, who were found killed days after their abduction. The paramilitary forces involved reportedly wore blue uniforms and black gloves, operated in civilian cars and spoke only in Serbo-Croatian. Witnesses indicated that local Kosovo Serbs from Rahovec and the village of Hoce e Madhe operated among these paramilitary forces. The paramilitaries consistently arrived in Rahovec via Prizren and were seen dining in a popular restaurant owned by a local Kosovo Serb and frequented by FRY/Serbian forces. One witness stated that this particular restaurant hosted FRY/Serbian forces on a regular basis, including Vojislav Seselj, leader of the Serbian Radical Party and of paramilitary groups such as the Chetniks and the "White Eagles."

At the beginning of March, witnesses in various villages - including Bellacerke, Krushe e Madhe, Senoc and Rahovec - implicated FRY/Serbian forces in the destruction of homes, the theft and looting of property and the harassment, severe mistreatment and even killing of individual Kosovars. Police often entered the villages, moving from house to house, beating and harassing residents and searching for weapons. FRY/Serbian forces apparently attempted to conceal some of these acts: in Bellacerke, Kosovar labourers were forced by MUP personnel to use their tractor to move thirteen corpses to the Prizren hospital. Also at this time, VJ and paramilitaries established themselves on the hills surrounding Rahovec town.

After the collapse of the Rambouillet talks and the withdrawal of the KVM monitors, many special police entered the town of Rahovec on 22 and 23 March. They were dressed in blue police uniforms with bullet-proof vests and automatic weaponry. Other unspecified FRY/Serbian forces arriving at this time were dressed in military uniforms or black uniforms. They all came in buses and armoured vehicles from the direction of Prizren.

VJ soldiers also returned to Rahovec municipality immediately before the NATO strikes, around 22-24 March. According to a local source they were dispatched from the Prizren garrison and corps from Krалеva, Leskoc, and Panqeva. On the day that the largest number of VJ troops arrived, they divided, one group going to the village of Hoce e Madhe, and the other in the direction of Malisheve. Both groups returned to Rahovec late that night and stationed themselves in the town and in Bellacerke. The VJ troops in Rahovec town set up bases in the Health Centre, two elementary schools - Isa Boletini and Mihal Grameno, the old town wine cellar, a factory called 18 Nentori and the Jaha Petrol station. Additionally, in an occupation beginning in March and continuing into early June, the houses and property of one particular family were forcibly occupied by the local commanders of the VJ operating in Rahovec. FRY/Serbian forces were also stationed at this time in the buildings of the Piro and Pallatice complexes in Rahovec town, where a good deal of their arsenal was stored. These sites would be utilised as bases for the VJ until their complete withdrawal on 14 June 1999. Trucks with a variety of weapons were seen entering the areas where local Kosovo Serbs were known to reside.

Also in the days immediately preceding the NATO air campaign, witnesses reported that many local Kosovo Serbs were seen in both police and military uniforms carrying automatic weapons. Some wore masks, especially when conducting operations, a practice apparently designed to prevent them from being recognised by their Kosovar neighbours. These new "recruits" were accompanied by VJ soldiers from Serbia, and maintained a heavy presence in the streets and cafeterias of Rahovec town. While patrolling the streets, they would offend the Kosovars by raising the 3-fingered salute, singing Serbian nationalist songs, and shouting slogans such as "Kosovo is Serbia!", "Long live Serbia!"

and “You asked for NATO, here is your NATO!” (pointing to their arms and military vehicles). Local Kosovo Serbs threatened Kosovars by saying such things as “If we get attacked by NATO, you are going to have to pay for it.” Due to the exodus of the international observers, the subsequent reinforcement of the VJ and MUP, and the threatening atmosphere created by these FRY/Serbian forces, many residents of Rahovec fled Kosovo in the days before the March offensive began.

Additional paramilitary personnel also arrived in Rahovec on 24 March and were based in the village of Hoce e Madhe. These forces were recognisable by the emblems on their clothes and by the weaponry they possessed. They often wore scarves around their heads or necks (bandannas), some of the forces wore black masks, or stocking masks, and others painted their faces. These troops often carried knives in addition to machine guns. Paramilitary troops were also often reported as wearing red, white, or yellow ribbons on the arm of their multicoloured green and blue camouflage uniforms.

At 3 a.m. on 25 March, a large contingent of VJ soldiers and approximately 30 tanks arrived in the Rahovec municipality from the direction of Prizren and Gjakove. Troops entered Rahovec town from the south-west, via Xerxe (the main road into town from the south). Some forces stopped in Bellacerke. The majority, however, continued on the main road into Rahovec town and stopped at the crossroad te Mella. A number of units proceeded east along the Suhareke road to Zoqishte, Optrushe, and Reti. They began to shell these villages, but faced resistance from KLA soldiers in Optrushe. Fighting between the groups continued throughout the day and the VJ forces would not successfully enter the village until 26 March. Some units split off, surrounding the village of Brestoc via two field roads and continuing from Brestoc to Nagafc and Hoce e Vogel. At the same time, additional tanks and armoured cars began to surround the southern villages of Celine and Krushe e Madhe from the directions of Bellacerke and Prizren.

At 4 a.m. VJ forces, joined by MUP and paramilitaries, began to attack the village of Brestoc. As in Optrushe, FRY/Serbian forces met with resistance from the KLA, though here the KLA was able to hold off the advance for only a couple of hours. The village was then almost

completely destroyed. FRY/Serbian forces began killing Kosovars almost immediately upon entering the village. Witnesses identified over 60 individuals from Brestoc who were killed in their houses, basements, fields, and in the hills as they tried to escape the offensive on 25 and 26 March. Similarly, the neighbouring village of Hoce e Vogel was completely destroyed and reportedly over 40 people were killed within the space of two days.

Additional FRY/Serbian forces surrounded the village of Bellacerke at approximately 5 a.m., stationing themselves on some of the nearby mountains such as Kodra e Fshatit, Kodra e Bernjakes and Kodra e Bellajes. From these positions, they began to shell and shoot at the village. Following this initial assault, infantry entered the village and started burning houses. After completely razing the village, FRY/Serbian forces, including paramilitaries wearing white ribbons, according to one witness, and police, detained a group of people that had fled to a nearby stream, separated the men from the women, robbed the men, ordered them to undress and executed them.¹⁶⁰ The women were ordered to go to Xerxe. Approximately 60 Kosovars were killed in Bellacerke on this day, and a subsequent site investigation conducted by ICTY investigators found 77 bodies near the village.¹⁶¹

Also at approximately 5 a.m., FRY/Serbian forces, including military, police and paramilitaries, with ribbons on their arms, commenced shelling and shooting at the villages of Celine and Krushe e Madhe. Many citizens of Celine abandoned the village and took shelter in the mountains Malet e Pisjakes, in the north. In a matter of a few days FRY/Serbian forces completely destroyed Celine. Approximately 80 unarmed civilians were killed in this village over the course of four days. To date, ICTY investigators have confirmed the presence of 68 bodies in two mass graves located in Celine.¹⁶² Likewise, in Krushe e Madhe witnesses state that military, police, and paramilitary troops dressed in camouflage with white ribbons, entered the village and forced residents to leave. The population fled to the north, gathering in groups in the fields

¹⁶⁰ According to a witness, they lined up the men and shot them, and then fired a bullet into the head of each victim.

¹⁶¹ See, *Ethnic Cleansing in Kosovo: An Accounting*, Report by The United States Department of State, December 1999 (citing ICTY information dated 10 November, 1999). Reportedly, as many as 500 civilians have been killed in Bellacerke during the March 1999 offensive.

¹⁶² Ibid.

and mountains at Izbishti and Leska and joining with the estimated thousands of IDPs from the surrounding villages who were gathered in one area between the villages of Krushe e Madhe, Randobrave (Prizren), Reti, and Nagafc.

The operations described above were repeated throughout the southern region of the municipality in the early morning hours of 25 March, with witnesses recounting that their villages were surrounded by military and security forces and equipment, and then shelled for several hours. Many villagers escaped to the surrounding hills during the initial stage of the attack. Shelling was followed by 'sweeps' conducted by police and paramilitaries¹⁶³ which included the forced displacement of people from their homes, looting, and the burning and destruction of houses and livestock. Those in the villages were robbed and separated by gender, while those who fled were pursued into the mountains. Witnesses described seeing numerous bodies and multiple killings.

The destruction and looting of the villages in the south-east continued from 26 to 28 March. On 26 March, FRY/Serbian police and paramilitary forces entered the area in the hills where, according to witness estimates, as many as 15,000 people were sheltering. They surrounded these civilians and separated men from women. The forces then robbed their victims and killed many of the men, including a large number from Krushe e Madhe. Many villagers, both men and women, fled to Nagafc, joining hundreds, if not thousands, of IDPs who had gathered in that area. The following day, police and paramilitaries from Rahovec entered the village of Nagafc and harassed and robbed the civilians, killing some people and holding the displaced persons in the village until 2 April. On 28 March, police and paramilitaries surrounded the mountain of Pisjaka, where Kosovars from Celine had been sheltering. They encircled these persons, separated men from women, killed some, and forced others to walk to Albania. When the group reached Krushe e Vogel, men were placed on trucks and the women and children on buses bound for Albania.

¹⁶³ There is some confusion in this region as to whether troops were police or paramilitary. Some witnesses clearly identified the two groups and noted their interaction with one another. Others stated that it was difficult to discern because many of the perpetrators wore uniforms with *Milicija* written on the back and arms. Further witnesses recount seeing local Kosovo Serbs who were once MUP but could have switched to the paramilitary ranks, while others witnessed perpetrators switching uniforms. Regardless, it is apparent that police and paramilitary forces worked together in the southern part of the municipality during the March campaign.

Police and paramilitaries again surrounded and entered the village of Nagafc on 28 March. They separated the villagers by gender, and demanded money and jewellery, telling the villagers that they would not be harmed if they gave the forces what they wanted. The forces involved in the robbery were paramilitaries with white ribbons and units with *Milicija* written on the sleeves and backs of their camouflage uniforms. Many witnesses escaped Nagafc at this time and travelled to Albania.

Also on 28 March, FRY/Serbian armed forces began their offensive in the north-west portion of the municipality. In the afternoon hours of this day, troops arrived in Kramovik¹⁶⁴ from the direction of Gjakove and Kline. VJ and paramilitary troops¹⁶⁵ were equipped with tanks, armoured vehicles and civilian vehicles. The following day, FRY/Serbian forces advanced on and shelled the village of Guri i Kuq. Anticipating this operation, the majority of the population had abandoned the village and escaped to the mountains and the nearby village of Pastasel. On 30 March, FRY/Serbian forces entered Guri i Kuq and completely burnt the village. From there, the forces then shelled the village of Koznik. The following day, Koznik was attacked and completely destroyed, and many villagers fled to Pastasel. One witness who hid in the mountains states that seven tanks came in to Koznik. Two tanks were stationed upon a hill near the village of Senoc, and other tanks came from Poluzhe and went on to Drenoc. FRY/Serbian forces used their position in Koznik to shell and grenade Pastasel. The perpetrators were military and paramilitary troops, some of whom were described as wearing multi-coloured uniforms with an emblem known as the Serbian cross,¹⁶⁶ and carried a variety of weapons, including knives attached to the front of military vests.

Also on 31 March, FRY/Serbian forces entered the village of Poluzhe. Most of the inhabitants of the village were rounded up, although some escaped to the mountains. In the afternoon hours of the same day, FRY/Serbian forces attacked the village of Zatriq from the direction of Astrazup

¹⁶⁴ Kramovik had been burned and destroyed in a 1998 offensive and a large majority of its population had fled at that time.

¹⁶⁵ Witnesses in the north-west portion of the municipality refer many times to paramilitary troops who wore "Seselj's 4C" emblem. They are described as wearing camouflage - regular military multi-coloured green with the distinctive symbol on their arms. Witnesses also refer to this symbol as being painted in some of their homes, e.g. in Drenoc.

¹⁶⁶ This is a Serbian symbol consisting of a cross with a 'C' shape embedded, open end facing out, in each of its four quadrants. It has been used as a Serbian nationalist symbol and is incorporated into both the Serbian and the FRY coats of arms.

(Malisheve), shelling it with tanks and mortars. The villagers, 300 according to one estimate, fled to Pastasel. By this time, thousands of civilians had gathered in Pastasel, both from the surrounding villages and from Kline.

FRY/Serbian forces entered Pastasel from the directions of Koznik and Poluzhe on 31 March. VJ forces first surrounded the village with tanks and armoured vehicles. After shelling by VJ forces, paramilitary who were wearing camouflage with white ribbons, some with *Milicija* written on them and VJ units entered the village. Although many men had fled to the mountains at the appearance of the forces, approximately 120 remained and were separated from the women and children. All of the villagers were forced to empty their pockets. The women and children were told to go to Albania, but were first subjected to body searches for valuables before they could depart. The men were further separated into four groups and sent to a nearby stream, where each of the groups was lined up and shot. One witness stated that no distinction was made between the groups of men, the perpetrators opened fire at the same time. After they finished firing, the soldiers walked amongst the bodies looking for possible survivors and shooting them at close range. In total, 13 men managed to survive and 106 men were killed.¹⁶⁷

Also on 31 March, VJ troops attacked the village of Senoc. Most of the villagers from Senoc fled in the direction of Pastasel, which was deserted by this time, and the surrounding hills. Before they moved on, military troops burned the 15 houses that had not been destroyed in the September 1998 offensive. That evening the FRY/Serbian forces withdrew to Koznik and Poluzhe.

The FRY/Serbian offensive in the southern portion of the municipality continued into early April. Between 1-1.30 a.m. on 2 April, FRY/Serbian forces conducted an air raid on the village of Nagafc.¹⁶⁸ Conservative witness estimates place as many as 10,000 people in Nagafc when the air

¹⁶⁷ Men who had previously fled to the surrounding hills returned and buried a number of victims. Several days later, the bodies were exhumed by labourers, described as wearing orange or pink uniforms, and moved elsewhere. ICTY investigators subsequently confirmed finding the graves of the 106 victims of the Pastasel massacre.

¹⁶⁸ There was some uncertainty as to which forces conducted the air attack. VJ and paramilitaries blamed NATO for the attack and subsequent deaths. However, witnesses identify the aircraft as Serbian, and one characterised them as low-flying.

bombardment occurred. One witness stated that every house in the village sheltered over one hundred people. At least twenty civilians were killed and hundreds were injured, although some witnesses estimated the number of victims to be as many as between 40-50. During the attack, one ceiling of a house collapsed on a group of children, killing fifteen. The following morning, police and paramilitaries forced many survivors to leave for Albania. A convoy of thousands was formed and made the long journey to the border. Apart from lack of food and medical treatment for the injured, the convoy faced few problems until it reached the border, where all documents were confiscated and destroyed by FRY/Serbian forces.

By 4 April, the villages in the south-east of Rahovec, which had a pre-conflict population of around 20,000, were deserted. Xerxe was the only village where the majority of Kosovars remained in their homes. On or about 4-5 April, however, FRY/Serbian forces ordered all of the villagers in Xerxe to move to Albania, resulting in a convoy of people on foot and in tractors, cars and trucks.¹⁶⁹ This convoy, which contained many children, went twenty-four hours without food. FRY/Serbian forces continued to be stationed in and around the villages of Bellacerke and Hoce e Madhe, and throughout April people passing through, returning to, or taking shelter in villages in the south were subjected to further attacks from FRY/Serbian forces.

The FRY/Serbian offensive also continued in the north. While forces stationed in the north-west villages of Koznik and Poluzhe withdrew in the direction of Gjakova and Kline on 3 April, two days later a large number of VJ and paramilitary units arrived from the same direction and stationed themselves in the villages of the north-west. These units remained until the withdrawal of FRY/Serbian forces in June 1999. Approximately 50-60 military vehicles, many of them tanks, were stationed in Pastasel during this period, and other forces were stationed in Kramovik, Guri i Kuq, Koznik, and Dejne. In contrast to events which occurred in the south, many villagers who remained in these northern villages through April were not expelled but rather were forced to remain by VJ, MUP and paramilitaries. FRY/Serbian forces moved around in small

¹⁶⁹ While Xerxe was used as a checkpoint station, the village itself can be described as a small community off of the roadside. Thus, it may have been overlooked for a time before forces came in large numbers to clear the remaining people.

vehicles and with light infantry. Larger military vehicles, such as tanks, cannons, and armoured vehicles were covered and hidden in the yards and fields of civilians.

FRY/Serbian forces were particularly concentrated around the villages of Drenoc and Potocan i Eperm. On 9 April a large convoy of tanks and armoured vehicles came from the direction of Ratkoc and stationed themselves in Senoc and Drenoc.¹⁷⁰ These forces entered Drenoc from the east and south and ordered the residents to leave. Those villagers who attempted to depart in tractors were told to leave all vehicles behind. Many who left went to Pastasel, Verjaka and other neighbouring villages, where they remained until the end of the conflict. In one particular incident, an old man stayed behind because he was unable to walk with the other villagers. As his family departed, they heard shooting coming from the direction of their house. When they returned they found that he had been killed.

Not all of the Kosovar residents of Drenoc were permitted to leave at this time. Approximately 200 people remained after 9 April and, subsequently, on 13 April, were gathered together by FRY/Serbian forces and taken to a house on the outskirts of the village. They were counted as they entered this house and told that if anyone attempted to escape all would be killed. Some were allowed to leave to get food from their houses. Each night a paramilitary¹⁷¹ would come and conduct a head count. Some of the men were beaten and there is a suggestion that some of the women were sexually assaulted. After being held under these conditions for nine weeks, these people were set free when FRY/Serbian forces pulled out of the municipality. One witness estimated that as many as 100 armoured vehicles had been hidden in the village during this time. When villagers returned to Drenoc, they found their homes looted and destroyed. The windows and doors of the houses were broken and much of the furniture had been thrown out and damaged. The walls of many of the houses had been marked with Serbian nationalistic slogans and Serbian cross emblems.

¹⁷⁰ Witnesses state that the FRY/Serbian forces came to Drenoc and surrounding villages to hide from NATO bombing.

¹⁷¹ The paramilitaries involved in these acts were described as armed with machine guns and wearing multi-coloured uniforms with red scarves (bandannas) around their heads, and in some cases white and red ribbons on their arms.

At the same time that Drenoc was attacked, VJ, MUP and paramilitaries - in multi-coloured green uniforms, with white ribbons and an eagle emblem on their arms, bullet-proof jackets, machine guns and knives - came to the village of Sanovce. They began to burn and loot houses and shoot some of the occupants. VJ soldiers even informed villagers that they had come to hide from NATO. The forces stationed 2-3 armoured vehicles at each house. While some villagers were not permitted to depart, others were ordered to move on to other villages.

In April, FRY/Serbian forces continued to pursue civilians who had fled the villages for the mountains and valleys of the municipality. Some of those caught were sent back to the villages, others were killed. In one of many examples, on 12 April, VJ soldiers ordered villagers, who were on a mountain close to Krushe e Madhe, to leave Kosovo and go to Albania. After ten minutes, when some villagers failed to leave, the soldiers shot at them, and they departed in the direction the soldiers indicated.

Witnesses who remained in Rahovec town in April recount acts of violence directed at individuals or families, generally carried out by police,¹⁷² but sometimes by paramilitaries and VJ soldiers. Witnesses state that in April there were also incidents of forced labour, involving both Roma and Kosovars.¹⁷³ Expulsions also continued in the town. In April, and up to 7 May, VJ and MUP took up residence in many Kosovar houses, first in the suburbs, and then in Rahovec town. Typically, armed police and VJ would enter the neighbourhood and force the residents to leave within a short period of time under the threat of violence.¹⁷⁴ Long convoys of people were formed and forced by MUP and VJ to leave for Albania. This journey was itself very dangerous and many of the displaced Kosovars faced harassment, robbery, torture, and even death at checkpoints and as they encountered various groups of FRY/Serbian forces.

After 7 May, people living in Rahovec were no longer forced from their homes by the FRY/Serbian forces, who then began to prevent people from

¹⁷² On 12 April, additional MUP forces were located in the Tumba suburb of Rahovec town. From this strategic position, police could see a great deal of the town and surrounding area.

¹⁷³ One group of Kosovar men was detained and sent to Prizren, where they were forced to work for ten days digging trenches. On or around 14 April, several male Roma were told to report to FRY/Serbian authorities on a given day. When they reported at the appointed time they were divided into groups (some with both Roma and Kosovars) and given tasks to perform. Roma witnesses report being forced to bury bodies, clean streets, gather dead animals in the village, dig trenches in the border areas, load trucks, assist in looting, slaughter cattle, and register the inhabitants of Rahovec town.

leaving the town. Violent acts committed against the local Kosovar population continued, but with less frequency than in the preceding months. A local source interviewed stated the opinion that there was a desire to retain a small Kosovar population, estimated at 30 per cent of the pre-conflict level, in Rahovec to shield the then sizeable Kosovo Serb population from NATO air strikes.

From the beginning of May, groups described by witnesses as mercenaries - identified as Russian, Bulgarian, and Gurište - were located in the Tumba suburb of Rahovec town. Inhabitants of the suburb saw these mercenaries occupy four Kosovar houses, where they stayed until 12 June. They dressed in army uniforms, wore masks and were heavily armed. They drove around in armoured vehicles, leaving in the morning and returning late in the day, often accompanied by armed local Kosovo Serbs. While it is not entirely clear what particular function these mercenaries performed during this period, reports implicate these particular forces in the looting of houses and displacement of people. As the mercenaries withdrew, witnesses also recall seeing them planting mines in the area surrounding the houses they occupied. At least one person, a 14-year-old boy, was killed when he later stepped on one of these mines.

In April and May, skirmishes between the KLA and FRY/Serbian forces periodically took place in the southern sector of the municipality after the population had been expelled. On 27 and 28 May, the heaviest fighting occurred between these groups. FRY/Serbian forces undertook a wide offensive on these dates, attacking KLA positions from all sides, particularly in the villages of Brestoc, Hoce e Vogel, Nagafc, Celine, Oterushe and Reti. There were losses on both sides and the FRY/Serbian forces then targeted villages in the south for additional destruction and burning.

On 14 June 1999, shortly after midnight, KFOR tanks entered the town of Rahovec and Serbian armed forces initiated their full withdrawal from the region.

174 In one instance, on 28 April, Serbian police ordered about 100 members of one family, engaged in a celebration, to leave because Kosovo was 'Serbian land.' They were given 20 minutes to pack everything they owned and depart for Albania.

4. General conclusions

The FRY/Serbian campaign in the Rahovec municipality, as described above, exhibited the same key elements in both the northern and southern offensives, elements repeated in other municipalities. The actions of various FRY/Serbian forces in the municipality, VJ, MUP and paramilitary, exhibited considerable co-ordination and co-operation in conducting operations calculated to expel Kosovars from villages, control their movement within and departure from the municipality, and generally terrorise the population. The form of the offensive was consistent in both the north and south, with villages initially shelled by VJ and FRY/Serbian forces, and then entered, usually by mixed police and paramilitaries, although sometimes including the VJ. The inhabitants were then gathered in a central place, subjected to threats, harassment, robbery or worse, and separated into groups. The forces then compelled the inhabitants to depart to specific villages or Albania before looting and burning property, including houses and livestock. The level of co-ordination between the different forces was consistently noted by witnesses who often recounted hearing orders given over perpetrators' radios, or saw them conferring in person. Additionally, the attacks on the villages during the March offensive were conducted swiftly and in a co-ordinated manner, often resulting in the "collection" of Kosovars in specific areas where FRY/Serbian forces could further ensure their expulsion from Kosovo.

The expulsion of the Kosovar population was the central element of the entire campaign. Thousands upon thousands of civilians (20,000 estimated from the southern sector alone) were forced from their homes and villages. FRY/Serbian forces used all forms of violence and threats to terrorise them into leaving Kosovo. In some situations, FRY/Serbian forces directed people to particular villages or regions, e.g. Pastasel and the Celine/Nagafc region. From these strategic positions, the forces could threaten and intimidate a concentrated population and could ensure, through the use of convoys in particular, that they left Kosovo. In addition, in these regions, FRY/Serbian forces engaged in mass killings and even aerial bombardments, acts designed to kill a large number of people with many witnesses present. Controlling and targeting these large groups further highlights the need

for co-ordination between the various forces. MUP and paramilitaries controlled checkpoints, all forces - VJ, MUP and paramilitary - directed people to certain villages, and the IDPs would be repeatedly victimised along the route of departure and at their destination by other FRY/Serbian forces. Personal documents were taken and destroyed as a final assault against the ability of Kosovars to return to their homes.

The widespread looting and burning of property was utilised constantly by the FRY/Serbian forces as a way to terrorise and demoralise the Kosovar population. Much of the municipality was razed in the March 1999 offensive and countless witnesses describe perpetrators loading personal items of Kosovars, such as household appliances, cars, and even livestock, on to trucks bound for Serbia proper. It has been surmised by many witnesses that the promise of such items was an incentive for foreign mercenaries and even local Kosovo Serbs, who participated in the looting and destruction of property. Additionally, schools, mosques, and other buildings of cultural importance were deliberately destroyed by the FRY/Serbian forces during the 1999 campaign.

Witnesses also recount instances of detention, arrest, and forced labour in the municipality. Much of the forced labour was endured by minority populations such as the Roma. Detentions and unlawful arrests were characteristic of the FRY/Serbian force presence throughout 1998 and 1999 and were used to instil fear in the population. Many residents of Rahovec are suspected to remain in prisons in Serbia even today, while others were killed while in detention. Later in the conflict, forced displacement gave way in some areas to the use of Kosovars as human shields, i.e. forcing people to remain in villages to provide protection for the FRY/Serbian forces from attacks by NATO. This also allowed the paramilitaries, military and police to further terrorise the detained population.

Rape and sexual assault was also used to terrorise the Kosovar population in 1999. As has been stated previously, although it is difficult to gather information on this sensitive topic, it became apparent throughout the interview process that this crime occurred at several locations within the municipality.

Finally, and most horrifically characteristic of the 1999 campaign against the civilian population, was the use of individual and often mass killings, and the disposal of bodies and evidence of these crimes. The following sections illustrate, in greater detail, the more serious incidents in the municipality. Witness statements have also uncovered the extent to which individual execution of unarmed civilians was used as a tactic in the 1999 offensive.

5. Case Study: Brestoc

The attack on the village of Brestoc is illustrative of the expulsion campaign directed against the Kosovar population in 1999, but also demonstrates the ferocity with which these operations were often conducted. Brestoc is surrounded by hills and located approximately eight kilometres from Rahovec town, as well as being close in proximity to Hoce e Madhe, inhabited by a large Kosovo Serb population and used as a base for military and paramilitary activity in the municipality. When the offensive began in the early hours of 25 March, villagers fled both to Rahovec town and to the many hills surrounding the area. From their vantage points, these latter persons were able to witness and describe in detail the movement of FRY/Serbian forces, including paramilitaries, into the village, and the suffering inflicted on those who tried to flee shelling and sniper fire. Many witnesses were also able to identify local Kosovo Serb community members from Hoce e Madhe who participated in, and sometimes led, the offensive against their former neighbours. They further witnessed some FRY/Serbian forces taking injections of drugs before ambushing and killing groups of Kosovars and setting the village on fire.

On 25 March, at 4 a.m., VJ units surrounded and began shelling and firing at the village. Tanks, armored vehicles and troops arrived from the directions of Rahovec, Hoce e Madhe, and Krushe e Madhe. Witnesses indicate that they arrived from 6 directions but that the command was centralised. A witness hiding near the road reported seeing the arrival of 6 tanks, blue jeeps, missiles and heavy artillery. According to witnesses, upon entering the village, MUP, VJ, paramilitary forces and local Kosovo Serbs began attacking the inhabitants and looting and burning the houses.

Also on 25 March, eleven victims of a particularly brutal mass killing were found on the country road between Brestoc and Celine. Nine of the victims were members of the same family and one victim was a young girl. Their bodies had been mutilated, disemboweled, and one victim had been decapitated. In another incident on the same day, MUP and paramilitary forces surrounded and shot at a group of 30 civilians. Twelve persons from this group were killed one by one at close range, despite begging for their lives and identifying themselves as civilians.

Approximately 40 Kosovars took shelter in a basement in Brestoc, most of them women and children. On 26 March, police shot at the windows of the room, then opened the door and threw in at least one grenade. Six people died during the incident, five immediately and one subsequently. All who were in the room were injured or burned. The injured stayed in the basement until men brought a tractor to take them for treatment. After the grenade attack, the victims fled and returned a few days later to find that police had burned the basement.

On 26 March, between 2 and 5 a.m. the FRY/Serbian forces again started burning the homes of Kosovars. At 8 a.m. a witness heard troops say "let's pull back we have finished" and saw them leaving with tractors and trucks full of stolen property. Two hours later the same witness saw the remaining units pull out of Brestoc. Approximately 100 cows were killed and many other large animals were taken away.

As stated above, a large number of the Brestoc Kosovars took shelter in the surrounding hills. In many cases, local Kosovo Serb civilians led FRY/Serbian forces to these hiding places (especially people such as hunters who had some special knowledge of the area). Some witnesses report being detained for several hours in the hills by police, VJ and paramilitary forces, and others recount FRY/Serbian forces shooting at and killing Kosovars.

Residents of Brestoc fled to Nagafc where many hundreds of IDPs were gathered. One witness returned to Brestoc three days later to find the village destroyed. This witness reported seeing a total of 28 bodies in the village. The witness attempted to bury the bodies, but was prevented by sniper fire. Witnesses report that as many as 60 persons were killed in this village at the beginning of the March offensive.

Some of the paramilitaries involved in this attack are described as wearing military trousers and civilian shirts, with painted faces and hats, while others wore both red and white ribbons on their camouflage uniforms. Many persons involved as part of the MUP and paramilitary groups were familiar to the victims, as they were both local Kosovo Serb police reservists and civilian Kosovo Serbs from the municipality.

6. Case Study: Celine

Celine is located at the crossroads of the main Gjakove-Prizren road and the smaller Rahovec-Krushe e Madhe road. Prior to March 1999 it had a population of approximately 2,300 and was the site of significant military reinforcement before the NATO bombing. After this time it was a village through which thousands passed on their way to Albania via Prizren, with between 5,000-8,000 people sheltering in Celine from the surrounding areas of Hoce, Bellacerke, Brestoc, Nagafc, and Xerxe.

Prior to the NATO air campaign, on 23 March, four or five police were stationed on the main road into Celine. Those who attempted to leave at this time were not permitted, and were in some cases beaten. The offensive began two days later, on 25 March, at 3 a.m., when tanks and armoured cars started to surround the village from the direction of Bellacerke. At approximately 5 a.m., VJ forces began to shell the village and continued without cessation for the next twelve hours. Afterwards, VJ, MUP and paramilitary forces entered Celine. Some of the paramilitaries came from the direction of Rahovec wearing uniforms bearing one white stripe and one red.¹⁷⁵ They also saw members of the attacking forces wearing combined uniforms or even changing uniforms. Witnesses also report that there were masked men wearing nylon stockings and red scarves on their heads. In addition, witnesses described hearing Russian being spoken by persons they called "mercenaries." One witness reports seeing the paramilitaries giving each other injections as they approached Celine.

Some witnesses describe being forced to leave their houses on the morning of 25 March. The FRY/Serbian forces gathered some people

¹⁷⁵ Witnesses describe the paramilitaries as being in police uniforms but were insistent that they were not police.

together in homes, with up to 50 in some houses. Elderly and infirm villagers who stayed behind in their houses after being ordered to leave were killed, their bodies discovered by family members when they returned. Witnesses report that FRY/Serbian forces also began burning houses after they entered.

On 26 March, at approximately 3 a.m., VJ, police and paramilitary forces returned and again started to attack. People who were still in the village hid in their basements. The forces surrounded the houses of the village and gathered all the inhabitants in one place near the school, which was on fire. Witnesses reported seeing Russian mercenaries in this place. A group of 22 people were lined up against a wall and the men separated from the women. Members of the police beat some of the men with pieces of wood. Some police also took the pins out of grenades and threatened the assembled Kosovars. Women and children were then allowed to leave and told to walk to Xerxe. Men older than 16 years were ordered to take off their clothes and were given scarves. Those who paid money were set free and fled to the mountains. When the women were about 100 metres from where they had been held, they heard gunshots. Thirteen of the men in the above group were thus killed. One witness, returning approximately two hours later, found the thirteen bodies burning, and claims that petrol was used to burn them.

Also on 26 March, MUP forces surrounded a group of men, women and children, including those who had escaped the above massacre, sheltering in the mountains. Each family gave at least 50 to 100 DM in the hope that their lives would be spared. Witnesses state that approximately 40,000 DM and jewellery was stolen from this group. Another witness from the same group described one police officer radioing his commander that they had collected more money than expected. The commander reportedly responded that only those suspected to be KLA members were to be killed and the rest could be sent to Albania.

Some witnesses who were sheltering in the mountains were surrounded and instructed to go to the entrance to the village, being physically assaulted on the way. When they reached the entrance to the village, paramilitaries arrived, wearing ribbons on their uniforms and paint on their faces, and again demanded money. These witnesses saw two large

trucks then arriving from the direction of Krushe e Madhe and containing dead bodies. The group was then taken to two bridges where their heads were hit with rifle butts and stones thrown at them. If they lifted their heads they were hit repeatedly. Most of those who were hit were young adults between 20 and 25 years old. One witness had his head held over the side of the bridge and some paramilitaries cut his hair. As he was leaned over he saw many bodies in the water. The men were then loaded on to a third truck which had arrived and forced to shout "Serbia!" One handicapped man, unable to speak, was killed with a machine gun in front of the other passengers because of his failure to shout with the others. The trucks drove to the village of Zhur where the Kosovars were told to walk the rest of the way to the Albanian border.

On the same day, at approximately 8 a.m., IDPs in Celine were surrounded by police, who separated men from women. Approximately 150 men were ordered to lie down, take their clothes off and throw their identity documentation behind them. Their clothes and documents were then burned and police used petrol to threaten them. Then police demanded money and threatened the detainees with burning or putting nails through their hands if they failed to come up with the money. One man gave police 20,000 DM but was nonetheless killed. Police and paramilitaries beat the detained men. The paramilitaries were reported to have been wearing white stripes on their uniforms and all carried knives as well as guns. It appears that this group of Kosovars was eventually sent on trucks to Albania. Many Kosovars who fled to the surrounding hills were rounded up by paramilitary forces and then forced to go to Celine and then to Krushe e Vogel, from where they departed for Albania via Prizren.

As a result of this operation, eighty-two people were killed in Celine. The village, including the school and the mosque, was almost completely razed by fire and shelling.

7. Case Study: Krushe e Madhe

Krushe e Madhe, located along the main Peje-Prizren road in the southern part of Rahovec near the Prizren border, is the site of one of the greatest losses of life in the municipality. As many as 207 Kosovars from the village

were killed during the period from late March to June 1999. Witnesses state that one hundred and ten people were killed on the first day of the attack alone. Krushe e Madhe is also the site of at least one building where rape or sexual assault of women occurred, and numerous acts of brutality targeted in large part at young men of fighting age. Further, the mosque was used as a collection point where the Kosovars faced more violence and brutality.

On 25 March, at 5.30 a.m., FRY/Serbian forces attacked Krusha e Madhe from the directions of Nagafc and Celine. Tanks were positioned on the top of the surrounding hills and began to shoot down in the direction of the village and marsh areas where people had taken shelter. One witness reports seeing three buses full of MUP arrive in the village when the shelling ended around 3.30 p.m. VJ personnel then began to loot and burn the houses in the village. One family of witnesses reported that paramilitaries operating in the village had multicoloured camouflage uniforms with white ribbons and feathers in their hats. Witnesses also describe seeing paramilitaries in black uniforms on 26 March and others bearing a red eagle with a white circle.

At 7 a.m. on 26 March, FRY/Serbian forces surrounded a group of 300-400 Kosovars from Krushe e Madhe, including many elderly and infirm people. These forces were looking for young men and started to take pictures of the boys. At 3 p.m. the women, elderly and children were sent to a field occupied by both VJ and MUP. Witnesses report that a number of forces were 'drugged' and men and women were again separated. Only two old men were allowed to remain with the women. The group was ordered to walk very quickly to some stables. When they arrived at the stables they were again stopped by paramilitaries dressed all in black with white ribbons and masks. At this time they could see that the men separated from them earlier were now at the top of a hill and were again being separated into groups. The FRY/Serbian forces then started to shoot these men with automatic weapons and the witnesses saw them fall to the ground. At 9 p.m. the group was ordered to return to their homes, but the entire village was on fire. An hour later, the group was again stopped by FRY/Serbian forces who ordered them into a line. Soldiers threatened them with their guns until one soldier forced them into a store for the night and guarded the door. The next morning the group was instructed

to file out of the building by paramilitaries in black uniforms. Five young women were kept behind from the group and were sent to a house suspected to be used for sexual assault and rape.

Also on 26 March, 200-600 civilians who were sheltering in a nearby marsh were surrounded by paramilitaries who separated the men from the women. The women and children were then robbed of money and jewellery and sent to the mosque. The men were ordered to lie on the ground, face down, whereupon paramilitaries carrying sticks walked up and down the column tapping certain individuals. Those who were tapped were then taken away and not seen thereafter. Approximately 150 men were left and divided into four groups. Approximately 30 men of 60 years and above were robbed and told to go to Rogove (Gjakova). Young men aged 14 to 20 were ordered to go to the mosque. The third group was ordered to dig a trench and to squat down for hours. Witnesses in this group heard shots fired from the direction of the final group, composed of about 60 men, the large majority of whom are still missing. The FRY/Serbian forces involved in these acts carried knives and guns, were in camouflage uniforms, with white ribbons on the arm and the word *Milicija* on the sleeve. Two of the paramilitaries were reportedly speaking in Albanian - witnesses state they were from Hoce e Madhe and Prizren. The following day, a witness returned to the village and reports seeing many dead bodies being removed and burned by FRY/Serbian forces.

Beginning on or about 27 March, approximately 10 women were kept prisoner in a house in Krusha e Madhe for two or three days. The FRY/Serbian forces who detained them were young, around 20 years old, and wearing VJ uniforms, with white ribbons, a white eagle, and bullet-proof vests. The young women were beaten, robbed, and threatened with guns and hooked knives designed to remove the eyes. Many statements related to this house make it clear that several women were subjected to sexual assaults or rapes during this period of detention. After two days the young women were sent to Prizren where they were loaded on to a tractor that was escorted by four tanks to Zhur, from where they walked to the border.

Also at this time, MUP forces told a number of women and children as well as two men who were hiding in one house to come out, whereupon

they were separated by gender. The women were robbed and children were placed in four shops in the village. At another house, paramilitary forces ordered the occupants to leave and separated out a group of approximately fifty young men, who were then sent to the mosque and from there to a different house, since the mosque was full. Along the way the paramilitaries physically abused the young men, and two of the group were shot and killed. The remainder were detained in the house overnight with FRY/Serbian forces guarding the door.

The next morning these young men were sent to the mosque, seeing many dead bodies along the way.¹⁷⁶ Groups of paramilitaries continually approached them, demanding money, and many were killed. Others from this group were beaten and severely ill-treated by the paramilitaries, their hands were struck with metal bars and they were beaten until they lost consciousness, only to be beaten again when they regained consciousness. Paramilitaries put the young men in a truck and sent them to Landovice (Prizren) and then on to Albania by bus.¹⁷⁷ At or around this time many of the women and children from the village were also placed on trucks by paramilitaries and possibly MUP and sent to Landovice, and from there to Zhur, where they were forced to walk to the Albanian border.

An examination of these three villages reveals the striking similarities in the attacks launched by FRY/Serbian forces against Rahovec villages. These operations were commenced at the same time and were executed in much the same fashion. Brestoc and Celine reveal the same pattern of shelling of the village followed by entry of FRY/Serbian forces. In all three villages, once inside, the forces rounded up people, pursuing some into the surrounding area, and separated them into groups. Once under the control of the forces, mostly MUP and paramilitaries, they were subjected to extreme acts of physical and/or sexual abuse (sometimes over an extended period while in detention), killing and robbery of valuables and identity documents. The description of the FRY/Serbian forces is quite similar in all three villages, especially in Brestoc and Celine, with paramilitaries being described as taking drug injections, and wearing

176 Witnesses who passed by the mosque on subsequent days report seeing bodies, including at least one victim who had been disemboweled.

177 Those severely beaten had KLA jackets draped over them, giving them the appearance of injured soldiers, not civilians.

mixed uniforms and red and white ribbons.¹⁷⁸ The movement of the Kosovars was tightly controlled, with some people being forced to go to nearby villages, and, in the cases of Celine and Krushe e Madhe, Kosovars being placed on trucks and sent to the Albanian border.

D. Malisheve/Malisevo

1. Introduction

The municipality of Malisheve lies in south-western Kosovo, and is neighboured by Kline, Rahovec, Glogoc, Lipjan and Suhareke municipalities. In 1990, the Serbian government officially disbanded Malisheve as a municipality, in response to local attempts to bring legal proceedings against it for the killings of three civilians in the main town.¹⁷⁹ It was thus divided between its neighbours, with the majority of villages going to Rahovec, Suhareke and Kline and the town of Malisheve going to Rahovec. However, this decision was ignored by the majority of the Kosovar population, who continued to recognise the existence of the municipality within their own parallel state structures. Prior to the onset of the armed conflict in late February 1998, the total population of the municipality was around 58,000. Of this, the vast majority were Kosovar Albanian, with the exception of a small number of Kosovo Serb families living in the villages of Kijeve, Mleqan and Banje and a handful of Roma families in Carralluke and Banje.¹⁸⁰ Outside of the town of Malisheve itself, which in February 1998 had a population of 3,000, the municipality consists of 41 villages.

This section will briefly examine the period from early 1998 until March 1999, before outlining the March to June 1999 campaign. An illustration of the nature of the campaign is then provided by a discussion of events at Bellanice and Gurbardh. Finally, the section concludes by describing

¹⁷⁸ Paramilitaries in Krushe e Madhe reportedly wore white ribbons, and some of the FRY/Serbian forces were described as being 'drugged.'

¹⁷⁹ Once again, the main town bears the same name as the municipality. Here, all references to Malisheve indicate the municipality as a whole, unless indicated otherwise.

¹⁸⁰ Practically all of the Kosovo Serb residents of Kijeve and Mlecan departed Kosovo with the withdrawal of the FRY/Serbian forces from the province in June 1999. Some of the Roma community, accused of collaborating with the FRY/Serbian forces also departed at this time, while others remained.

the experiences of many thousands of Kosovars who escaped expulsion from Kosovo and remained in hiding in Malisheve throughout the conflict.

Of significant note is the fact that Malisheve is criss-crossed by two main roads, which were marked by four MUP checkpoints, erected before the 1998 armed conflict in Kosovo. Whilst only the checkpoint at Kijeve was inside the municipality itself, they served to monitor and control movements into and from Malisheve.¹⁸¹ During early 1998, they were further strengthened and permanently manned and the harassment of Kosovars passing through them intensified.¹⁸² Witnesses interviewed by the Project detailed beatings and other mistreatment inflicted upon them by the MUP forces at this time.

In the first half of 1998, Malisheve was widely reported as a KLA stronghold. As the FRY/Serbian campaign intensified through April, May and June, many internally displaced persons (IDPs) started to arrive in the municipality, particularly following the operations in Decane. The KLA mounted increasing attacks on the FRY/Serbian forces and clashes occurred around the villages on the main Prishtina-Peje highway. VJ and MUP forces were steadily built-up in the region, and witnesses also report the appearance of other individuals and groups, described as paramilitaries. These forces engaged in several attacks resulting in the deaths of a number of local civilians.

By late June 1998, the KLA claimed to control approximately 30% of Kosovo, with their central base in Malisheve, and it thus seemed inevitable that FRY/Serbian forces would launch a concerted attack against the municipality. Initial operations in early July were limited to several villages along the Prishtina-Peje highway in the north of the municipality and to two villages in the south. However, as described in the previous section, following the success of operations in Rahovec at the end of July, a full-scale assault on the municipality began. The

¹⁸¹ The three outside were located at Komoran, Dal and Rahovec.

¹⁸² The Malisheve Sub-Committee of the CDHRF reported that once the checkpoints became permanent, five or six people would come to their office daily to report that they had been beaten, harassed or fined when forced to stop there.

population of the villages and of Malisheve town itself began to flee and electricity to the municipality was cut off, not to be restored until the arrival of NATO forces in June 1999.

All the villages on the main Kijeve to Malisheve road were first shelled and then burned as the population fled south towards Senik and Pagarushe, east towards Berishe, or west towards Turjake, Gurbardh, Damanek, Llapqeve and Panorc. On 28 July 1998, Malisheve town itself was surrounded and shelled and then, as the FRY/Serbian forces entered, looted and burned.

The FRY/Serbian operations in the municipality continued throughout the following months, resulting in the death and displacement of many civilians. For example, on 27 August, sustained artillery fire upon civilians sheltering in Senik killed at least seven people and injured approximately 25 others. On 26 September, FRY/Serbian forces surrounded a group of IDPs near Golluboc and separated off fourteen men, who were taken away in vehicles to a nearby house. There they were forced to lie on the ground and then beaten for a period of hours, before being shot, with only one man surviving.

Without wishing to discuss the individual attacks during the 1998 campaign, it is notable that witnesses report that they were carried out by forces consisting of VJ, MUP and paramilitary groups. These paramilitaries are alleged to have included local Kosovo Serb civilians, as well as others from Serbia. Witnesses recounted seeing individuals dressed in black and blue uniforms, some wearing bandannas, others masked and others with white ribbons tied around their upper arms. During the attack on Bubavec, one survivor of an attack against fleeing civilians, in which at least four people were killed, recounted hearing Russian speakers who were wearing blue MUP uniforms. Furthermore, many local Kosovars believed that the village of Hoce e Madhe, south east of Rahovec, was a base for Arkan's Tigers, who were thought to be active throughout the region.

As has been stated many times previously in this report and elsewhere, the many attacks on civilians in 1998 were part of a campaign to terrorise the Kosovar population and crush support for the KLA along with any

aspirations for autonomy or independence for the province. Events described to Project staff in Malisheve are illustrative of this policy of violence, which resulted in the depopulation and destruction of all the villages located near the main roads leading into Malisheve, including Kijeve, Bubavec, Lubizhde, Mirushe, Carralluke, Temeqine, Bellanice, Banje, Astrazup and Dragobil. Many thousands became internally displaced, and hid in the forests and mountains of the region. Until mid-October 1998, the FRY/Serbian forces continued to harass and attack these IDPs, as well as those who had remained in their homes, and witnesses report many acts of violence, including killings, abductions, arson, robbery and massive property destruction.

The period between the Holbrooke-Milosevic agreement and the departure of KVM monitors on 20 March 1999 saw numerous breaches of the cease-fire agreement from both the KLA and the FRY/Serbian forces in Malisheve.¹⁸³ Whilst the majority of the IDPs steadily returned to their homes, the continuing MUP presence in Malisheve town prevented the majority of its population from ever returning.¹⁸⁴ Fighting between FRY/Serbian forces and the KLA continued to occur, and sporadic shelling of villages also continued. Although the arrival of KVM in November reduced tensions to some extent, the situation deteriorated again at the beginning of February 1999, after the massacre at Recak. The following escalation of fighting on the outskirts of the municipality and shelling of villages within it, even before the departure of KVM, were to be just the prelude to a massive FRY/Serbian offensive aimed at the complete depopulation of the municipality.¹⁸⁵

183 Tensions in the municipality increased at the beginning of November with numerous breaches of the cease-fire. In early November, MUP forces prevented people in Banje from attending a demonstration that was to be staged in Malisheve by shooting in the air and at the crowd, injuring one person. The shelling of Guncat on 3 November forced people to flee to Nishor. On 6 November, two MUP officers were reported to have been kidnapped on the road between Malisheve and Arlat. Their bodies were discovered close to Malisheve on 9 November. KDOM observers reported on 11 November that MUP forces were continuing to reinforce their positions on the Malisheve - Llapushnik road, especially around Arlat. On 12 November, FRY forces attacked Mleqan where people had just begun to return. One person was killed and one wounded when shot by people inside two white cars. This attack forced returnees to flee to the forest for the night. On 29 November the shelling of Mleqan, Luzice and Balince from Kijeve was also reported.

184 By early January 1999, UNHCR reported the return of approximately 1,000 residents to the town, one third of the pre-offensive population.

185 KDOM reported extensive VJ troop and equipment movements near Llapushnik on 11 February 1999. On 24 February, MUP troops from Kijeve entered the office of the Mother Theresa Society in Balince and held 25 people there for two hours. Some were beaten whilst others had their identity documents destroyed. The house of one villager was searched and then demolished. KDOM reported a big build up of both MUP and VJ forces in Suhareke on 26 February. On 4 March, fighting was reported to have broken out around Llapushnik. The shelling of Mleqan on 17 March started a new round of population displacement which was to leave the majority of Malisheve's villages empty by the end of the month.

2. The Campaign in Malisheve from March 1999

As discussed in Chapter IV, the failure of the diplomatic process at Rambouillet in February and March resulted in the withdrawal of all international monitors by 20 March. With the build-up of FRY/Serbian forces over the preceding weeks, a systematic campaign against the entire Kosovar community was launched almost immediately. The shelling of Balince, Carralluke and Shkarashnik on 20 March caused their inhabitants to flee in different directions. Those who chose to stay behind in Carralluke were forced to leave after being robbed by FRY/Serbian forces who entered the village and then proceeded to loot and burn houses. To the south, many heavily armed MUP special units and VJ forces were seen entering Rahovec between 22 and 24 March. These forces were reported to be going to Hoce e Madhe and in the direction of Malisheve town during the day, before returning to Rahovec late at night.

The ensuing campaign repeated that of 1998, differing only in its ferocity and its degree of success in expelling the population through a policy of terror. In Malisheve, it appears that the expulsion proceeded in well-organised and co-ordinated stages. Individual villages were attacked by FRY/Serbian forces, their Kosovar populations driven out through fear or on the direct order of these forces. Most of the homes in the villages were looted and then burned as the residents fled, or soon thereafter. During the attacks, villages were generally surrounded on three sides, leaving the population only one possible escape route. Displaced villagers were thus channelled into particular locations, serving as collection points, giving the FRY/Serbian forces the ability to control masses of displaced people and efficiently herd them out of Kosovo. Such tactics also provided the opportunity to systematically rob the fleeing population.

The village of Bellanice served as the main collection point for the southern part of the municipality. In the north, Gurbardh was the main collection point, with Turjake serving as a smaller centre. The tens of thousands of people gathered at these collection points were then driven out of Kosovo by the FRY/Serbian forces. Outside of Malisheve, Shterbullove and Qikatove, both near Glogoc, seemed to serve as collection points for those north of the Prishtina-Peje highway, although the IDPs congregated there were never expelled from Kosovo.

The following chronological summary of the various attacks and operations throughout Malisheve demonstrates a campaign where expulsion was the clear intention. It also describes the kinds of intimidation and mistreatment visited upon the fleeing Kosovars as they were pushed to the Albanian border.

3. Chronological Outline

After 20 March 1999, the campaign to expel the Kosovar population began in the north of Malisheve with attacks launched from the Prishtina-Peje highway on the villages located nearby. FRY/Serbian forces then secured the Malisheve-Llapushnik road - the residents of Carralluke being the first expelled, on 21 March. These actions, combined with pre-existing FRY/Serbian control of Malisheve town, meant the population of the northern villages could only flee westwards. In the southern half of the municipality, attacks were launched from the south, along the main roads into Malisheve town. The FRY/Serbian forces then attacked from the west, along the Malisheve-Rahovec road, forcing the inhabitants of these southern villages to flee towards the east.

On 21 March, the shelling of Carralluke began from the direction of Llapushnik and most of its inhabitants fled towards Drenoc or Senik. FRY/Serbian forces, including VJ, MUP and paramilitaries then entered the village and expelled those who remained, while looting and burning many houses. That same day FRY/Serbian forces also attacked Terpeze, with artillery, forcing the inhabitants to flee to Senik.

On 24 March, the village of Balince, beside the Prishtina-Peje highway was shelled and then VJ, MUP and paramilitaries in armoured vehicles, tanks and trucks entered. Some villagers had their identity documents destroyed and were forced to leave. Many houses were set alight during the operation and the FRY/Serbian forces returned the next day to torch other parts of the village. At this time, IDPs from Bllace, a village in the Suhareke municipality, started fleeing north and arriving in Bellance.

The following day Mleqan was the target of shelling by MUP, VJ and paramilitaries in black clothing, and the population fled, south towards

Gurbardh. A convoy of FRY/Serbian forces, including 3 tanks and several trucks, approached Pllloqçe and commenced the shelling of that village also. Its inhabitants largely departed for Berishe, Golluboc and Terdc and the MUP, VJ and paramilitaries who entered the village forced the remaining people to go to Terdc, while they killed livestock and burned houses and other buildings. Golluboc was also shelled on 25 March, and MUP, VJ and paramilitaries in black uniforms ensured the expulsion of the local residents. Similarly, Astrazup, on the main road between Malisheve town and Rahovec town, was surrounded by FRY/Serbian forces who launched artillery attacks and then, over the following days, looted and burned houses. Many IDPs in the surrounding area sought shelter in and around the village of Pagarushe.

The village of Bubavec was attacked on 26 March by combined FRY/Serbian forces. As the local people fled south-west towards Lubizhde and Damanek, these forces entered the village and started to burn houses. Vermice was also shelled on this day, as was neighbouring Shkarashnik. Witnesses further report that two MiG aeroplanes with FRY markings were used to attack Kleçke. On 27 March, Shkarashnik continued to be the target of artillery fire and was later entered by forces which proceeded to burn houses and vehicles. These forces then started to shell Drenoc, to which many displaced villagers had fled. Those from Vermice sought refuge in a neighbouring forest. Witnesses also report sighting two FRY MiG planes coming from the direction of Kleçke and flying towards Llapushnik. After circling the area, they bombed the village of Berishe, killing at least one civilian and destroying a house. The same day, FRY/Serbian forces attacked Berishe with artillery, from the directions of Kizhareke, Negroc and Rusinoc. Lladroc and Terpeze were also attacked that day.

On 28 March, the shelling of Luzice began, in advance of the arrival in the village of heavily armed FRY/Serbian forces, including paramilitaries dressed in civilian clothes with headbands and carrying knives and swords, in a convoy of tanks, armoured vehicles and trucks. These forces proceeded to burn houses as the local population were channelled in the direction of Drenoc and Turjake. An artillery attack from Temeqine on one part of Guncat, forced its inhabitants to flee to another part of the village, while Banje came under attack from

Malisheve town, forcing its inhabitants to flee towards the mountains and Bellanice.

The next day, MUP forces in black uniforms, VJ and paramilitaries entered the Astrazup neighbourhoods of Drenoc in a convoy of tanks, armoured vehicles and trucks. The local people were threatened, robbed at knife point, and had their identity documents confiscated, before being forced to leave towards the west. Once again, witnesses report that they saw houses being set on fire as they left. Lubizhde was also shelled from the direction of Kijeve and villagers and sheltering IDPs fled to Turjake and Gurbardh. In Plloqiçe, witnesses report that MUP officers wearing black uniforms with an eagle insignia on the sleeve started to burn houses. They further informed the local residents that if they wanted food, young girls should be sent to them to collect it. When some girls did go to collect this food, they were taken away by the MUP forces to an unknown destination.

In the west, Panorc was shelled by FRY/Serbian forces based in Sverke, and villagers and IDPs fled to the surrounding mountains and to Turjake. VJ artillery attacks on Astrazup also continued and FRY/Serbian forces burned houses and cars as they swept through the village over the next few days. Some inhabitants departed for Burim and Gurbardh, others for Shkoze and Bellanice. Witnesses report that they were beaten and robbed as they left.

Vermice was shelled again on 30 March, forcing more of its occupants towards Drenoc and Gurbardh, with others staying in the nearby forest. MUP, VJ and paramilitaries in black and green uniforms entered the village with tanks, jeeps, heavy armour and trucks, and fired their weapons at one group fleeing on a tractor, killing at least one person. Houses in the village were then set on fire. Drenoc was also targeted on that day. MUP forces in blue uniforms, with others in green uniforms, and paramilitaries in black uniforms (some of whom were masked or had “painted” faces and were wearing ribbons) entered the village and started to burn houses. Several local Kosovars were killed during this assault and much of the population fled towards Damanek, Gurbardh and Turjake, which was itself the target of shelling from the direction of Drenoc that killed and injured people.

In Panorc, FRY/Serbian forces shelled the mountains where many IDPs were sheltering and then entered and burned the village. Artillery fire upon Banje also continued, coming from the direction of Malisheve town. The inhabitants moved towards Bellanice and a nearby forest, where members of the police forced them further onwards. Burim was attacked with artillery fire from the directions of Malisheve town and Astrazup, and Dragobil was fired upon from all sides. During all these attacks, individuals were killed either as a result of the shelling, or upon seeking to escape, or were specifically selected for arrest/abduction. Additionally, the pattern of burning property, killing livestock and robbing Kosovars as they left is clearly evidenced by the witness statements gathered. There are also some reports of women being taken away for periods of time by FRY/Serbian forces, for unspecified purposes.

The operations on 30 March also included attacks on Janqist, Marali, Mahare, Senik and Shkoze. Some of the residents of Janqist fled to Gurishte and then on to Bellanice, while others went to the mountains. Those from Marali also went towards the mountains. Witnesses to the attack on Mahare recount the involvement of VJ, MUP and paramilitaries, the latter wearing green uniforms with badges bearing an eagle motif and the Serbian cross, or with red ribbons tied around their heads and different coloured ribbons around their arms. The village of Pagarushe, then containing approximately 40,000 IDPs, was also shelled, with reports of some casualties.

In the west, Llapqeve was shelled from Sverke, Vulljake and Guri i Kug on 31 March. FRY/Serbian forces wearing green uniforms with red ribbons around their heads, and others in blue uniforms, entered the village and ordered the population, which had gathered in one place, to leave for Albania within 30 minutes. The Kosovars thus headed towards Mrasuer and Kralan, both in Gjakova municipality. Bubel was also shelled from Vulljake and the population went to Damanek forest as the FRY/Serbian forces entered the village and burned houses.

The FRY/Serbian forces also burned another part of Drenoc at that time. MUP, VJ and Serb civilians with tanks approached a nearby forest where many IDPs were sheltering and started shelling and shooting. These FRY/Serbian forces surrounded the IDPs, started to burn their tractors

and cars, and beat some of them with rifle butts. Witnesses state that at least three people were killed during this attack and the remaining IDPs were finally forced to walk to Malisheve and on to Dragobil overnight. In Dragobil, forces in green and black uniforms ordered the inhabitants from their homes and also fired from armoured vehicles towards Gurishte. The majority of the population of Gurishte departed towards Bellanice.

The shelling of Damanek and Turjake forced villagers and sheltering IDPs to flee to the forest and hills. Combined FRY/Serbian forces further mistreated those remaining in Turjake, killing at least seven people and ordering the rest to go to Albania, via Malisheve and Dragobil. Upon reaching Dragobil, members of the VJ separated some of these people into two groups and sent them to two school buildings, where they were robbed and put on buses for transportation to the Albanian border. The village of Gurbardh was also shelled from Mirushe and then surrounded by VJ, MUP and paramilitary forces, who robbed the remaining residents and detained many of them overnight.

The artillery attack on Burim continued on 31 March and the inhabitants sought refuge in a nearby mountain and valley. FRY/Serbian forces, wearing blue, green and black uniforms, some with long hair, masks or "painted" faces, as well as armed Serb civilians, used armoured vehicles to surround the IDPs in the valley. These forces robbed and beat men and women alike and burned several cars. The men were eventually separated from the women and children, who were forced to leave on trucks and on foot in the direction of Gurbardh. Around 1 p.m. approximately 35 of these men were selected. Some had their hands tied and all were forced to form a semi-circular line. They were then shot. Only one of the men survived, having fallen to the ground when the shooting started. The bodies of those killed were later seen beside the mountain road and in the valley, many having been mutilated and some having been burnt.

Also on 31 March, FRY/Serbian forces attacked Janqist with artillery from the direction of Shkoze, and then looted and burned the village. Shkoze was itself burned by paramilitary groups co-operating with the VJ, and stolen cars were seen leaving the village, containing looted property. Forces also attacked Lladroc with artillery from all directions and entered the neighbourhoods of Kajavit, Balajt and Bibajt. Witnesses could see

these forces burning the houses of the village from the mountains where they were hiding. The attacks on Marali and Pagarushe also continued, forcing residents and IDPs to flee to Bellanice or the mountains.

Additionally, on that same day Temeqine was attacked with artillery fire from the direction of Bllace. Some inhabitants took shelter in a place called Zabeli i Pintes and some fled to Bellanice and Guncat. At least two individuals were killed during the attack and witnesses report the involvement of Serbian paramilitaries dressed in black, who also burned the village. FRY/Serbian forces from Bllace, equipped with tanks and armoured vehicles, then based themselves in Temeqine.

On 1 April, those detained in Gurbardh were released and the entire population was told to leave towards Malisheve. In the course of this, at least four people were killed and a convoy formed. As the Kosovars set off, tanks entered the convoy and many people were robbed by FRY/Serbian forces stationed near the school, who also set about destroying the village, burning houses and killing livestock.

The same day, a group of IDPs sheltering in the Turjake mountains were fired upon and then surrounded by FRY/Serbian forces in both green and black uniforms. These forces ordered the IDPs to go to Lubizhde where another group of FRY/Serbian forces ordered them to Malisheve and, in turn, to Dragobil. Damanek was also targeted during this day and a group of IDPs sheltering nearby had their vehicles set alight and their money stolen by VJ, MUP and paramilitary forces. There were further artillery attacks against Bellanice, where between 30,000 and 150,000 IDPs had gathered. FRY/Serbian forces then entered the village and engaged in a campaign of robbery, mistreatment and killing of the IDPs and inhabitants before expelling them.

In Malisheve town, IDPs coming from Bellanice and Gurbardh were again the victims of robbery, mistreatment and killing. In Astrazup, members of the MUP forces confiscated documents from IDPs moving toward the border with Albania. In Dragobil, VJ and paramilitaries wearing blue uniforms and with long beards forced people on to buses going to Zhur. Some witnesses also report the involvement of individuals wearing cowboy hats, or white ribbons on the arms, as well as some speaking

Russian. The villages of Guncat and Fshat i Ri were also the targets of artillery fire. Additionally, a small group of paramilitaries in the mountains beside Janqist shot into a group of IDPs they had surrounded, killing a few and ordering the rest to go to Shkoze. Houses in Pagarushe were also looted and burned by VJ, MUP and paramilitary forces wearing blue and green camouflage uniforms, and red and black head scarves.

On 2 April, there were continued attacks on IDPs and the Kosovar residents of many villages in Malisheve. Witnesses report a variety of forms of mistreatment, as well as robbery, at the hands of different FRY/Serbian forces. Often, FRY/Serbian forces would demand money from IDPs in exchange for sparing them from physical harm. If demands were not complied with, killing or serious abuse often followed. Such was the case in Bellanice. In Malisheve town witnesses state that members of the MUP in green camouflage uniforms robbed, threatened and confiscated documents from IDPs. The MUP forces then loaded IDPs on to trucks and buses heading towards Zhur. These MUP forces in Malisheve are reported to have engaged in the looting of shops. In Astrazup, FRY/Serbian forces continued to stop IDPs, rob them and confiscate their documents. Individuals with long hair and wearing civilian clothes and black, white or camouflage headbands, described by witnesses as being members of Arkan's forces, were among these. MUP and paramilitary forces wearing black uniforms and scarves around their heads, and with "painted" faces, arrested/abducted and mistreated a number of Kosovars.¹⁸⁶ There are numerous reports of persons being killed, arrested or going missing at this time, especially those who sought to return to their homes or villages in order to find food.

On 5 April, VJ and MUP forces continued their sweep through Drenoc in tanks and armoured vehicles, shooting at Kosovar villagers as they fled. As in prior attacks, these forces then started to burn houses. The village of Guncat was also attacked, on 8 and 9 April, and on 13 April approximately 100 MUP and paramilitary forces (in blue, green and black uniforms) surrounded an area of Divjake, before entering to burn houses and mistreat the inhabitants, causing them to flee.

¹⁸⁶ The bodies of these persons were found some time later.

In mid-April, MUP forces went to a house in Carralluke where a family was staying, quarrelled with a member of the family, and then departed. Later that day, approximately 20 armed MUP, VJ, paramilitaries and Serb civilians returned to the house. Gun shots rang out and the house was burned, leaving at least 22 members of the family dead. Their burned remains were later found clustered in a single room of the house.

With the exception of these last few attacks, it can be seen that the FRY/Serbian campaign of expulsion within Malisheve had largely been completed by the beginning of April. What then followed until June was a further “mopping-up” operation in which police, army or paramilitary patrols returned to villages to check if any civilians had returned and to further loot and destroy homes. Additionally, these forces continued to harass and mistreat all of the IDPs camping out in the municipality.

4. General Conclusions

This chronological outline indicates the high degree of co-ordination and co-operation that existed between the police, army and paramilitaries engaged in the expulsion campaign. In 18 of the 35 villages attacked during this period, witness statements identified the forces involved as comprising VJ, MUP and paramilitaries. The incidents in which only one branch of the FRY/Serbian military and security apparatus was identified all took place from 2 April onwards, after the mass expulsion of Kosovar Albanians from the municipality's villages was virtually complete. The victims of such incidents were those sheltering in IDP encampments who either ventured out to collect food and water from neighbouring areas, or who mistakenly assumed it was safe to return to their villages, and had the misfortune to come across or be spotted by the FRY/Serbian forces.

Witness statements also indicate the high level of destruction of property which was integral to the expulsion campaign. Statements from all villages, except Divjake, indicate some amount of shelling prior to the entry of FRY/Serbian forces. This bombardment not only destroyed houses, but in a number of cases resulted in casualties among the civilian population. Moreover, many statements, from 28 separate villages, recount

the deliberate burning of houses by the FRY/Serbian forces occupying any given area. A number of witnesses also stated that they found the remains of people inside burned houses when they returned to their homes in June. Such accounts frequently correspond to other statements in which witnesses assert that those unable or unwilling to leave their homes, particularly the old, were killed and then burned along with their houses.

Many witnesses additionally state that, on return, they not only found their homes burned, but also discovered that many of their possessions had been stolen. The presence of trucks amongst the attacking FRY/Serbian convoys, recounted by witnesses in 6 villages, supports these allegations of theft. Such trucks could have been used to carry police and soldiers into villages and then to carry looted property away. In the case of Shkoze, witnesses saw a convoy of stolen cars full of goods leaving the ransacked village.

It is also clear that the killing, arrest and serious mistreatment of Kosovars from many villages and areas played a significant part in the overall expulsion strategy. For example, IDPs who witnessed the massacre of approximately 34 men near Burim were directed by FRY/Serbian forces towards the regional collection point of Gurbardh, where they would have spread word of the massacre to others. IDPs in the regional collection point of Bellanice reported bodies displayed outside a village mosque and on the road to Malisheve. It is likely that these stories were repeated among IDPs as they were herded from checkpoint to checkpoint and served to increase the fear and panic felt by the population as a whole as they were expelled from Kosovo.

In summary, the first stage of the campaign of expulsion from villages in Malisheve was a co-ordinated attack, directing the Kosovar population towards various regional collection points. In the northern parts of the municipality, the FRY/Serbian offensive directed the population west. In the southern parts of the municipality, the population was directed towards the east. By 31 March, the first part of the expulsion campaign in northern Malisheve had been largely completed, with the majority of the population congregated around Gurbardh, Turjake, Damanek and Panorc. In the southern part of the municipality, the same objective was achieved

by 1 April, with the population gathered in Bellanice, Berishe and Fshati i Ri. The massing of people within these locations allowed the FRY/Serbian forces to control their expulsion from Kosovo more efficiently. As FRY/Serbian forces entered the collection points, they engaged in a campaign of terror, harassing, robbing, beating and killing people to ensure that they complied with their orders to leave the province in the desired manner.

With this general pattern in mind, it is useful to provide some more details on the events occurring in and around Bellanice and Gurbardh, both of which served as regional collection areas.

5. Bellanice and Gurbardh

Bellanice is located approximately seven kilometres south-east of Malisheve town. Its selection as the collection point for the southern half of Malisheve municipality would appear to have been no accident. Being one of the largest villages in the southern half of the municipality, its big central square was capable of holding many thousands of people. Additionally, its location close to the main road to Malisheve town enabled the FRY/Serbian forces to easily control and direct the Kosovars as they were expelled from the village.

IDPs began arriving in the village from Bllace on 24 March and continued to arrive over the proceeding days as the attacks on the villages to the south continued. By 1 April, witnesses variously estimated the number of IDPs in Bellanice, not only from Malisheve but also from the municipalities of Rahovec, Suhareke, Skenderaj, Gillogoc and Kline, to be between 30,000 and 150,000. That day, FRY/Serbian forces launched artillery attacks against the village and then entered in tanks, armoured vehicles and trucks.

Witnesses describe the FRY/Serbian forces as consisting of MUP dressed in the normal blue camouflage uniforms, with others dressed in green camouflage uniforms, which had *Milicija* written on the arm and back. Many of these forces wore masks. There were also individuals wearing uniforms carrying badges bearing white eagles on their arms, others

wearing black civilian clothes, or black uniforms with white ribbons and black or red bandannas. Others still are described as wearing green camouflage uniforms with black skulls on their arms. There is also some mention of groups wearing green camouflage uniforms and cowboy hats, some wearing red ribbons on their arms and red (or black) ribbons on their heads, and others with "Red Golf 2" written on their heads, or "Crna Ruka" - Black Hand in Serbian. Two witnesses report that some of these men were speaking Russian, and some had the Serbian cross symbol on their chests. They were all armed, carrying automatic guns, pistols, grenades and knives. Some also carried axes or saws around their necks. Of further note are reports that some of these forces were seen injecting some kind of drugs.

All of the FRY/Serbian forces were shooting into the air when they entered the village and started to order people into the central square. They then went around the village forcing the inhabitants out of their houses. As they did this, they demanded hundreds, and in some cases thousands, of DM, threatening to kill those who failed to comply. There was widespread robbery, mistreatment and killing of inhabitants and IDPs in the central village square, as well as the burning of houses and vehicles. Thousands of IDPs who were sheltering in the local school building were among those robbed and mistreated.¹⁸⁷ This pattern was repeated throughout the village, with many witnesses recounting being robbed on numerous occasions by the different groups of FRY/Serbian forces who roamed around. The holding of children as hostages in order to extort money from their parents was a method used on numerous occasions.

While this robbery, beating and killing of Kosovars continued around the village, those IDPs gathered near the exit were expelled by the FRY/Serbian forces posted there. The majority of the witnesses recount being forced to head towards Malisheve town and then proceed towards Albania via Rahovec, Xerxe, Prizren and Morine. A small number recount being told to head to Albania by way of the Suhareke - Prizren - Morine route. On leaving the village, there was no respite from the continued

¹⁸⁷ It is notable that members of the Roma community were also subject to this abuse. In particular, Roma witnesses interviewed by the Project describe taking shelter in the school in Bellanice and being ordered out by MUP forces wearing masks, camouflage uniforms, red ribbons, and, in some cases, the Serbian cross symbol. They were robbed and some beaten and detained for two days before departing towards Zhur.

robbery, mistreatment and killing. FRY/Serbian forces stationed at the exit of the village demanded more money and jewellery from people as they left, periodically taking them out of the departing convoy and robbing and beating them.

Many witnesses state that tens of thousands of people remained in Bellanice overnight, with the above-described mistreatment continuing. Some report hearing gun shots throughout the night. On 2 April, the pattern of the previous day was repeated, as FRY/Serbian forces, often in the pursuit of personal gain, continued to commit acts of extreme brutality.

Gurbardh is located approximately five kilometres west of Malisheve town and lies in the shadow of steep forested hills. By 26 March 1999, people fleeing the attacks on Bubavec and Drenoc began to arrive in the village. Over the proceeding days, this influx continued and witnesses state that the village contained people fleeing attacks from all of Malisheve's northern villages, together with some from Rahovec municipality. By 31 March, estimates of the numbers sheltering in Gurbardh vary between 10,000 and 40,000. These figures include those, predominantly young men, who were sheltering in the hills, believing them to be safer than the village itself.

In the afternoon of 31 March, FRY/Serbian forces started to shell the outskirts of Gurbardh from nearby Mirushe. This forced other groups within the village to move into the forests, including one group of approximately 500 men. Between 3 and 4 p.m. FRY/Serbian forces numbering in the several hundreds, with between 20 and 30 tanks and numerous armoured vehicles, entered the village shooting. Witnesses described these forces as wearing blue, green and black uniforms, with some individuals wearing red or black bandannas. All were armed with automatic rifles, grenades and knives. Local Kosovo Serbs carrying arms were also among them, one of whom told a witness that their role was to guide the VJ and police around the villages. One group of IDPs attempting to escape from the village on tractors was stopped by MUP forces and forced to rejoin the people in the village. Groups of FRY/Serbian forces then went around the village, entering houses, threatening and robbing people and then expelling them.

Once the Kosovars were congregated in the centre of the village, a VJ Commander taking part in the attack apparently asked them about the presence of members of the KLA and demanded their weapons. Despite the fact that none of them had weapons, 76 men were then separated from the group, sent to a house in the village and robbed of all their money and possessions. The remaining Kosovars were told that these men would be killed if any Serb soldiers were killed. While the village was looted and burned, the FRY/Serbian forces launched a heavy shell attack against IDPs sheltering in the nearby forests. The FRY/Serbian forces placed the Kosovars assembled in the village in front of their positions during this attack, in effect shielding themselves from potential return-fire from the forest.

The FRY/Serbian forces kept the Gurbardh residents and IDPs overnight in the centre of the village and the following morning ordered them to move towards Malisheve town within half an hour. The 76 men detained overnight were released, some returning to their families and others forced on to trucks and taken towards Malisheve. The expelled Kosovars were not permitted to take their cars with them, so those without tractors were compelled to walk. During the course of this expulsion, a number of individuals were shot and killed and the robbery and extortion continued, as well as the confiscation of identity documents. As people set off, tanks entered the convoy, which was escorted by MUP, VJ and paramilitary forces. The FRY/Serbian forces then set about destroying the village, burning houses and killing livestock.

These descriptions of events in Bellanice and Gurbardh illustrate the kinds of methods of terrorisation used against the Kosovars of Malisheve. They also illuminate a pattern of harassment, beatings, extortion, robbery, killing and property destruction. In both villages, there was no escape route left open. Rather, it appears that both locations were being used by the FRY/Serbian forces as carefully controlled collection points.

Such methods also appear to have been used outside Malisheve municipality. In its northern areas, people from the villages of Mleqan, Ploqçe and Golluboc were forced east towards the municipality of

Glogoc. Numerous witnesses recount being kept in two villages close to Glogoc town: Qikatove to the north and Shterbullove to the south. In Qikatove, witnesses referred to a school where mainly women and children were kept. One witness had been originally sent to Terdc and then when the FRY/Serbian forces attacked there, she was told to go to the school in Qikatove. MUP with red arm bands would periodically come to the school and take young girls and women away to Glogoc town. On one occasion, a witness recounted seeing MUP officers take 24 women away. The MUP officers said they were being taken away to be questioned concerning the possibility of their brothers being KLA members. The women returned three days later, and when asked what had happened to them, some replied that they had been sexually abused.

6. Mistreatment of IDPs

As in other regions of Kosovo, the thousands of people expelled from their homes in Malisheve were monitored on their route to the Albanian border through the use of a series of checkpoints along the main roads. From northern Malisheve, IDPs were directed towards Malisheve town and then south-west towards Rahovec. In the southern half of the municipality, the majority of IDPs collected in Bellanice were also directed towards Malisheve, but some others were directed towards Suhareke. In many cases, witnesses recount being forced to go into buildings in different locations, where buses and trucks later arrived to secure their expulsion from Kosovo. For the majority, who left the municipality by tractor or on foot, their movements were carefully controlled by the checkpoint system, which ensured that they kept to the required route towards the Albanian border. This system of checkpoints gave the FRY/Serbian forces the opportunity to extort further amounts of money from people as well as continue to harass, beat and terrorise them.

Those from the northern part of the municipality were directed towards Malisheve town, the first group to leave their collection point being those expelled from Turjake on 31 March. They were directed towards Dragobil via Malisheve and made the journey overnight. Witnesses state that people in the convoy were beaten throughout the journey, with Kosovar

men wearing traditional Albanian hats¹⁸⁸ being singled out for the most severe beatings. On reaching Dragobil, they were confronted by FRY/Serbian forces described by witnesses as including bearded MUP in military uniforms, VJ and paramilitaries. Some of the IDPs were beaten by these forces, who then ordered them into the village school. Buses then arrived and the IDPs, often after facing further demands for money, were ordered on to them. They were verbally abused and told not to return to Kosovo and then driven to Zhur, from where they walked to the Albanian border.

The first checkpoint encountered by some of the people who made up the convoy leaving Gurbardh on 1 April was at the entrance to Malisheve town. Again, money was demanded to avoid harm or death and some individuals were selected for particular mistreatment. The convoy of IDPs was ordered to the high school and kept in both the school building and in the field outside. Buses and trucks then arrived and they were forced to board. The FRY/Serbian forces consisted of MUP, VJ and paramilitaries wearing blue and camouflage uniforms. Some were masked and wore bandannas. Again, there are reports that documents were stolen, money was extorted and verbal abuse meted out. The convoys took the Kosovars to Zhur, from where they walked the rest of the way to the Albanian border. Many recall having their identity documents taken away before they crossed the border.

Those who were expelled from Bellanice on 1 and 2 April suffered similar experiences. While many witnesses state that the entire road between Bellanice and Malisheve was thronged with FRY/Serbian forces, some recount being stopped in Banje, by the village swimming pool, where money was demanded from them. On their later arrival in Malisheve town, some IDPs were sent to the high school, where others were already gathered, or to the neighbouring clinic. They were then forced on to the trucks that formed the convoy to Zhur. Others recounted being subjected to violence, robbery and the confiscation of identity documents within the town. Those IDPs who were allowed to proceed through Malisheve on their tractors and on foot faced further checkpoints in Dragobil and

¹⁸⁸ The traditional white felt cap is worn by some elderly Kosovar Albanian men as a sign of their position and standing in the community.

Astrazup, where similar treatment was inflicted. Many recount being forced to drive and walk over Albanian flags and traditional hats deliberately placed on the road between these two villages. Some individuals who were selected out of the convoys and taken away remain missing.

Despite the campaign against them by FRY/Serbian forces, many tens of thousands of displaced Kosovars remained within Malisheve municipality until the withdrawal of these forces and the arrival of NATO in June. The majority of these IDPs camped in the hills and forests near their homes, attempting to shelter from continuing FRY/Serbian attacks. Some risked the danger of returning to their own villages, or those neighbouring the encampments, in an increasingly desperate attempt to search for food. Such people faced the risk of attack from the FRY/Serbian forces moving around the municipality, who periodically swept through villages looking to expel any returnees. In the western part of the municipality, such IDP camps were situated in the hills around Panorc, Turjake and Gurbardh. There was an additional encampment in the forest north of Damanek. In the northern part of the municipality, smaller numbers of IDPs also sheltered in the Balince - Vermice - Shkarashnik triangle and inside the area bordered by Golluboc - Plloqçe - Negroc - Terdc. In the east of the municipality, there were large encampments in the Berishe mountains, in and around the villages of Berishe and Fshat i Ri.

It was extremely difficult to judge the numbers of IDPs in the encampments, as they were ever changing in size, as individuals and families sought to regroup. It is, however, roughly estimated that around Gurbardh there were 2-3,000 people between 1 April and the end of the conflict; near Turjake there were 10,000 between 1 and 30 April, after which the IDPs moved nearer to Panorc to avoid shelling and remained there until the end of the conflict; and near Damanek there were 9-10,000 between 31 March and the end of the conflict. In the Berishe mountains, Berishe village and the village of Fshat i Ri, there were as many as 50 -70,000 IDPs. Given their location on top of the mountains, neither of these villages were entered into by the FRY/Serbian forces, although, as stated above, two MiG planes dropped bombs on Berishe on 27 March. In all of these locations, the position of the IDPs was dangerous, and they often came under attack, with standard and rocket-propelled artillery. In addition, as time went on, acts of violence directed against individuals and small groups were common.

For example, around 13 April, between 200 and 500 IDPs sheltering in the Lugu I Kroit valley in the forest between Golluboc, Terdc and Vuqak, were attacked by FRY/Serbian forces, including MUP, VJ and paramilitaries. They were heavily armed with machine guns, hand guns, grenades and knives and came from the direction of Vuqak and Negroc. They started to shoot at and shell the area where the IDPs were, firing from tanks and using a grenade launcher, killing and injuring many people. Some of the IDPs moved to a nearby ditch where they hid during the attack. Later, some of those in the ditch were captured by the FRY/Serbian forces, who opened fire on them, killing and wounding many more. Another incident, on 17 April, occurred at Burim, where a group of IDPs were surrounded by MUP forces wearing green camouflage uniforms. One person was shot and the others were robbed and told to go to Albania.

A large number of similar incidents of attacks, ambushes and killings were provided by witnesses who had remained internally displaced within Malisheve until June. In addition, the living conditions for those camping out of doors were such that children and old people began to die of exposure and malnutrition. Others died as a result of the lack of medical supplies to treat injuries sustained during attacks.

Many of those of who remained hiding within Malisheve after the initial FRY/Serbian expulsion campaign were men afraid they would be killed as suspected KLA members if they came into direct contact with FRY/Serbian forces. A central aim of the FRY/Serbian offensive was to crush the KLA; hence those deemed to be of fighting age and possible future KLA recruits were particularly targeted. The names and ages of the IDPs killed after the initial expulsion offensive seem to bear this out. They indicate that the majority of IDPs killed at this time were young men. As has been noted above, many men also were arrested and detained as suspected KLA members during this time. These men were often severely mistreated and some were taken away to prisons in Serbia.

In sum, the municipality of Malisheve was the site of serious violence in the course of the Kosovo conflict in 1999. The victims of this violence were largely Kosovar civilians, who were not directly involved in any clashes between the KLA and the FRY/Serbian forces, nor merely caught in the cross-fire between these conflicting groups. Rather, the above account

demonstrates that civilians themselves were considered targets by the FRY/Serbian forces - targets whose property they felt they had free licence to steal and destroy. Over 200 civilians from Malisheve were killed during the FRY/Serbian operations from March to June 1999, and over fifty remain missing. Additionally, nearly 80% of the municipality's housing was destroyed.¹⁸⁹ Moreover, the swift expulsion of the Kosovars from their homes was conducted in a manner exhibiting an intention that they be unable to return, including such methods as burning houses, killing livestock, destroying crops and confiscating identity documents. Those who remained in the region lived in constant fear of further attack and mistreatment and in increasingly desperate conditions, cut off from the world outside and often without knowledge of what had befallen their families, friends and communities.

E. Istog/Istok

1. Introduction

Istog municipality lies in the north-west of Kosovo. It is bounded by Peje to the west and south-west, Kline to the south and south-east, Skenderaj to the east, and Zubin Potok, Serbia and Montenegro to the north. Until the campaigns of 1998 and 1999, Istog was an ethnically mixed municipality, including Serbs, Catholic Albanians and Roma. The population was not segregated into ethnically homogeneous villages, but rather mixed throughout the municipality. Nevertheless, Zallq is the primary Roma enclave, and there were three Kosovo Serb villages in the municipality: Baje, Cerkolez and Suhogerile. There are approximately 52 villages and two towns: Istog, the administrative centre, located in the centre of the municipality, and Gjurakovc, situated south of Istog town.

According to local sources, during both the 1998 campaign and the period of the NATO bombardment, FRY/Serbian forces were stationed primarily to the south and west of the town of Istog, in Gjurakovc, Novoselle (Peje), Banje, Tomane and Lupizdhe. There was a checkpoint

¹⁸⁹ According to statistics provided to Project staff by the Director for Development and Rebuilding with the local authorities in Malisheve, of 7,176 houses in Malisheve, 5,710 were destroyed by the time the FRY/Serbian forces left Kosovo.

north of Lupizdhe, where FRY/Serbian forces and local paramilitaries were based, which allowed them to shell the villages of Vrelle and Lupizdhe. Another checkpoint was established midway between Vitomirice (Peje) and Dobrushe, on the main road crossing Istog west to east. FRY/Serbian forces were also stationed in the vicinity of Vitomirice, at Brestovik (Peje). In the east, there was a MUP checkpoint on the road between Rakosh and Padalishte. The road from Padalishte to Kovrache to Gjurakovc, and then from Dobrushe to Banja e Peje, was also under VJ, MUP and paramilitary control. Due to this control of roads and checkpoints, beginning in 1998, in March 1999 the FRY/Serbian forces arrived unimpeded from Serbia via the mountain corridor through Cerkozec, Uqec, Zhakove, Mojstir, Sinaje and then Istog.

During the conflict in 1998, FRY/Serbian operations conducted in Istog mirrored those observed in other municipalities, involving the harassment, intimidation and mistreatment of the populace (including arbitrary arrest and detention), orders to leave homes, and the shelling, burning and looting of villages. Many witnesses recount incidents of violence and killings, particularly arrests and disappearances of young men later discovered to be dead, in prison or killed while in detention, during 1998 and early 1999. Witnesses often mentioned fighting between the KLA and FRY/Serbian forces that took place during 1999, and also that FRY/Serbian forces actively pursued KLA members and others perceived as prominent in the Kosovar community.

The length of this section reflects the fact that Istog was one of the last municipalities covered by the Project, and is no indication of the extent of FRY/Serbian activities in this municipality relative to other municipalities. Bearing this in mind, this section will present a brief chronological outline of the events from March to May of 1999, and then render concluding remarks regarding the character and pattern of the FRY/Serbian operations.

2. Chronological Outline, March - May 1999

On or around 10 March, FRY/Serbian forces entering Istog met with significant KLA resistance. From late March until mid-April - around the time FRY/Serbian reinforcements arrived - the KLA defended positions in

the west and north-west of the municipality. These positions acted as a buffer between the encroaching FRY/Serbian forces and the many civilians who fled to the mountains of the north and west, and towards Rozaje, west of Istog in Montenegro. As FRY/Serbian forces moved in, they attacked these positions, until the KLA, significantly outnumbered, withdrew to the mountains in early May.

Prior to the commencement of the NATO campaign, FRY/Serbian actions consisted not only of isolated acts of violence and terror directed at individuals, families and smaller groups of Kosovars, but, in the west and south-west, also of operations intended to displace large numbers of people. On 1 March, in the town of Istog, VJ and police began shooting at the town, compelling some people to depart, some to the mountains and others toward Gjurakovc. On 13 March, FRY/Serbian forces, identified by witnesses as police wearing green uniforms with ribbons around their hats and arms, equipped with automatic weapons, began shelling Vrelle, west of Istog. The occupants of the village fled to Peje.

On the same day, in Lupove, MUP forces gave villagers an ultimatum to leave within six hours, and anyone who remained was to be killed. Later, police and paramilitaries shelled the village and then entered it. Many of the inhabitants fled, some to the village Kaliqan, which was attacked the next day. A number of villagers fled to the mountains for five weeks. Local Kosovo Serb civilians, reportedly assisted by Roma, systematically looted the houses of these villages, loaded items into trucks and then torched the empty houses.

Witnesses report that, from 15 to 18 March, MUP were involved in the looting and burning of property in the village of Orroberd e Madhe, located in the south-west near the Peje border, causing many to flee to Kaliqan. In Prekalle, south-west of Gjurakovc, two local policemen and a Muslim Slav ordered villagers to leave on 17 March. These Kosovars fled to Trubuhovc, and later, on 28 March, VJ, MUP and paramilitaries shelled the village, damaging a number of houses.

Also on 17 March, FRY/Serbian forces surrounded and shelled the village of Lupizhde, so that many of its inhabitants left for Kaliqan. Two days later the VJ shelled the village of Kamenice, located south of the town of Istog.

Kosovars from this village fled to Studenice, where they stayed for three weeks, and then fled from attacks by FRY/Serbian forces again, some to the mountains, others to Kaliqan.

From 24 March, FRY/Serbian forces commenced a wide expulsion campaign in the municipality, apparently initially targeted at villages of western Kosovo. On that day Kosovars from Tomane, Gjurakocv and Lupizhde came to Vrelle, seeking shelter. At 11 a.m. paramilitaries ordered those gathered in Vrelle to leave within two hours, but later permitted the inhabitants to remain another day. FRY/Serbian forces arrested people from families of suspected KLA members and destroyed their homes. In the evening, paramilitaries transported stolen items from these houses. According to a witness, the FRY/Serbian forces burned property and shot at villagers as they fled, killing four immediately (a fifth died later from wounds inflicted in the attack). The next day, paramilitaries ordered villagers to leave immediately, and began burning houses.

FRY/Serbian forces and local Kosovo Serbs with armoured vehicles, machine guns, hand grenades, pistols and knives returned to Lupizhde on 24 March and ordered those who had remained or returned after the last attack to leave. Witnesses report the harassment of the inhabitants, and the killing of two men in front of their shop. The village was burned and the residents fled to Studenice. FRY/Serbian forces took up positions in Lupizhde and began shelling Vrelle from this location. Also on 24 March, FRY/Serbian forces shelled Studenice, where a significant number of people fled. Heavily armed MUP, wearing police uniforms with the white eagle badge and Serbian cross emblems on their arms, entered the village and ordered everyone out. Police began to burn houses, and the villagers fled to Vrelle. Villagers hiding in the mountains came to bury the dead at night, and found many bodies in the houses.

On 25 March, MUP police forced people in the town of Istog to leave for Montenegro. They separated men from women and took their money and identification documents. One policeman made sexual advances towards a particular woman, and when she refused, she and two cousins were beaten. On 27 March, MUP and VJ forces again ordered numerous villagers to leave the town by 6 p.m. Many went to surrounding villages or Rozaje, Montenegro. Members of the MUP then burned one of the

neighbourhoods and stole from stores as they were burned. The following day the police ordered more people to leave town, some being given two hours to vacate their homes. Paramilitaries also joined in the burning of houses.

The FRY/Serbian campaign then spread to the east, with offensives launched against several villages around 26-27 March. In the case of the attack on Padalishte occurring on 26 March, heavily armed VJ soldiers, police and paramilitaries surrounded the village and immediately started shooting. As they fired at the houses, they shouted such things as "Go home, let NATO help you!", and the occupants began to flee. A group of paramilitaries surrounded some houses. Members of one family reportedly fled in different directions, and those who could not escape were beaten and nineteen of the family were killed. Among the FRY/Serbian forces involved were local Kosovo Serb police from Istog. The survivors took shelter in Kaliqan going to Rozaje, Montenegro, and then to Albania.

The offensives in this area continued on 26 March, when VJ and paramilitaries began shelling Rakosh, a village near Padalishte, from their positions at a police station on a hill near the village. Some fled toward Peje and others to the mountains while the police, army and paramilitaries shot at them and burned their houses. Several were injured by this attack. The next morning VJ and MUP forces entered the village firing weapons, and the shooting continued from the police station until noon. More houses were burned and villagers injured, while some others escaped to mountains above the village of Uqe, where approximately 3,000 people stayed for three weeks. Several hundred people remained in Uqe.

The village of Shushice was also an early target of the FRY/Serbian campaign in the region. On 26 March FRY/Serbian forces shelled the village, causing people to flee to the mountains, from where they saw the village being burned and some of the remaining people being killed. This shelling continued the following day, when VJ and paramilitaries, wearing red ribbons and armed with machine guns and sniper rifles, arrived in armoured vehicles. Some villagers fled to the mountain Kerrsh i Rames, while others fled to the mountain Starasell, where hundreds and possibly thousands of refugees - reports range from 400 to 2000 - gathered. VJ and MUP forces ordered people to evacuate within 24 hours, saying they

would not be safe after that. In the four days that followed, VJ forces shelled and shot at houses and burned them.

MUP forces surrounded the village of Mojstir, north-east of Istog town, on 27 March, and instructed the inhabitants to leave within two hours. They escorted the expelled villagers to Peje, and from there these villagers were allowed to go towards Albania. As they passed through Decane they were robbed and abused by police, and threatened with death unless they paid ransoms of 1000 DM per child. Upon their arrival in Prizren, FRY/Serbian forces ordered them to return north, from where they had come. After making the journey back home, they saw that Mojstir had been burned. Renewed shelling by FRY/Serbian forces followed shortly after their return, and as a result seven villagers were injured, three died and many fled for Montenegro.

Also on 27 March, VJ, MUP and paramilitary forces shelled Uqe, near the Astrazup border of Istog, from the direction of Zhakove, Rakosh and Cerkolez. The occupants, including people from Rakosh and Padalishte taking shelter in Uqe, were thus forced to flee and some took shelter in the mountains for one to two months. When shelling from the direction of Uqe and the arrival of VJ soldiers made this location unsafe, many headed for a nearby hill. From this position, villagers saw FRY/Serbian forces loot and burn houses in Uqe and steal vehicles, livestock and money from the remaining people. The shelling of the village continued on 28 March and half of the village was burned, as well as several people killed. The displaced Kosovars fled on foot, eventually making their way to Rozaje by tractor and ultimately on to Albania by bus.

The FRY/Serbian offensive in the east included the targeting of Veriq, on 27 March, when four uniformed and heavily armed policemen entered the village and ordered the residents to leave. Some fled to the mountains of Kosharishte, a gathering point for many other IDPs from the region. Others fled to the mountain of Starasell and some remained in the village for another week.

At the same time, the expulsion campaign continued in the west of the municipality. On 27 March, in Cerrce, just west of Istog town, MUP, VJ and paramilitaries surrounded the village and two policemen ordered the

residents to leave. As the people departed their homes, they were beaten and the houses set on fire. In one instance five people were killed and their bodies were burned.¹⁹⁰ On the same day, police from Muzhevine and Lugut te Isogut, as well as paramilitaries, told the residents of Lupizhde that they had orders from Belgrade to expel them.¹⁹¹ Many villagers fled to Vrelle. Three days later heavily armed MUP, wearing camouflage uniforms, and VJ in tanks surrounded the village again, so residents fled to Kaliqan for two weeks, and then to Rozaje. Their houses were later burned and looted.

FRY/Serbian forces attacked the villages of Kaliqan, Orroberd e Madhe, Istog i Posthem and Tomane also on 27 March. In Orroberd e Madhe FRY/Serbian forces compelled a person to tell the inhabitants to leave. The village was then shelled and civilians were abused, wounded and killed. The shelling of Istog i Posthem continued for three days and witnesses report that the FRY/Serbian forces included local paramilitaries wearing black masks, individuals identified as Russians, wearing black, and VJ soldiers. One of the paramilitaries ordered the village leader to tell the inhabitants to depart. Several witnesses describe the discovery of the bodies of nine women, including young girls, from Kaliqan in a well in Studenice. These women were apparently held captive in a basement by FRY/Serbian forces prior to being killed, and their bodies displayed signs of severe mistreatment, including sexual assault and mutilation.

On 28 March, MUP forces ordered the inhabitants of Muzhevine, immediately south of Istog town, to leave. Later, MUP, VJ and local Kosovo Serb civilians burned houses and cattle belonging to the villagers as the Kosovars fled to Vrelle. Members of the Roma community reportedly assisted in the looting and burning, and in carrying armaments for the FRY/Serbian forces. One witness states that in the first stage of the offensive, villagers who remained were robbed and beaten, while in the second stage those who did not leave were killed.

¹⁹⁰ Members of the Roma community were reported to have taken part in this attack.

¹⁹¹ One witness described Serb police wearing green and multi-coloured camouflage uniforms with a white eagle on the left arm, with armoured vehicles and machine guns.

Villages further south of Istog town were attacked at the same time. On 27 March a Roma man came to Zabuaq and told villagers that he had been forced to tell them to leave the village. Later the village was shelled by FRY/Serbian forces wearing police and military uniforms. On the same day, a policeman arrived in Gjurakovc and told the inhabitants to leave. The Kosovars assembled in a field, and after a couple of hours some of them went to Trubuhovc, south of Gjurakovc. Thirteen Roma families were also expelled from Gjurakovc around this time. These families returned shortly thereafter and were then prevented from departing once more by FRY/Serbian forces. Another Roma man was detained, after fleeing with his family to the surrounding hills, and was forced by the FRY/Serbian forces to tend cattle and bury corpses. On 28 March police were still in Gjurakovc, beating and otherwise intimidating the people that remained, and threatening some with death if they left their houses. On the same day, in Trubuhovc, shelling forced many people to flee to Staradran, but they returned later in the day. Over the next couple of days FRY/Serbian forces sent messengers, including Kosovars and Roma, to order the villagers to leave their houses. The FRY/Serbian forces continued to shell the village, and some of the local Kosovars who remained there were injured while others fled.

On 4 April, FRY/Serbian forces again shelled the village of Shushice, causing its residents to flee for the mountains. At this time, villagers from throughout Astrazup Istog (Mojstir, Dubrave, Kovrache, Veriq, Rakosh, Kernine, Uqe, Shushice and Padalishte), who had been expelled, took shelter in the mountains before moving on to Montenegro. For example, on 4 April, VJ soldiers and police surrounded Veriq and forced the inhabitants to leave, whereupon they set fire to the houses. Later, on 10 April, policemen expelled those who had stayed behind and they sought shelter in the mountains.

Several witnesses recount an incident which occurred around 7 April in the area of Veriq. A convoy of people from several villages in Istog travelled to the Albanian border in Prizren and was turned back. After the journey north back to Istog, the convoy was stopped by VJ soldiers and detained at a nearby military base. Three policemen then came and began to count the people. Around 3.30 p.m. this convoy was struck by an aerial bombardment, attributed by witnesses to NATO. Regrouping

after this attack, the VJ soldiers retrieved those who had fled, a number of whom had been injured in the bombardment, and beat and abused them, apparently blaming villagers for 'causing' the bombing. Approximately 600 - 700 people were brought to a nearby school. Witnesses reported that, while they were kept at the school, a car pulled up and a local Kosovo Serb killed a 13-year-old boy in the schoolyard with a machine gun. Others were shot at, an elderly woman from Veriq was injured, and everyone was verbally and physically abused. One witness reported that after approximately one week at the school, police arrived and told everyone to be gone by the next day or be killed. VJ soldiers confiscated money and identity papers before permitting the refugees to go on to Albania.

The village of Vrelle, in the west, was subject to repeated and sustained attacks in the first two weeks of April. After days of constant shelling, on 9 April VJ troops entered the village, causing the inhabitants to flee to the mountains. Several VJ soldiers pursued some of these people and shot at them, forcing further displacement. The attack on the village resumed on 12 April, when VJ, MUP and paramilitaries shelled with guns and artillery, severely beat the remaining inhabitants, stole money and valuables and began to burn the village. Many fled to the Korenik mountains, but not before the FRY/Serbian forces arrested/abducted men from among them. Witnesses reported at least twenty people killed in the course of the attack.

On 13 April, Vrelle was shelled again. MUP, VJ and local Kosovo Serb civilians wearing different uniforms entered the village from the direction of Lupizhde. The Kosovars who had remained in or returned to their homes fled to the mountain Hakanishte, where KLA soldiers were based, and from there to Rozaje. While in the mountains they were attacked from the direction of Kaliqan and Vrelle itself. FRY/Serbian forces burned and looted houses in the village, and severely ill-treated some of the remaining people. Witnesses identified thirteen Kosovars killed, and several who remain missing. The next day, MUP, paramilitaries in camouflage and VJ forces, equipped with sniper rifles and machine guns, surrounded a group of buildings located in the area of Kaliqan and Vrelle, where many elderly Kosovars were taking shelter, and began to shoot at them. Witnesses report that several of the elderly were killed and burned at this time.

The village of Kaliqan was also a target of sustained shelling, from 7 to 14 April, resulting in a number of deaths. On 11 April VJ, MUP and paramilitaries moved into the village and began burning homes. On 13 April the forces began to kill those villagers that remained and continued to burn houses. Because of the shelling, the next day people from surrounding villages who had taken shelter in Kaliqan decided to leave. From their positions in the mountains, those persons saw FRY/Serbian forces setting about ten buildings on fire each day. Also on 13 April, police, army and paramilitaries shelled the nearby village of Studenice, injuring many civilians. A large group of villagers fled to the Hakanishte mountains. The next day, combined FRY/Serbian forces burned houses in the village. Later, on 20 April, in the mountains between Studenice and Kaliqan, FRY/Serbian forces stopped people fleeing from Studenice and a number were arrested, six being sent to the prison in Istog.

The expulsion campaign that the FRY/Serbian forces commenced in late March continued into the middle of April. Certain villages were the targets of sustained shelling and residents and IDPs were forced to leave over and over again. The FRY/Serbian forces often pursued villagers into the mountains, shelled and fired upon them, robbed and beat them and forced them to depart for Montenegro, or Albania. By 13 April, further FRY/Serbian reinforcements arrived and, throughout the municipality, tens of thousands of villagers fled into the mountains. With the exception of operations in the south of Istog in May, most incidents after this time do not recount the shelling and depopulation of villages, but describe a more circumscribed campaign of terror, wherein individuals, families or groups of IDPs were targeted for violence, extortion and expulsion.

The next FRY/Serbian operations in the area, from 5 to 7 May, focused on driving out the inhabitants of villages along the routes between Peje and Kline. Some IDPs were forced down the road to Kline-Gjakove-Prizren in a convoy, others to Peje then Montenegro, and still others through Decane to Gjakove and Prizren, then Albania.

On 7 May, FRY/Serbian forces began shelling Kashice, located in the south-west along the main Gjurakove-Peje road. Witnesses described the FRY/Serbian forces involved as wearing green and black uniforms, being armed with machine guns, grenades and knives, and including

paramilitaries wearing red and black headbands. MUP and VJ forces entered the village with tanks and ordered the departure of the villagers. Nine members of two families were abducted or arrested during the attack. They began to burn houses, and the villagers fled and spent the night in a field nearby. It has been estimated that 4,000 to 10,000 people gathered in this field. Police surrounded the field and stole the cars, then forced everyone to go to the village of Staradran.

The following day, FRY/Serbian forces again entered Kashice and forced residents to leave. Members of the expelled group were beaten and had thousands of DM stolen from them. They travelled through Peje and Decane, with money and cars being stolen by MUP and paramilitaries along the way. According to one witness, as they left Decane on the road towards Prejlep just outside the village of Carrabreg, four masked men in blue camouflage uniforms with yellow flecks robbed the women and lined up seven young men on the ground. Four of these men were then executed with a bullet to the head. The father of two of the remaining men pleaded with the perpetrators, offering them money and jewellery to induce them not to kill any more of the group. He was then ordered to the ground and executed along with the remaining three. The convoy ultimately continued to Gjakove, Prizren, Zhur and Albania.

From 6 to 9 May, villagers and IDPs in Staradran endured a series of attacks and expulsions, commencing with FRY/Serbian forces shelling on 6 May. Over the course of those four days, the forces, described as VJ, MUP, paramilitaries and local Kosovo Serb civilians,¹⁹² gathered groups of Kosovars together and separated men from women. These people had cars stolen and were beaten and robbed before being forced to leave for Albania in several convoys. At some point almost 100 men were removed from a convoy and were also beaten and robbed. Some of these men were released, including approximately 16 Roma, and the remainder were detained for four days. Another group of about six men was also removed from a convoy and reportedly sent to prison. During the attacks, a number of people fled to the surrounding hills, where they were shot or rounded up by FRY/Serbian forces. Many were sent to a local school, where they were robbed of money, identity documents and jewellery.

¹⁹² The paramilitaries were described as being heavily armed, and wearing masks and red and black headbands. The local Kosovo Serb civilians were described as wearing white clothes, headbands and red ribbons.

Eventually, the village was burned and looted by police and VJ forces. In this same period, FRY/Serbian forces surrounded and shelled the village of Trubuhovc, forcing villagers to leave. The VJ forces sent a Roma man to order the villagers to vacate their homes under threat of death. On 6 May people formed a convoy and departed for Staradran. Others from Trubuhovc and nearby villages were ultimately separated into two convoys by the FRY/Serbian forces. Along the route of their departure from Kosovo, witnesses report that money and personal documentation were taken and people were beaten and abducted and/or killed.

Witnesses recount similar incidents in the nearby village of Zabuaq. On 7 May the village was shelled and four people were killed. Paramilitaries wearing red head bands and hats ordered a group of Kosovars to return to the village from the mountain. They selected several men and took them away, while the police robbed members of the group before sending them towards the border with Albania. There, FRY/Serbian forces extorted 700 DM for the release of two young girls.

In Zallq, on 7 May, FRY/Serbian forces lined up about 88 villagers in twos and took them to a field. These people were transported to a store, where they were beaten. The next day they were moved to the prison in Gjurakovc, where they were mis-treated. The FRY/Serbian forces involved were dressed in military uniforms and had badges on the left pocket which read PJP. On 13 May paramilitaries advised the remaining villagers to leave their homes, and ten hours later the shelling began, killing a family of six.

A large prison was located near the village of Dubrave, in northern Istog, and had been used in 1998 and 1999 as a base for various FRY/Serbian forces and their equipment. This prison was the target of NATO air strikes on 19 May. As a result, approximately 20 prisoners, who had been among a number moved back in to the prison, were killed. However, witness statements indicate that a more significant number of Kosovar prisoners, at least 93, died as a result of intentional killing by FRY/Serbian forces in the hours and days following the NATO bombing.¹⁹³

¹⁹³ The Dubrave air strike was subject to significant media coverage in Serbia and internationally and the details of the killing of many inmates have yet to be determined.

3. Summary conclusions

The *modus operandi* of the FRY/Serbian forces in Istog municipality was typically that the MUP, or a local Kosovar or Roma sent by them, would issue occupants of a village or area a deadline for departing. This might be repeated several times, over the course of days. Then, the VJ/MUP and paramilitaries would surround the village and begin shelling it, often for a protracted period. At this juncture most villagers, who were able, fled towards the mountains, and ultimately Albania, via Rozaje, Montenegro.¹⁹⁴ Often a male member of the household stayed behind to safeguard the house and livestock, to fight with the KLA or to look after elderly and infirm relatives who were unable to travel. Subsequently, FRY/Serbian forces gathered villagers who had not left, often arrested or beat them if they suspected them of being KLA members or supporters, and then abused and arrested them and/or sent them to the border in convoys. Combined FRY/Serbian forces and paramilitaries, as well as local Kosovo Serb civilians, looted homes, stole valuables and livestock, sometimes with the assistance of individual Roma, and then set the village on fire. Those who remained, such as the elderly or disabled, were frequently killed and burned with the village. Those departing in convoys were frequently harassed, redirected back to their village or another, had money extorted for the sparing of lives, were terrorised by selected killings, separated by gender, held up periodically and usually had documentation confiscated as well as money and jewellery taken. According to local sources, groups like Frenki's Boys and the "Yankees", were at times brought in to destroy villages after VJ/MUP had ordered the inhabitants to leave.

The FRY/Serbian campaign in Istog exhibited the same pattern of destruction and level of violence seen in other municipalities. The extreme violence directed against the population, the amount of property destruction, and the targeting of IDPs in the surrounding mountains and in convoys along routes of departure, were repeated throughout the municipality from March through May, and were calculated to ensure the

¹⁹⁴ The route to Rozaje was the quickest route out of the municipality and the only way to avoid FRY/Serbian positions in the valleys. From Rozaje most IDPs went on to Albania.

departure and prevent the ultimate return of the villagers.¹⁹⁵ To this end, FRY/Serbian forces frequently mined homes and other structures after destroying them.

The campaign required and demonstrated a high degree of co-operation among the various forces. MUP and paramilitaries often issued ultimatums, threats and warnings to villagers prior to a barrage of shelling conducted by VJ armed forces. Mixed forces, typically police and/or paramilitaries, entered the villages and forced the people out often with considerable violence, resulting in their departure and the theft and destruction of property. The FRY/Serbian forces were not content to expel villagers and have them seek shelter in the mountains and, in some cases, protection from the KLA. IDPs were pursued into the mountains and hills in order to direct them to temporary collection points or along routes with a large MUP, VJ and paramilitary presence.¹⁹⁶ People were forced along these routes, down to Kline or over to Peje and ultimately to Albania, where they could be controlled by MUP and paramilitaries, searched for KLA members and supporters and provide a large population to rob and terrorise.

F. Suhareke/Suva Reka

1. Introduction

The Suhareke municipality lies in south central Kosovo, neighbouring Malisheve, Lipjan and Shtime to the north, Rahovec and Prizren to the west and south-west, and Ferizaj and Shterpcë to the east and south-east. The vast majority of its population was and is Kosovar Albanian and the main town is that of Suhareke, which was estimated to have around

¹⁹⁵ A number of FRY/Serbian forces operations were directed at minority communities. Violations against Roma and "Egyptians" included deportations, mass arrests, beatings, seizure of cattle and forced labour such as picking up garbage, removing and burying dead bodies, and tending cattle. Roma houses in Zallq were regularly shot at by FRY/Serbian forces. During the NATO campaign, FRY/Serbian forces refused to permit Catholic Albanians in Zalkuqan to leave their village. The VJ stored several hundred tons of munitions in houses and yards, some in the yard of the church. Catholic Albanian men of the village were forced to load and unload munitions.

¹⁹⁶ Given the lack of FRY/Serbian bases in the mountains, and the KLA presence there, the FRY/Serbian forces were not interested in collecting or controlling people outside the villages, but rather sought to prevent villagers' flight to these areas.

10,000 inhabitants prior to the conflict.¹⁹⁷ The town is an important crossing point, lying on the main highway from Prizren to Prishtina, and during the summer of 1998 the KLA gained control of significant amounts of territory in the area, before being pushed back again by the FRY/Serbian forces.¹⁹⁸ In addition, the pass between Bllace and Duhel was a strategically important section of the road, which the FRY/Serbian forces sought to control in order to ensure the free movement of their troops and equipment from north to south. There was thus a significant VJ/MUP checkpoint at Duhel throughout 1998 and 1999.

During the armed conflict in 1998, many of the residents of Suhareke were forced from their homes, particularly following the intensification of FRY/Serbian operations towards the end of July.¹⁹⁹ The area appears to have been one of intense and prolonged clashes between the FRY/Serbian forces and the KLA. Thus, many villages, especially those close to the main roads, were cleared of their occupants in order to ensure that the KLA could not hide among them. There was, in addition, a significant amount of destruction of civilian property at this time. At the end of September there were particular VJ and MUP offensives in and around the villages of Vraniq, Budakove, Sopiye, Savrove and Mohlan, resulting in further population displacement, civilian casualties, property destruction and looting.

Suhareke was one of the last municipalities to be addressed by the Project before its closure and this is reflected in the length of the present section of the report.²⁰⁰ Rather than seek to present a chronological outline of events in the whole municipality in early 1999, it is instead intended to focus on those towns and villages from which numerous statements were gathered. From these, it is possible to formulate a picture of the kinds of attacks and operations launched by the FRY/Serbian forces in 1999 and assess their similarity with those described in the other municipalities. Where it is possible to identify general patterns, these will be noted, suffice it to say at this juncture that the *modus operandi* of the FRY/Serbian forces in Suhareke would appear largely the same as that documented elsewhere.

197 Population estimates of the municipality as a whole are difficult to ascertain, due to the previously discussed inclusion within Suhareke of parts of the Malisheve municipality by the Serbian government and many international organisations.

198 See NPWJ report.

199 According to the NPWJ report, 50% of the population of Suhareke town had fled by mid June 1998.

200 To reiterate, the length of this section relative to others is not reflective of any assessment that fewer potential crimes were committed in the Suhareke municipality.

2. Attacks and operations in various towns and villages

The village of Termje, a few kilometres to the south-west of Suhareke town, was first attacked early in the morning of 25 March, by FRY/Serbian forces comprising of MUP, VJ and paramilitaries, arriving from the directions of Leshane, Mamushe and Prizren from the south and east. In conformity with the pattern identified in other locations, the village was first shelled, from the hills to the south and south-west, before FRY/Serbian forces entered in jeeps and on foot, led by VJ tanks. Witnesses report that local Kosovo Serbs were among the attacking forces, as MUP and VJ reserves, along with paramilitaries wearing white ribbons around one arm.

Witnesses estimate that at least twenty civilians were killed as a result of the initial shelling on the village and more were killed as the FRY/Serbian forces moved closer, throwing grenades into houses and firing small calibre weapons. In one house, where many people were staying, two paramilitaries entered and questioned the male occupants about local KLA activities. Thereafter, several people were killed by these paramilitaries, including a number of women and children.

During the course of this initial attack, many Kosovars from Termje, along with others from Studenqan, gathered at a stream near the village, in order to hide from the FRY/Serbian forces. This group was approached by some of the MUP and paramilitaries involved in the attack, who began to shoot towards them, killing at least seven people. Thereafter, these MUP and paramilitary forces moved closer to the stream and ordered the assembled Kosovars to remain with their hands in the air. The women, children and some of the men were then allowed to leave and the remaining men were then shot and killed. Those who had escaped execution took shelter in a nearby house, while the FRY/Serbian forces remained in Termje, searching houses, looting property and burning buildings.

On 26 March, more houses were set alight by the FRY/Serbian forces and witnesses also recount seeing them gathering corpses in the village, supported by some members of the local Roma population. Further incidents of violence, looting and killing occurred as houses were

searched. This continued on 27 and 28 March,²⁰¹ in addition to renewed shelling, and paramilitaries were sighted wearing green uniforms, as well as persons described as Russian mercenaries, dressed in green, blue, and multi-coloured uniforms. Other witnesses state that the FRY/Serbian forces were reinforced with further VJ, MUP and paramilitaries, arriving in buses.

From this time until the withdrawal of FRY/Serbian forces from Kosovo in June 1999, two houses in Termje were used as VJ and paramilitary bases. Witnesses state that MUP forces, along with these VJ and paramilitaries, were also stationed in the village throughout the conflict. While the majority of the population departed, towards neighbouring Leshane and on to Prizren and Albania, those locals who stayed in their homes were elderly Kosovars, along with the Roma, and they were continuously questioned about the KLA and KLA activities in the region.

The village of Leshane, two kilometres along the main road east from Termje, was itself targeted soon after the initial Termje attack. On 27 March, it was surrounded by VJ, paramilitaries, police and local Kosovo Serbs. That day, tractors and other vehicles, household appliances and medical supplies were looted, along with livestock, some of which were also simply killed. Once again, houses were set on fire by these FRY/Serbian forces.

Witnesses to this operation report that paramilitaries, VJ, MUP and Kosovo Serb civilians were involved, while some specify that the local Kosovo Serbs were primarily involved in the looting, and the paramilitaries played more of a role in the burning of houses, shops and reserves of animal feed. These paramilitaries are described as having their faces "painted" and wearing blue camouflage uniforms, red headbands and black combat vests, as well as some said to be members of Arkan's forces, wearing green with white stripes.

On 28 March, some of the residents of Leshane fled towards the village school as the attack progressed, and others were specifically ordered to move in that direction. Once there, the men were separated from the

201 Witnesses report that on 28 March several "Egyptian"-owned houses and barns were burnt.

women. The latter were sent on foot to Prizren, while those men aged between 15 and 50 were held in the schoolyard for several hours. During this time, they were ordered to shout things such as “long live Serbia/Milosevic” or to chant “Serbia, Serbia.” After this abuse, they were sent to Prizren, where they joined their families.

In early April, witnesses report that a number of vehicles such as trucks and bulldozers were brought into the village and it was believed that these were used to remove the corpses of persons killed during the entire operation.

As has been stated above, the village of Duhel was the site of a key checkpoint, used by the FRY/Serbian forces to keep control of the main road through the region. It was also from here that the VJ launched its attacks on the KLA to the north, the east and the south-west, in addition to shelling villages in the northern part of the municipality. Throughout March 1999, there was a clear build-up of FRY/Serbian troops at the checkpoint and moving along the road. The local Kosovar population report a consequent increase in the number of attacks upon them at this time, including harassment, threats, robbery and other mistreatment. As a result, by the end of March, the majority of the inhabitants of Duhel had departed their homes and fled to nearby villages, or to the hills and mountains to the east.

Reports of incidents from Duhel itself are therefore scarce, apart from those described by persons passing through the checkpoint on their way south. An incident occurring on 24 April is recorded, when around 300 women and children were detained overnight in the village school. These women were largely IDPs from Dragocina, along with some locals, and were stopped and robbed, before being taken to the school building. Witnesses recount that MUP and paramilitary forces were involved, the latter including persons wearing red and black headbands and gloves, and others with shaved heads, all armed with machine guns, grenades and knives.

During the period they were held, the women were not fed or given any water, nor were they allowed out to go to the toilet. There are some allegations of rape and sexual assaults perpetrated by the FRY/Serbian

forces detaining them, although, as has been discussed elsewhere in this report, gathering victim or witness statements about such crimes is extremely difficult. In addition, money was continually extorted from them. On 25 April, buses arrived and they were transported to Zhur, from where they walked to the Albanian border.

The village of Bllace had been an area particularly targeted during the 1998 conflict, due to its proximity to Duhel and the intersection of the road from Malisheve with the road running north from Prizren and Suhareke town. In addition to the 1998 offensives, there appears to have been a significant degree of KLA activity in this region during March 1999. By 21 March, Bllace was surrounded by VJ and other FRY/Serbian forces. Its residents began to leave towards Malisheve, in the north-west, fearing an assault similar to that they had experienced the previous year. By the time this assault came, at the very end of March, the majority of the local Kosovars had left. Once again, the FRY/Serbian forces involved engaged in a significant amount of house-burning and many houses were also destroyed by shell-fire.

The shelling of Dragacina, from Duhel, began on a morning around 5 April, before VJ, MUP and paramilitary forces arrived in the village, coming from the same direction. The majority of the inhabitants of the village fled, either towards the river, or into the hills to the south and east. The police and paramilitaries are reported to have demanded money, on threat of death, from those villagers who had not already fled and by the time the FRY/Serbian forces had left, three to four hours later, the majority of the houses had been looted and burned. Those sheltering by the river were also surrounded, robbed and then told to return to the village, where they would not be harmed.

Subsequently, on 21 April, the village was surrounded once again, by MUP, VJ and paramilitary forces. The paramilitaries are described in various accounts as wearing red and black headscarfs, camouflage uniforms, some with white and red ribbons on their arms. Some wore brown scarves and had the Serbian cross symbol drawn on their shaved heads. At this time, the remaining younger male inhabitants of the village departed towards the mountains, assuming that the women, the elderly and the children would not be maltreated if found alone. However, when

the FRY/Serbian forces entered the village, they gathered all of the Kosovars together in a field and separated the elderly men, eleven in total, out from the women and children. They beat some of these men before tying their hands together and taking them to a barn.²⁰² The women were taken to other houses, where they were held for three days, threatened, robbed, and possibly also sexually assaulted.

By late March 1999, much of the village of Mohlan, to the south of Dragocina, had already been destroyed and looted by the FRY/Serbian forces. Upon the withdrawal of the KVM on 20 March, many of the local Kosovars fled immediately, while others departed over the next few days and weeks, as attacks upon them by their Kosovo Serb neighbours increased. Witnesses describe the mobilisation of local Kosovo Serbs into the police reserves and the kinds of harassment and attacks perpetrated by these people, along with others who were simply armed civilians. In the week after 24 March, Mohlan was shelled from the direction of Duhel, as with many of the surrounding villages. After this bombardment, local police (MUP) moved from house to house looking for remaining residents and ordering them to leave. The bodies of some elderly people who stayed behind in their homes were later found. It appears that the village was used as some kind of base, from which FRY/Serbian forces could launch further attacks in the area, and some witnesses report that their property was used to house police and paramilitary forces, as well as VJ equipment.

Also in that week, the neighbouring village of Recan was surrounded by VJ, paramilitaries bearing black ribbons on their sleeves and local Kosovo Serbs who had been mobilised, some wearing MUP and others VJ uniforms. On 28 March, the inhabitants of the village were expelled, towards Suhareke town.

Nearby Budakove was initially shelled on 25 March, by combined VJ, MUP and paramilitary forces, and this intensified at the beginning of April. It appears that there were a number of civilian casualties as a result of the shelling.²⁰³ Given the KLA presence in the area, the FRY/Serbian forces did

202 The bodies of nine of these men were found in a well, after the withdrawal of the FRY/Serbian forces. Another body, which had been mutilated, was found in a nearby field.

203 It should be noted that witnesses state that there was a KLA presence in and around the village and that there was a significant amount of fighting between the KLA and the FRY/Serbian forces in the region at this time.

not enter the village until 9 May, whereupon they engaged in the usual looting and burning of property. In addition, a group of around 200 persons displaced from Budakove and camping in the mountains nearby, came under direct attack from paramilitaries on 2 May. At least four people were killed during this attack and the others fled further into the mountains. Other IDPs in this area were captured by paramilitaries identified as part of the “Grey Wolves” group and then taken to Suhareke town, where they were detained in the Damper factory for three days, issued with ID cards and then transported to Zhur.

Further to the south, Savrove was shelled, starting around 24 or 25 March. Those who fled towards Albania, via Prizren, recount the involvement of a MUP commander from Prizren in an incident where they were ordered to move back towards Savrove. Shelling continued sporadically throughout the beginning of April and, on 17 April, combined FRY/Serbian forces entered the village, searched many houses and set some alight. This occurred again on 21 April, with further reports of looting and the killing of several individuals. Witnesses recount a similar attack in mid May and there are additional accounts of attacks on convoys of IDPs fleeing Savrove. For example, on 26 May, a convoy from Savrove was stopped and one elderly man arrested/abducted by MUP and paramilitary forces. The body of this man was later found. Again, at the beginning of June, another convoy was ambushed and forty men separated from the group. Six of these men were then selected and later killed. Witnesses recall the involvement of local Kosovo Serbs from neighbouring Sopije among the paramilitary forces involved. The same convoy was then attacked a second time and a further eight men selected for arrest/abduction, who remain unaccounted for.

The larger village of Sopije was similarly attacked around 25 March, and continuously thereafter for several days. The inhabitants were forced from their homes, their property was stolen and houses burned. Witnesses describe the forces involved in these events as primarily paramilitaries, but acting alongside members of the VJ and MUP. Local Kosovo Serbs were mobilised and incorporated into all of these groups. On 1 and 2 April, as many of the inhabitants of Sopije were departing,

several individuals were killed by the FRY/Serbian forces, primarily men who were individually selected for execution. One convoy in particular was ambushed by paramilitaries wearing white and red ribbons, who detained the entire group (approximately 100 persons) for about two weeks. Witnesses allege that eight men from this group were selected out and taken away to be killed.

The shelling of Vraniq began on 26 March and many villagers fled to the nearby forests and mountains. On 2 April, there was further shelling by MUP and paramilitary forces, who then entered and forcibly displaced the rest of the Kosovar population. Once again, witnesses report that they were robbed as they departed and their houses were looted.

The town of Suhareke itself was the location of several particularly brutal incidents in late March and early April, while the population was being expelled. Prior to 24 March, the build up of FRY/Serbian forces in the town began and witnesses recall the arrival of several paramilitary groups, identifying these as members of Arkan's forces, Seselj's forces and the Black Hand group. As soon as the KVM monitors were withdrawn from the town, several Kosovar civilians are reported to have been attacked and killed, as well as one Kosovo Serb civilian. In retaliation for the killing of this Serb, forces described by witnesses as special police conducted searches in the town, during which more Kosovars were killed. Additional paramilitary reinforcements arrived by bus, being stationed in two schools in the town.

The main attack on the town came on 25 March, when combined VJ, MUP and paramilitary forces surrounded it and then swept through it, searching houses, looting property, seizing identification documents from and expelling the Kosovar population. Numerous acts of killing are also recounted. Witnesses state that these forces wore multi-coloured uniforms and had white ribbons on the arms. It appears that, initially, searches were concentrated on the Astrazup part of the town, with the inhabitants of this area fleeing further to the west. It is estimated that around 23 people were killed in this part of the search operation alone. The next day, many members of one family, including several young children, were targeted and killed in their homes and in a restaurant in the centre of Suhareke, due to their prior connection with the KVM

monitors who had been based in the town. Forty-three persons were killed as part of these operations. Witnesses further allege that a factory in the town - the Balkans Factory - was used by the FRY/Serbian forces to burn the bodies of persons killed during operations in Suhareke and its surrounding area.

The expulsion, looting, destruction and killings continued in the town over the following days in much the same pattern, with many incidents recorded displaying the elements of terrorisation utilised throughout the municipality and elsewhere. Often, the occupants of houses would be given extremely short periods of time in which to leave their homes or face violence and death, and persons passing through the town were also intimidated and robbed. Some witnesses state that on 8 and 10 April, local police engaged in a kind of survey exercise, going from house to house to record who was left and to remove any remaining young males.²⁰⁴ Finally, around 21 April, buses and trucks were used to transport groups of civilians to Zhur and Prizren.

Another point of note from Suhareke town is that the Damper factory was apparently being used by the VJ to store weapons and military vehicles, in order to avoid detection by NATO. IDPs passing through the town were taken to this factory, particularly in early May, and kept there for short periods of time. Some witnesses recall large numbers of IDPs being held at the factory on the night of 11 May, who were informed that they were being used to ensure that NATO would not bomb.

3. Summing up

The entire Suhareke municipality might be viewed as divided by a Y shape,²⁰⁵ and it can be seen from the above description of events in some of its towns and villages that the Kosovar population were displaced in particular directions, depending on where their villages lay. In an area to the west, from the end of March, as the Serb forces pushed

²⁰⁴ There are some allegations that young men taken away were used as forced labour nearby.

²⁰⁵ The Y is roughly formed by the main roads, with Duhel at the intersection, Suhareke town at the base of the stem, and Malisheve at the most north-westerly point and Shtime at the most north-Astrazup.

up from the south, through Slapuzhan and Peqan, the local population generally fled to the north, many taking shelter in Bellanica and then moving on through Malishve and down towards Rahovec and then Prizren. In the north, the inhabitants of towns such as Bllace were forced to move north-westerly away from the Duhel checkpoint, the source of the shelling. This was also towards Bellanica. Meanwhile, in the villages to the south-west of Suhareke, such as Termje and Leshane, the attacking FRY/Serbian forces ordered the inhabitants to go straight down through Prizren. Those who were wary of this command or who preferred to risk staying in the area, went to the mountains in the east, through Savrove and Vraniq.

The villagers who lived north-east of Suhareke mostly fled to the mountains in the east, although some chose to depart for Albania, through Suhareke and Prizren. By May, many of those villagers who had been taking shelter in the mountains were pushed up north away from the fighting between the FRY/Serbian forces and the KLA around Budakove and gave themselves up to FRY/Serbian forces in Recak or Shtime. It is clear that part of the reason for this was that even on the mountainside, they were frequently surrounded by roaming groups of FRY/Serbian forces and subjected to violence, abduction and extortion. Once in Shtime they were forced to travel down the Shtime-Suhareke road and on to Prizren and Albania.

While fighting between the FRY/Serbian forces and the KLA played a significant role in the progression and speed of the expulsion campaign in the Suhareke municipality, it must be emphasised that the vast majority of the departing Kosovar population did not flee their homes to escape combat operations. Rather, many thousands left on the direct instruction of VJ, paramilitary and MUP groups attacking the villages themselves, and many thousands more fled through fear of what these attacking forces would do to them should they remain. Indeed, as has been described above, the FRY/Serbian forces in some cases provided transportation towards the Albanian border and compelled the Kosovars to take routes chosen by them out of the province. This kind of displacement, through violence and threat of violence, along with accompanying widespread looting and extortion, typifies the campaign identified in all of the preceding sections.

G. Prizren/Prizren

1. Introduction

Located in the south-west of Kosovo, the municipality of Prizren is bordered by Gjakova and Rahovec to the north-west, Suhareke and Strpce to the north-east, Dragash to the south, Albania to the west and Macedonia to the east. Prior to the 1998 FRY/Serbian campaign, Prizren had over 80 towns and villages and a population of approximately 120,000: approximately 78 per cent Kosovar; 5 per cent Serb; and 17 per cent other national communities. The Muslim Slav community was located along the road to Macedonia, in the Planina mountains to the south and just north of the town of Prizren, in Lubizhde. A large Turkish population was located in the town of Mamushe, in the north of the municipality, near the border with Rahovec. There were also a few predominantly Catholic Albanian villages, including Veleza and Zym.²⁰⁶ The principal town of the municipality, also called Prizren, is located in its centre.

The 1998 FRY/Serbian campaign did not affect Prizren to the same extent as some other municipalities in Kosovo. While there were some acts of violence and terror conducted throughout, this campaign was concentrated in areas of the municipality with a significant KLA presence, i.e. the border regions to the west and south, and the villages to the north along the edge of Rahovec.

In June of 1998, the KLA declared the town of Prizren a 'free area', essentially devoid of VJ and MUP forces. According to a local source, around this time MUP forces in the surrounding region were reinforced by local Kosovo Serbs and reservists were mobilised into the VJ. Fighting in the area began in early July. Throughout the month MUP and VJ would go to villages, burn them, and return later with reinforcements. Also at this time, there were many arrests of Kosovar men, who were often charged with committing terrorist acts.

FRY/Serbian forces and the KLA clashed along the Albanian border in late July, but the main FRY/Serbian operation in the municipality began at the

²⁰⁶ Many of these communities remain in their pre-1998 locations.

end of August. At that time, VJ forces were reportedly positioned in the southern part of the municipality and in Dragash, south of the village of Lez.²⁰⁷ The VJ also set up military bases in Preskop, Cmi Kmn and Smac, and approximately 13 military stations in the surrounding hills. The VJ presence continued through the conflict in 1999. In August 1998, however, their activities were mainly focused on fighting with the KLA, concentrated along the Albanian border and south of Prizren town into Dragash municipality, including in the villages of Kushnin, Ljubiceva, Hoce e Qytetit and Jeshkove.

During September, there were a number of killings of Kosovars in Prizren, especially in the Tusus quarter of Prizren town, a Kosovar neighbourhood whose residents were supposed to have links to the KLA. A number of villages were burnt during this time, including Lez, Ljubiceve and Jeshkove. After September, the military forces withdrew, but the number of police reportedly doubled. A local source indicates that from January through the end of February 1999, MUP forces reinforced established units with five brigades from areas including Nis, Raska (both in Serbia proper) and Leskovac.

Police checkpoints were set up in Prizren municipality in early 1998, in Prizren town, Zhur (on the road to Albania), Landovice and Atmagje (on the main road to Gjakove), Hjdicka (on a road north of Zym), near Lubizhde (above Prizren on the main road to Suhareke), and near Prevlac (on the road from Prizren to Macedonia). Police routinely took money from Kosovars returning from working abroad, and those transporting goods. This system of checkpoints would prove to be a key element in the expulsion campaign conducted by the FRY/Serbian forces in 1999.

The length of this section does not reflect a fundamentally different or less extensive FRY/Serbian campaign within the Prizren municipality in 1999. The Project approached Prizren differently from other AORs, due mainly to the fact that there were no local NGO partners in this region. As a result, Project staff took fewer statements than in other municipalities but were nonetheless able to formulate a general picture of the campaign in the municipality and the types of violence and

207 Lez was reported to have been completely destroyed in 1998 as a way of discouraging local support for the KLA.

destruction which characterised it. Having briefly outlined the 1998 campaign, this section will examine the treatment of Kosovars on the roads of Prizren and summarises the events in the municipality from March to May 1999, before offering some brief conclusions.

2. Routes of departure in Prizren

Prizren municipality served as an important route of departure for IDPs from all over Kosovo. From the north-west, many displaced people were forced down the main road from Peje to Prizren. From the north-east, IDPs were funnelled down the road from Suhareke. Leaving Prizren, they followed two routes: to the south-west, down through Zhur and Vrbnica to Albania, and to the south-east towards Macedonia. Large numbers of Kosovars were forced down both routes, but, due to several reasons - the long distance, the fact that villagers passed through Kosovo Serb villages, and, ultimately, the closure of the Macedonia border - IDPs eventually poured down the road to Albania in massive numbers. Utilising the series of checkpoints established in the prior year, FRY/Serbian forces exerted considerable control over the persons passing through Prizren in such a short period of 1999.

With the start of the NATO bombing campaign, the roads of Prizren municipality became flooded with convoys as people sought the safety of Albania or Macedonia in cars, trucks, tractors and on foot. Witness reports indicate that IDPs passing through Prizren were often turned away at checkpoints at the edge of the municipality if they attempted to enter on foot. Those making such an attempt were required to purchase tickets and board buses that would take them through Prizren. This occurred primarily during the later stages of the conflict. The buses went only as far as Zhur, where IDPs were forced off the buses and required to walk the remaining stretch of the road to the border at Vrbnica.

Along this route witnesses report a multitude of violent and threatening acts committed by FRY/Serbian forces and directed at thousands of IDPs travelling along the road. As these IDPs reached moving or permanent checkpoints, or at the border with Albania, they were subjected to harassment, mistreatment and brutal beatings, robbery of identification

documents and money, theft of vehicles and execution-style killings. Witnesses passing through and residents of Zhur and Vrbnica observed the looting and burning of houses in these villages and the abuse and mistreatment of people there. Witnesses also report people being pulled off tractors and out of buses, robbed of money and personal documents, beaten and released, or abducted and sent to unknown locations. In one instance a truck filled with paramilitaries, described as having masks and “painted” faces, intentionally drove into a tractor filled with 65 people, killing the driver and injuring others. The forces involved in the actions along the road were groups of VJ, MUP and paramilitaries, acting alone or in various combinations.²⁰⁸ One witness from Zhur identified masked paramilitaries wearing VJ and police uniforms. FRY/Serbian forces in Vrbnica were identified as VJ and paramilitaries with red scarves, ribbons, knives, distinctive hats and insignia of a white eagle on one arm. In sum, it is clear that all kinds of FRY/Serbian forces, as described also in other municipalities, were present in Prizren and acting closely together.

3. Chronological outline

Despite the Holbrooke- Milosevic agreement, FRY/Serbian actions prior to the NATO bombardment essentially consisted of continued patterns of engagement between them and the KLA and accompanying violence against the Kosovar population as a whole. Such acts occurred with frequency in the areas on the fringes of the so-called KLA “safe area” and were characterised by attacks and revenge actions. From the beginning of 1999, there were attacks on villages either somehow affiliated with the KLA, or with wealthy Kosovar families, intellectuals or politically active Kosovars.²⁰⁹ Witnesses report numerous FRY/Serbian assaults directed against individuals and families of Kosovars, including abductions/arrests,

²⁰⁸ For example, one witness described an incident in Prizren on 27 March, when Serbian military forces handed people over to paramilitary forces dressed in black with black painted faces. These forces took children and threatened them in order to extort money from their parents.

²⁰⁹ The VJ were reportedly conducting forced removal operations in western villages, particularly in the area of Kusin and Kabash, near the Albanian border, because there was a strong KLA presence (KLA smuggling routes from Albania ran through that area). Lez, in Dragash municipality to the south, fell prey to two main attacks from 1998 to 1999, reportedly due primarily to the strong KLA presence in the area. On 11 March 1999, police, paramilitaries and VJ, estimated at 200-300 strong, came to Lez, and separated the men from the women. A Ukrainian reportedly commanded the paramilitaries. The villagers were beaten and robbed of documents. Most of the villagers departed and joined a convoy of approximately 1500 going towards Albania. The convoy was stopped on their way to Ljubiceve and the men were separated from the women. They were then robbed, beaten and returned to Lez.

detention (with interrogation regarding the KLA), harassment, physical mistreatment, killings and theft of money, jewellery and personal documentation.

After the NATO bombing commenced, FRY/Serbian forces initiated an aggressive campaign throughout the municipality, against all of its Kosovar inhabitants. The same form of expulsion was employed at roughly the same time throughout the municipality, with combined FRY/Serbian forces participating in most of the attacks. The operations were substantially similar to those conducted in other municipalities, involving the shelling of villages, gathering people together, separation by gender, abuse and mistreatment of Kosovars, forcing people to leave and the looting and burning of houses.

The FRY/Serbian expulsion campaign took a different form in the town of Prizren. The forces did not direct a single, large-scale displacement operation against the town. From the end of March onward, VJ, police and paramilitaries forced people in the town to leave individually, by family/house, or by street or neighbourhood. The pattern was otherwise the same, with people given a certain amount of time to leave, the separation of men and women, the robbery of those expelled and the looting and burning of houses.²¹⁰ The expulsions were apparently quite organised, and tight control was maintained over those who remained in Prizren town. FRY/Serbian forces emptied and occupied some, but not all, houses in a street or neighbourhood, reportedly using the remaining Kosovars as human shields. The populace was also monitored, with local police continually visiting homes to keep an account of the occupants.

After 24 March 1999, FRY/Serbian forces attacked several villages north of Prizren, near both the road to Gjakove and the Rahovec border, where there was a significant KLA and VJ presence. A large number of people were forced from the area in the first few days. According to local sources, following the initial attack the KLA sought to withdraw forces from the area and also to direct people to the village of Mamushe.²¹¹

210 Other national communities were often caught up in these operations, or an additional target of them. Local Roma and Turkish sources report incidents of house burning, beatings, killings and forced labour in the municipality.

211 Mamushe was reported to be somewhat safer than other villages, due to an alleged agreement between the Turkish population and the VJ. Inhabitants of Mamushe initially hid the IDPs fleeing from nearby villages.

On 25 March, paramilitary, VJ and MUP forces burned houses in Pirane²¹² and Randobrave, forcing villagers to depart. The next day, MUP, paramilitaries and VJ surrounded the village of Mamushe. Some of these forces were wearing red headbands, masks and/or white ribbons. At that time Mamushe was full of IDPs, estimated in the thousands. The forces entered around 11.30 a.m. and gathered the people in the centre of the village, where they were separated by village and forced to stand in lines.²¹³ Villagers who were not from Mamushe were forced to return to their homes or directed to leave for Albania. Witnesses report that VJ soldiers killed at least 22 people, nine of them Turks from the village. Around this time, approximately 40 Turkish and Roma houses were burnt, and on or about 27 March VJ soldiers ordered the residents to leave, including Roma and Turks.

Soldiers in VJ uniforms entered Zojiq on 25 March and forced the inhabitants to leave. Some people went to mountains around Mamushe and returned home on 26-27 March. On 27 March paramilitaries described as wearing camouflage, with automatic weapons and red ribbons in their hats, arrived, divided men and women, robbed them and looted shops. Local Kosovo Serbs reportedly looted houses and three people were killed and their bodies burned. The villagers left for Albania on 28 March, passing through Landovice, Dushanove, Zhur and Vrbnica before crossing the border. Along the route they had their personal documentation and money stolen by persons described as VJ and police, including possible reservists or paramilitaries.

Medvec, next to Zojiq, was the target of three nights of shooting by the VJ, starting on 25 March. The following day some villagers tried to escape to Mamushe, but the road was full of police and VJ forces. These forces started shooting and one person was wounded, while two others were killed trying to escape. Two days later the village was burned by uniformed local Kosovo Serbs from Zojiq, supported by the VJ. Medvec was burned on two further occasions - on 26 April and 25 May.

212 One witness reported that, after surrounding Pirane, the FRY/Serbian forces opened a corridor, allowing people to leave. Witnesses from neighbouring villages reported observing the exodus of people from Pirane and sought to leave their own villages, some in the direction of Mamushe.

213 There are reports of VJ soldiers and paramilitaries beating, stabbing and/or killing some of the Roma, Turkish and Kosovar men who were lined up.

FRY/Serbian forces shelled Landovice, just north of Prizren on the road to Gjakove, on 26 March. The forces were heavily armed VJ, police and paramilitaries described as wearing camouflage with white ribbons. According to one witness, Serbian police and VJ soldiers referred to Albania as the villagers' homeland, or stated that Kosovo belonged to the Serbs. Villagers were gathered together and men and women were separated. One witness states that the groups were sent to Prizren town at different times that day, from where they went to Albania on the orders of the police.

Commencing on or about 28 March, FRY/Serbian forces attacked the west and south-west of Prizren. This region can be divided into two areas. The first is the road from Prizren to the Albanian border, being one of the main roads taken by IDPs to leave Kosovo. On 28 March, people from the villages of Hoce e Qytetit, Poslishte, Billushe and Jeshkove left together in a convoy to Albania, with some people driven in buses, after having received an ultimatum by the FRY/Serbian forces. In Zhur, the FRY/Serbian forces had established a checkpoint where they forced people to get off the buses provided by them. In one of numerous examples, 74 people from the village of Billushe were removed from a bus by police and forced to walk to the border.

Around this time, FRY/Serbian forces detained a number of men passing through Billushe from other areas and held them for a period of up to two months in the old village school. Witnesses report that some of these men were forced to perform tasks such as digging trenches in surrounding villages, and damaging Kosovar houses and other property. There were reportedly groups of paramilitary forces operating in this village and witnesses refer to a Ukrainian commander.

In Vlasnja, paramilitaries with red-coloured headbands and masks surrounded the village on 28 March and gave the occupants an ultimatum to leave. They then looted the village and burned three houses. The fleeing villagers joined a convoy with others from Billushe and Poslishte, Grazhdanik and Kobaje. On their journey south, they saw Dobruzhe burning. One of the perpetrators of this expulsion was identified as a local police commander. On the same day, in the village Muradem, men were separated from women and both groups were forced to leave.

The second area, also targeted on 28 March, is the Has region, which lies to the west of the road to Vrbnica. Close to the Albanian border, this mountainous region is bounded loosely by the Beli Drim river and the Gjakove-Peje road. The Has region saw considerable FRY/Serbian activity over 1998 and 1999. The KLA were located across the Albanian border, and the VJ had forces surrounding the Astrazup edge of the area. Starting on 28 March 1999, FRY/Serbian forces emptied much of the entire region. Some people fled to the mountains, while others were detained in their villages before being forced to depart. Witnesses report abductions, killings, robbery and the looting and burning of houses at this time. The forces involved in depopulating the Has region were VJ, police and paramilitaries. A great many people in the upper Has area formed a huge convoy and proceeded to the Albanian border via Prizren town and Vrbnica. The villages affected included Gorozhup, Milaj, Planeje, Kojushe, Mazrek, Krajk, Karashengjergj, Dedaj, Kusnin, Donaj, Nashec and Romaje.

On 31 March, FRY/Serbian forces gathered approximately 1,400 villagers in the centre of the village of Zym, located in the Has region. They separated the Catholics from the Muslim Kosovars and sent the latter to Albania.²¹⁴ The members of the minority Catholic Albanian group were ordered not to shelter the Muslim Kosovars in the future and the two "Muslim" parts of the village were completely emptied. A witness described paramilitaries with red ribbons on their uniforms and others dressed in black with black masks. Police were also observed working with the paramilitaries. While there was a constant police presence in this village, which rose to approximately 36 after the NATO bombing commenced, VJ and paramilitary forces stayed only temporarily.

FRY/Serbian forces directed an expulsion drive against villages to the south of Prizren town starting in late March. One witness reports that on 28 March, in the village of Planjan, along the road to Macedonia, police and VJ, along with individuals speaking Russian and wearing masks and headbands, arrived and gave the local people fifteen minutes to leave. Local sources indicate that villagers from Lez and Kustendil (located near

²¹⁴ On the way to the border, in Landovica, IDPs from the Has region saw Serbian policemen working with paramilitaries described as Arkan's forces. Villagers were taken to Zhur by bus, where they were forced to walk to the border. According to one witness, the road was blocked at a certain point by police and paramilitaries, who came out from trenches and robbed and abducted people.

Lez but within Prizren municipality) were forced by FRY/Serbian forces to leave for Prizren on 31 March, where they stayed until they left for Albania in the middle of April. Villagers in Strujhe, south-east of Lez in Prizren municipality, were also displaced on 31 March.

On 28 March, paramilitaries came to displace the villagers of Ljubizde, located east of Prizren town, near the main road to Suhareke. These forces are described by witnesses as wearing white eagles on blue police uniforms, with white and red ribbons. Among them were local Kosovo Serbs, identified as reservists and volunteers, and described as wearing masks and having "painted" faces. The paramilitaries went from house to house, beating, mistreating and robbing the occupants of jewellery and money. People were forced out of their homes, and the paramilitaries separated the men from the women and ordered them to leave. As families left their houses, the paramilitaries set them alight. Approximately 30 houses were burned in the course of this operation. Later, at a checkpoint, MUP, paramilitary and VJ soldiers stopped the departing villagers and robbed them before sending them back to Ljubizde. Paramilitary forces conducted a further, similar operation in Ljubizde on 3 April.

The FRY/Serbian operation that began in late March continued into early April 1999. On 2 April, VJ soldiers entered the village of Hoce e Qytetit, along the road to Albania, and forced people to leave. Sources report that a number of these expelled people were beaten. On the same day, in Dobruzhe, near Zhur, paramilitaries, reportedly dressed in black, gave villagers only ten minutes to leave, under threat of violence. The vast majority of houses were damaged by burning. Also on 2 April, FRY/Serbian military and security forces shelled the village of Pejçici, located along the road to Macedonia. One witness states that bombs, and later concrete blocks, were dropped on this village from planes, killing two people. Another reported the burning of houses and the killing of an unknown number of people. Later in the month, villagers were ordered to go to the neighbouring mountains, where they encountered people displaced from other villages, and later were forced by MUP and VJ personnel to leave for Albania, via Prizren town.

The mass expulsions were thus largely completed in the first days of the month of April. Aside from isolated incidents of larger displacements,

either in villages not previously hit, or upon the return of FRY/Serbian forces to a village for a second time, the incidents in the municipality in April and May reflect actions directed against IDPs seeking shelter in forests and mountains, people that stayed behind in their homes, and those leaving for Albania and Macedonia in convoys. Statements reveal numerous and repeated instances of robbery, beatings, abductions, confiscation/destruction of identification and other documents, sexual assaults, forced labour, and individual or multiple killings of those who stayed behind, whether in villages or in the mountains. People were also apparently used as human shields.²¹⁵

In the Has region, the attacks on villages were replaced by actions directed at groups of IDPs that fled to the surrounding mountains, and actions in villages directed against smaller groups, families or individuals. Some people went to the mountains and from there they observed a number of individual and multiple killings. According to local sources, FRY/Serbian forces came to Lubizde Has on 6 April and killed one person. On 11 April the FRY/Serbian forces returned and killed one person of a group that attempted to leave for Albania. Witnesses identified paramilitaries around 40-50 years old who were involved in the killing and burning of Kosovars. Around 12 April, FRY/Serbian forces went to the mountains near Lubizde Has. They surrounded a group of IDPs and separated the men and women. These forces pulled some men from the group and shot fourteen or fifteen of them, three of whom survived. Witnesses identify VJ and/or police as the perpetrators of this execution. One witness states that the perpetrators ordered local people to remove the bodies to several different locations.

On 14 April MUP forces from Suhareke surrounded the village of Korishe, located above Prizren town, and proceeded to burn it. At least two men were killed at that time and approximately 1,400 people fled to the mountains. Those who went to mountains came back during the day to feed their cattle, whereupon some of them were killed. Paramilitaries were also involved in this attack, wearing a variety of uniforms and some

²¹⁵ A witness reports that on 10 April a convoy from Mitrovice was detained at the border for 4 - 5 days and used as a shield. Another witness indicates that on 17 April, near Lubizde Has a group of 100 young people were held in a barn and used as human shields. Yet another witness described a house in Prizren where Kosovar men were kept on the third floor, Kosovar women were kept on the second floor, and weapons were stored on the ground floor. Other witnesses stated that some of those detained for forced labour were also used as human shields.

with cowboy-style hats. From 14 April to 13 May FRY/Serbian forces were permanently stationed in Korishe. Many of the local residents were ordered to leave for Albania and some were taken from a convoy and detained in a factory. This factory appears to have been struck by NATO forces at some point around this time and many of those inside were killed or wounded.

On 17 April, a group of villagers in the mountains of the Has region were surrounded by VJ and paramilitary forces in black headbands, with grenades and knives in their boots. Approximately 100 young people, aged between around 14 to 30 years, were separated out from the group. One witness states that these people were sent to Lubizde Has as human shields, and that a number of bodies from this group were found later.

In an operation during April, groups of young Kosovar and Roma men were rounded up in the town of Prizren and neighbouring villages and forced to work in villages in the south and west.²¹⁶ While estimates differ, it appears that significantly more than 100 young men were abducted, many from the Tusus neighbourhood, and taken to the sports centre. There they were separated into groups and transported to other villages, including, Zhur, Billushe, Dobruzhe, Vrbnica, and villages in Dragash. Some witnesses report being forced to wear military or police uniforms. They were forced to dig trenches, work on army “fortifications”, carry wood and chop trees, or work in a factory. Witnesses also recall being beaten and mistreated and describe the perpetrators as military police, VJ and reservists, and paramilitaries with bulletproof vests and white eagle insignia on the arms. The detainees were held for varying periods, with some witnesses reporting that they were not released until June.

4. Summary conclusions

The FRY/Serbian campaign throughout Prizren involved the same elements and practices as those described in other municipalities. The campaign relied upon expulsion operations directed at towns and these

²¹⁶ Around 20 April, Kosovars were also abducted in Ljubizde and Dushanove. VJ troops and paramilitaries forced people to work for the army, digging trenches, carrying garbage, cleaning, and building military camps. A number of Roma men were taken from Dushanove earlier in the month, around 9 April. Some of these men were sent to Hoce e Qytetit, where they were forced to dig trenches.

attacks typically involved shooting and shelling prior to the entry of armed forces. Local Kosovars were gathered in a single place and separated, whereupon they were mistreated and/or robbed before being forced to a particular village or to leave Kosovo. The looting and burning of the target village would commence during or after the villagers' departure in a convoy. The campaign also involved more isolated incidents directed against neighbourhoods, groups or families. FRY/Serbian forces targeted people who stayed in their villages after an expulsion operation for particular violence and those who fled to the mountains, other villages or to Albania. The countless acts constituting the FRY/Serbian campaign wrought immense destruction and loss of life and property within Prizren.²¹⁷

The forces involved in the operations described above were typically a mix of VJ, MUP and paramilitaries. Witness statements and local and international sources reveal a significant level of co-ordination among those forces. While the official command structure would indicate that the chief of police in Prizren was under the command of the police headquarters in Prishtina, local and international sources state that the commander of the local VJ forces, the 549th Mechanised Brigade, held primary command in the municipality, including over the MUP. In Prizren, the VJ remained housed in the VJ barracks until 24 March. Overnight, with the commencement of NATO bombing, the VJ was stationed all around the region. This considerable mobilisation was apparently the result of police and military working extensively together, all armed and under military command. This co-ordination was also evident in the presence and conduct of both VJ and MUP forces in the expulsion operations across Prizren. In the instances of forced labour, police appear to have rounded people up, but many, if not most, of the detainees were forced to work for the VJ, sometimes with paramilitaries overseeing them.

Interviews with many witnesses and local sources reveal significant paramilitary involvement in the forced expulsion campaign in Prizren. Witnesses specifically identify Arkan's and Seselj's forces as operating in

²¹⁷ Witnesses also describe FRY/Serbian forces' attempts to conceal those operations conducted pursuant to the campaign. Witnesses report three examples of such incidents occurring in April. In Ljubizde Has, VJ forces ordered young men to dispose of victims of a multiple killing in different areas. A witness also reports seeing police and Roma using an excavator (digging machine) to open a mass grave in a cemetery in Pirane. Another witness reports that police guarded the morgue in the Prizren hospital, and that approximately 200 bodies from Gjakove had been brought there.

the municipality, the former described, variously, as wearing tiger insignia, black uniforms and/or headbands, and red scarves. Seselj's forces were described as having painted faces, and wearing a white eagle insignia and or *Policia* insignia. Local sources indicate that Frenki's forces were also at work in the area. Witnesses and local sources also place Russian paramilitaries in the municipality, especially in the Has region. These groups often came into houses and villages and ordered or forced people to leave. Paramilitaries were implicated in abductions, mistreatment of persons travelling in convoys, including beatings and robbery, and extortion and robbery in villages, burning houses and destroying property. Paramilitaries conducted these operations with MUP and, to a lesser extent, VJ.

H. Conclusion - a catalogue of potential crimes

Whether one, several, or all of these chronologies and descriptions are read, the impression left is of a tremendous catalogue of violent, destructive acts, each of which had extremely serious consequences for the individual victims, their families and communities. Before proceeding to a discussion of how these acts might be characterised as violations of international humanitarian law within the jurisdiction of the ICTY, it is useful to list those that have been described many times throughout this Chapter.

- Forcing individuals and families to leave their homes, under threat of violence;
- Deportation of large groups of civilians, on buses, trucks and trains, to areas near the borders with Albania and Macedonia and ordering them to leave Kosovo;
- Extortion of money, through threats of violence towards the victim and/or their children;
- Stealing of jewelry, money, vehicles and other property of value from individuals;
- Looting of property from homes, including vehicles and livestock;
- Beatings and other serious physical violence;
- Killings, including execution-style shootings of individuals and groups and shooting of fleeing civilians;

- **Burning of property, including houses,shops and crops;**
- **Destruction of mosques and other cultural buildings;**
- **Rape and sexual assault;**
- **Arbitrary detention of groups of civilians;**
- **Using groups of civilians in the manner of human shields;**
- **Infliction of verbal abuse;**
- **Forcing individuals and groups to strip naked in public,and other acts of humiliation;**
- **Arbitrary detention of men without charge and without bringing them before judicial authorities;**
- **Abductions and disappearances;**
- **Mistreatment of persons in detention;**
- **Shelling and bombardment of civilian areas,from the ground and from the air;**
- **Confiscation and destruction of personal identity documents;**
- **Mutilation and burning of corpses;**
- **Forcing civilians to perform work-tasks;**
- **Killing of livestock;**
- **Pollution of sources of drinking water with corpses;**
- **Laying of mines and booby-traps in and around houses and civilian areas;**
- **Deliberate placing of military objects,such as tanks,in civilian areas and among civilian convoys.**

VI. LEGAL ANALYSIS OF THE FACTS AS DESCRIBED

This final Chapter may be viewed as the culmination of a descriptive progression, designed to ensure that the reader is in a position to appreciate how international humanitarian law relates to specific events in Kosovo in a discussion of individual criminal responsibility. It is thus intended here to bring the law and the facts together and lay out the types of international crimes that were committed in Kosovo in early 1999.

It is important to note once again that the evidence relied upon in building this legal analysis is derived from several thousand witness interviews, and international legal staff have striven to ensure that information recorded was substantiated by several witnesses, as well as a range of other sources. Nonetheless, it is impossible to stipulate that the details of all of the events described in this report are totally precise, for the witnesses have not been tested in a court of law, nor have alleged perpetrators had the opportunity to relate their version of the same incidents. It is partly for this reason that many such details have been omitted from the factual descriptions given in Chapter V above, as have most attacks and incidents described by only one witness. The following analysis is constructed on the basis of the facts as described in the preceding Chapter, with these limitations in mind.

As was noted in Chapter III, it is a requirement for three out of the four categories of crimes within the jurisdiction of the ICTY that they be committed in the context of an “armed conflict” and this issue is the first addressed in the present Chapter. Following this, there is a discussion of each of these four categories of crimes and how all of the acts listed in section H of Chapter V might be considered as within their scope. Finally, the question of responsibility is examined, in relation to individual perpetrators and persons in positions of command.

A. The armed conflict in Kosovo

It may seem curious to question the existence of an armed conflict in Kosovo, having detailed so many attacks and operations launched by the FRY/Serbian military and security forces, the KLA, and the forces of NATO, in both 1998 and 1999. Nonetheless, it is important to examine this very issue in order to discuss both *when* and *which provisions* of international humanitarian law were applicable to the Kosovo situation.

This report has not covered in any detail the 1998 period, due to substantial previous research and the need to produce a manageable analysis. It has been noted that the report issued by No Peace Without Justice in February 1999 concluded there was an armed conflict in Kosovo in 1998, at least from early March until October, the period with which that report was concerned. Using the definition provided by the Appeals Chamber of the ICTY in the *Tadic* Jurisdiction Decision, the question of whether there was “protracted armed violence between governmental authorities and organized armed groups” was discussed and the view expressed that there was no question that the conflict between the FRY/Serbian authorities and the KLA reached this threshold, being more than just “internal disturbances, characterized by isolated or sporadic acts of violence.”²¹⁸ At that time, there was no obvious involvement in Kosovo of forces from another State or States and thus the armed conflict was one of a non-international character, rendering applicable common article 3 of the Geneva Conventions and the other norms of international humanitarian law concerned with such conflicts. Upon further research, no reason is found to depart from the conclusions expressed in the NPWJ report on this matter. The next question to be addressed is, therefore, when this armed conflict ended and, hence, when international humanitarian law ceased to apply.

On 16 October 1998, President Milosevic and Ambassador Richard Holbrooke reached an agreement designed to end the violence in Kosovo, requiring the withdrawal of significant numbers of FRY/Serbian forces from the province and the cessation of offensive actions by these

²¹⁸ See NPWJ report at page 12, discussing threshold of violence required for the application of international humanitarian law.

forces and those of the KLA. However, as has been made clear in Chapters IV and V above, this temporary cease-fire was simply used by both parties to the conflict to regroup and rearm and the agreement was respected only in the breach. In view of this, it would be absurd to argue that there was a “peaceful settlement” of the internal armed conflict, as is required by the *Tadic* definition in order to render international humanitarian law inapplicable once more. Rather, this conflict continued through November and December, at a lower level of intensity, and each of the parties was therefore required to respect the provisions of common article 3 of the Geneva Conventions, along with the other relevant norms of international law.

In January, February and early March of 1999, clashes between the KLA and the FRY/Serbian forces intensified, as did the attacks mounted by the latter group against Kosovar individuals, groups and villages. On 24 March, however, a new element was introduced with the commencement of NATO air-strikes against the FRY. As has been noted previously, the FRY authorities declared a state of war that same day,²¹⁹ and the campaign against the Kosovar population reached new heights of scale and severity.

When discussing the question of application of international humanitarian law, a useful reference is the Commentaries to the Geneva Conventions, prepared under the auspices of the International Committee of the Red Cross. These Commentaries are generally regarded as authoritative interpretations of the provisions of the Conventions, including those provisions dealing with when the Conventions are applicable to a conflict. The Commentary to Article 2 of the Fourth Geneva Convention provides as follows:

“It remains to ascertain what is meant by ‘armed conflict’. The substitution of this much more general expression for the word ‘war’ was deliberate. It is possible to argue almost endlessly about the legal definition of ‘war’. A State which uses arms to commit a hostile act against another State can always maintain that it is not making war, but merely engaging in a police action, or acting

²¹⁹ It is in no way necessary for such a formal declaration to have been made in order for there to be an “armed conflict” in the legal sense and bring into force the laws of armed conflict.

in legitimate self-defence. The expression ‘armed conflict’ makes such arguments less easy. Any difference arising between two States and leading to the intervention of members of the armed forces is an armed conflict within the meaning of Article 2, even if one of the Parties denies the existence of a state of war. It makes no difference how long the conflict lasts, or how much slaughter takes place.”²²⁰

The *Tadic* definition of an armed conflict simply refers to “resort to armed force between States” when describing conflicts of an international nature. While there has been much debate and literature generated on questions such as when a “use of force” is permitted under international law, and what constitutes an “armed attack” or “aggression,” there would appear to be no question that the aerial bombardment of a State by the military forces of another amounts to “armed force,” whatever its legitimacy or illegitimacy in the circumstances.²²¹ Moreover, it makes no significant legal difference when discussing the application of international humanitarian law whether or not such a use of force was carried out by one State or a coalition of States, or whether or not it was one that was justifiable under international law.

Thus, we are led to the conclusion that the commencement of air-strikes against the FRY on 24 March 1999 marked the beginning of an international armed conflict taking place in the territory of the FRY. This triggered the applicability of the provisions of international humanitarian law relevant to such conflicts, and both the forces of the FRY and of NATO were required to respect them. Furthermore, the geographical scope of application of these norms extended throughout the FRY. As stated by the ICTY in the *Delalic et al.* Judgement, it is important that,

“should the conflict in [the relevant State] be international, the relevant norms of international humanitarian law apply throughout its territory until the general cessation of hostilities,

²²⁰ Jean Pictet (ed.), *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* 1958, 1994 Reprint Edition, at page 20.

²²¹ Indeed, the aerial bombardment of the FRY by NATO has been the subject of much discussion in terms of its consistency with existing rules of international law on the use of force. The implication of all these debates is that the NATO action was certainly a “use of force” for the purposes of international law. See, e.g. Editorial Comments: NATO’s Kosovo Intervention, 93 *Am. J. Int’l L.* (1999) 824.

unless it can be shown that the conflicts in some areas were separate internal conflicts, unrelated to the larger international armed conflict.”²²²

This is an important principle in the Kosovo context, for, as has been discussed above, there is no question that the internal conflict between the FRY/Serbian forces and the KLA had not ceased by the beginning of the NATO campaign. It may, therefore, seem that in Kosovo the rules of international law relating to *international* armed conflicts applied in relation to the conflict between the FRY and NATO, while different rules, those relating to *internal* armed conflicts, regulated the fighting between the KLA and the FRY/Serbian forces. This might appear to be borne out by some of the discussions within the ICTY relating to the application of these different bodies of law, as expressed by the Appeals Chamber in its Judgement in the *Tadic* case. The Appeals Chamber stated that,

“[i]t is indisputable that an armed conflict is international if it takes place between two or more States. In addition, in case of internal armed conflict breaking out on the territory of a State, it may become international (or, depending on the circumstances, be international in character alongside an internal armed conflict) if (i) another State intervenes in that conflict through its troops, or alternatively if (ii) some of the participants in the internal armed conflict act on behalf of that other State.”²²³

It is, however, submitted that it is impossible to separate the entirety of the violence and fighting in Kosovo into such neat components. In Chapter IV, the different levels of the conflict were emphasised, along with the fact that these may have overlapped and fed into one another. The NATO operation was indeed precipitated by the continued brutality of the FRY/Serbian forces towards the Kosovar population and the refusal of the FRY authorities to put a stop to it. It has also been noted that the speed and scale of the campaign mounted by the FRY/Serbian forces against the people of Kosovo greatly increased with the beginning of the NATO bombardment. There is, additionally, some question surrounding

²²² *Delalic et al.* Judgement, at para 209.

²²³ *Tadic* Appeal Judgement, at para. 84.

the role played by the KLA during the NATO bombing, in terms of providing intelligence and targeting assistance. It is therefore difficult to argue that, after 24 March 1999, the conflict between the FRY and the KLA was an internal one, entirely separate from the international armed conflict being conducted simultaneously, despite the fact that the ultimate end goals of the KLA and NATO may have been very different. More fundamentally, it is a basic premise of international humanitarian law that it should have a broad application, such that civilians and others caught up in any armed conflict have the greatest possible degree of protection. Thus, insofar as those attacks and operations detailed in Chapter V above affected the civilian population of Kosovo, and occurred after 24 March 1999, these civilians should be regarded as benefiting from the provisions of international humanitarian law applicable in international armed conflicts.²²⁴

The NATO air campaign was suspended on 10 June 1999, the same day on which the Security Council passed Resolution 1244, containing the general principles for a political solution to the conflict and a number of other provisions relating to the administration of Kosovo. This followed the signing of a Military Technical Agreement between the FRY and NATO and a stipulation by the KLA that it would conduct no further attacks on the FRY/Serbian forces as they withdrew. Consistent with the cautious approach taken throughout this report, therefore, it is considered that international humanitarian law applied to the conflict in Kosovo at least up until 10 June 1999. The extent of application of the provisions of international humanitarian law to the NATO forces deployed into Kosovo on 12 June is beyond the scope of the present report. Additionally, while there were numerous further acts of violence against Kosovo Serb civilians and other minority groups within the province after 10 June 1999, these should be viewed both as crimes under domestic law and as serious human rights abuses rather than as violations of international humanitarian law.

In conclusion, there is no doubt that an armed conflict existed in Kosovo from early 1998, at least until 10 June 1999. This armed

²²⁴ Whether these civilians were persons entitled to benefit from the specific protection of the Fourth Geneva Convention is a more complex question, addressed below in relation to "grave breaches of the Geneva Conventions."

conflict was of an internal character until 24 March 1999, when it became internationalised by the involvement of the armed forces of NATO. Thus, all of the parties to this armed conflict were obliged to conduct their operations in accordance with international humanitarian law - in the period up to 24 March that body of the law relating to internal armed conflicts and thereafter the more comprehensive body of law governing international armed conflicts. One of the primary principles of both of these sets of legal rules is the protection of persons taking no active part in hostilities. The forces involved in the conflict were obliged to ensure that such persons and their property were not the objects of attack and any collateral damage or injury inflicted upon them was minimised to the greatest possible extent. From our previous description of events in Kosovo in the period from March to June, it is abundantly clear that this fundamental principle was violated time and again, and attention is now turned to how such violations might be characterised as crimes under Articles 2, 3, 4 and 5 of the ICTY Statute.

B. Article 2 - Grave breaches of the Geneva Conventions

Having thus established that there was an international armed conflict in Kosovo from 24 March to 10 June, the first condition for the application of Article 2 of the Tribunal's Statute, as currently interpreted, is satisfied. The remaining issue, before examining the acts that fall within the ambit of Article 2, is the question of "protection" under the Geneva Conventions. As has been outlined in Chapter III, the Fourth Geneva Convention is that of primary relevance, being the one concerned with civilian populations in armed conflict, and it contains a provision defining those persons entitled to its protection. This definition centres around the concept of "being in the hands of" a party to the conflict and that party being of a different nationality from the civilian concerned.

As discussed in Chapter III, recent Tribunal jurisprudence has, however, taken a purposive approach to the Fourth Geneva Convention and sought to ensure that its application is not restricted by a rigid, textual interpretation, and consequently dictated by

domestic nationality laws. Thus, in both the *Delalic et al.* case and the *Tadic* case, it has been held that Bosnian civilians finding themselves “in the hands of” armed forces also of a Bosnian nationality were entitled to benefit from the protections of the Fourth Geneva Convention. In both of these cases, the relevant civilians identified themselves, and were identified by the perpetrators of crimes committed against them, as members of a particular group - Bosnian Serbs or Bosnian Muslims - different from the group with which the perpetrators identified themselves.²²⁵

If one is to assume that the Tribunal judges will continue to apply this progressive interpretation of the Geneva Conventions, it is possible to argue that the Kosovo Albanians should also be civilians considered as “protected” by the Fourth Geneva Convention in its entirety, in the period from 24 March 1999. There can be no question that this group considered itself quite separate from the Serbs in Kosovo and in the rest of the FRY. Furthermore, it is clear that the FRY/Serbian forces attacking Kosovar towns and villages in the relevant period, and abusing the Kosovar population, did so on the basis that the people were of a different group, which they, indeed, associated with Albania.²²⁶

In accordance with this reasoning, it might be concluded that many of the acts of violence and destruction committed against the Kosovars, from 24 March, were grave breaches of the Fourth Geneva Convention and, therefore, within the jurisdiction of the ICTY under Article 2 of its Statute.²²⁷ The facts outlined in Chapter V above can thus be classified under the following crimes encompassed by Article 2:

²²⁵ In the *Delalic et al.* case, the victims were Bosnian Serbs held in detention by Bosnian Muslim and Croat forces, among which were the four accused in that case. In the *Tadic* case, the victims were all Bosnian Muslims and Mr. Tadic himself a Bosnian Serb.

²²⁶ The FRY/Serbian forces drove thousands of people towards the border with Albania and told them to go there, often insulting them and telling them that Kosovo belonged to the Serbs and not to the Albanians.

²²⁷ There may also be evidence of grave breaches of the Third Geneva Convention, concerning prisoners of war. This Convention contains no nationality requirement for protected status, but extends its application to all prisoners of war as defined in article 4(A), including members of the armed forces, militias or volunteer corps, and members of organised resistance movements fulfilling certain criteria. It is not considered necessary to assess whether these conditions were satisfied by the KLA and other persons involved in the Kosovo conflict, for none of the evidence gathered by the project indicates violations of international humanitarian law committed against such persons. All witnesses indicated that victims were members of the civilian population. Insofar as persons detained by the FRY/Serbian forces were engaged in hostilities and potentially “combatants” within the meaning ascribed to this term by the laws of armed conflict, they may qualify as prisoners of war and be the victims of grave breaches of the Third Geneva Convention if they were abused contrary to the terms of the Convention.

²²⁸ There is a great deal of literature on the elements of the crimes of torture and inhuman treatment and this is a developing area. Torture has traditionally been considered as an act or omission which causes severe pain or suffering, inflicted intentionally by a person acting in some kind of official capacity, for certain prohibited purposes, such as obtaining information or a confession, or for reasons of punishment, intimidation, coercion or discrimination. (See *Delalic et al.* Judgement at para. 470.) Inhuman treatment involves the infliction of suffering of a lesser degree of severity than torture and is notable for the inclusion of acts constituting attacks on human dignity.

- (a) **wilful killing**, in relation to the many incidents of deliberate shooting and execution of civilians;
- (b) **torture or inhuman treatment**,²²⁸ for the beatings and serious physical mistreatment of civilians, as well as all acts causing serious mental suffering or constituting serious attacks on human dignity, such as rape and other forms of sexual assault,²²⁹ mutilation of corpses,²³⁰ and forcing people to strip publicly;
- (c) **wilfully causing great suffering or serious injury to body or health**,²³¹ in relation to those forms of physical violence not reaching the level of severity of torture, also for mental anguish and suffering caused to family members of persons “disappeared” and to persons who had family members killed in their presence, or found their mutilated bodies;
- (d) **extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly**,²³² for the shelling, bombardment and burning of homes, shops and other private buildings and property; the stealing and destruction of livestock, vehicles and all other property looted from homes, shops and factories; the stealing of money and other valuables at checkpoints; and the confiscation and destruction of personal identification documents, all committed on a widespread scale;
- (e) **unlawful deportation or transfer or unlawful confinement of a civilian**, for the forcible displacement of thousands of

229 In the *Delalic et al.* Judgement it was found that rape constitutes torture when committed by, at the instigation of, or with the consent or acquiescence of an official, or person acting in an official capacity, for such purposes as punishment, coercion, discrimination or intimidation. *Delalic et al.* Judgement at para.495.

230 It may be possible to argue that the mutilation of a corpse constitutes an attack on human dignity, for individual human dignity may extend beyond the point of death and be further related to the shared dignity of a community.

231 This category of crimes can be difficult to separate from torture and inhuman treatment. For a discussion of the interrelationship between all of these various classifications in international humanitarian law, see the *Delalic et al.* Judgement at paras.440-553.

232 The concept of “military necessity” may appear somewhat ambiguous, but it is a fundamental principle of the laws of armed conflict that military commanders must be guided by considerations of proportionality and strictly limit their operations to what is absolutely necessary to achieve their military objectives, minimising collateral damage and injury and never targeting civilians or civilian objects. See, *United States v. List et al.*, 11 Trials of War Criminals 757 (1948) “Military necessity has been invoked by the defendants as justifying the killing of innocent members of the population and destruction of villages and towns in the occupied territory...The destruction of property to be lawful must be imperatively demanded by the necessities of war. Destruction as an end in itself is a violation of international law. There must be some reasonable connection between the destruction of property and the overcoming of the enemy forces...It does not admit the wanton devastation of a district or the willful infliction of suffering upon its inhabitants for the sake of suffering alone.”

Kosovars through violence and threat of violence, as well as using buses, trains and trucks to transfer them to or near the borders with Albania and Macedonia and from there ordering them to leave Kosovo; and the confinement of civilians for periods of days and weeks, without charging them or bringing them before any judicial authority;²³³

- (f) **taking civilians as hostages**, for incidents where individuals or groups were held in a manner intended to shield the FRY/Serbian forces from attack by NATO or by the KLA.

C. Article 3 - Violations of the laws or customs of war

Article 3 of the Statute has been described as a residual clause, intended to ensure that all serious violations of international humanitarian law are brought within the jurisdiction of the ICTY, when satisfying the temporal and geographical requirements of Article 1. As discussed in Chapter III, the Appeals Chamber of the Tribunal has established that violations of common article 3 of the Geneva Conventions, concerning persons taking no active part in hostilities in *internal* conflicts, fall into the category of “violations of the laws or customs of war”, as well as those provisions of customary law that relate to international armed conflict and which are not covered elsewhere in the Statute. Thus, it is possible to identify acts and events that occurred in the year prior to 24 March 1999 as crimes within the jurisdiction of the ICTY, under Article 3.

In addition, common article 3 of the Geneva Conventions is widely considered to provide the basic minimum of protection for civilians, whether or not they fit within the definition of “protected persons” contained in the Fourth Geneva Convention. Thus, if one is not convinced by the purposive approach taken by the ICTY judges in the *Delalic et al.*

²³³ “[T]he confinement of civilians during armed conflict may be permissible in limited cases, but has in any event to be in compliance with the provisions of articles 42 and 43 of Geneva Convention IV. The security of the State concerned might require the internment of civilians and, furthermore, the decision of whether a civilian constitutes a threat to the security of the State is largely left to its discretion. However, it must be borne in mind that the measure of internment for reasons of security is an exceptional one and can never be taken on a collective basis. An initially lawful internment clearly becomes unlawful if the detaining party does not respect the basic procedural rights of the detained persons and does not establish an appropriate court or administrative board as prescribed in article 43 of Geneva Convention IV.” *Delalic et al.* Judgement, at para.583.

and *Tadic* cases, and concludes that Article 2 of the Statute cannot be applied in the Kosovo context, resort may be had to common article 3, even where the conflict is identified as international in character. In other words, Article 3 of the Statute is applicable from the beginning of the internal armed conflict in Kosovo, early in 1998, through its transformation into an international armed conflict in March of 1999, and on to the end of the conflict in all senses, on 10 June.

The specific violations of the laws or customs of war mentioned in Article 3 do not constitute an exhaustive list, but instead provide some examples of unlawful conduct, primarily drawn from the customary rules contained in the Regulations annexed to the Hague Convention IV Respecting the Laws and Customs of War on Land, of 1907. It is not the intention to discuss all of the various provisions of international humanitarian law that might be considered as included in the ambit of “the laws or customs of war”, for this is not necessary in the consideration of the Kosovo conflict, given the types of acts which have characterised it.²³⁴ Having said this, particular reference may be made to the prohibitions contained in article 51 of Additional Protocol I and article 13 of Additional Protocol II. These provisions lay out the basic principles of protection for civilians required in international and internal armed conflicts respectively. Of further note is that both articles specifically prohibit “acts or threats of violence the primary purpose of which is to spread terror among the civilian population.” It is submitted that this prohibition is certainly part of customary international law and that many of the events occurring in Kosovo in 1998 and 1999 should be considered blatant violations of it.²³⁵

Attention here is focused on the five categories of crimes specifically enumerated in Article 3 of the Statute, as well as violations of common article 3 of the Geneva Conventions. Considering the description of the

²³⁴ There are indeed many specific rules and prohibitions contained in the two Additional Protocols to the Geneva Conventions that might be considered as part of customary international law and thus within the scope of Article 3 of the Statute. Rather than engage in a lengthy debate on these, this report analyses the violations of those prohibitions listed in the Statute and common article 3. As will be discussed further below, the events that occurred in Kosovo in 1998 and 1999 fall squarely into the realm of the “crimes against humanity” category and, as this type of offence is generally considered to be of a greater degree of severity and opprobrium, a limited discussion of “violations of the laws or customs of war” suffices.

²³⁵ It is notable that the Prosecutor of the International Tribunal has indicted at least one individual for unlawfully inflicting terror upon civilians in violation of articles 51 and 13. See, *Prosecutor v. Stanislav Galic*, Indictment, 26 March 1999, IT-98-29-I. The Prosecutor has also indicted persons for unlawful attacks on civilians and civilian objects, contrary to articles 51 and 52 of Additional Protocol I and article 13 of Additional Protocol II, in the case of *Prosecutor v. Dario Kordic*, Indictment, 30 September 1998, IT-95-14/2.

campaign in Kosovo in Chapter V above, the following crimes, specifically noted in Article 3, may be identified:

- (a) **employment of weapons calculated to cause unnecessary suffering**, for the use of anti-personnel mines and booby traps in civilian areas;²³⁶
- (b) **wanton destruction of cities, towns or villages, or devastation not justified by military necessity**, for the bombardment of many towns and villages across Kosovo, resulting in injury and loss of life as well as substantial damage to buildings and the destruction of whole areas; the burning of homes and property, including crops; and the pollution of sources of drinking water;
- (c) **attack or bombardment, by whatever means, of undefended towns, villages, dwellings or buildings**, for surrounding, shelling and the firing of weapons upon villages, homes and other buildings, and their occupants, where there was no fighting initiated by the KLA or any meaningful defence mounted by them;
- (d) **seizure of, destruction or wilful damage done to institutions dedicated to religion**, for the shelling of and other damage done to numerous mosques;
- (e) **plunder of private property**,²³⁷ for the widespread looting of property from homes, including furniture, vehicles and livestock; and the robbing of money, jewellery and other items of value from fleeing civilians and other members of the civilian population, often under threat of extreme violence to children and other family members.

²³⁶ The debate over whether the use of land-mines inherently runs contrary to the prohibition on weapons calculated to cause unnecessary suffering is one of many years. A concerted campaign by NGOs and some governments, led to the adoption of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 1997. For the purposes of the present report, the use of mines and booby-traps in civilian areas is considered prohibited. See Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects, 1981, Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and other Devices, Articles 3 and 4.

²³⁷ The crime of plunder is considered to include all serious violations of the principle of respect for private property and is therefore synonymous with "pillage." The existing jurisprudence of the ICTY regards the prohibition against the unjustified appropriation of public and private enemy property as general in scope, extending both to acts of looting committed by individual soldiers for private gain and to the organised seizure of property undertaken within the framework of a systematic economic exploitation of occupied territory. See, *Delalic et al.* Judgement at para. 590.

Violations of common article 3 of the Geneva Conventions, in particular:

- (1) (a) **violence to life and person, murder,²³⁸ mutilation, cruel treatment²³⁹ and torture**, for the many acts of deliberate killing, including shootings and executions; the physical mistreatment of men, women and children and the causing of serious mental suffering through terrorisation and violence towards individuals and their family members, as well as towards whole groups; the rape and sexual assault of women and girls; the mutilation and violation of corpses;
- (1) (b) **taking of hostages**, for the detention of groups of civilians intended to shield the FRY/Serbian forces from attack by NATO or the KLA;
- (1) (c) **outrages upon personal dignity, in particular, humiliating and degrading treatment**, for all serious incidents of mistreatment, including beatings in public, forcing people to undress publicly, directing insults at individuals and groups, forcing Kosovars to sing Serbian nationalist songs or chant Serbian slogans, threatening individuals and families, including children, in a manner intended to humiliate parents, husbands and other family members.

It can therefore be seen that the vast majority of attacks and operations conducted against the Kosovar population in both 1998 and 1999 may be viewed as involving violations of a range of specific provisions of international humanitarian law, over which the International Tribunal has jurisdiction. This report has, however, sought to emphasise the totality of the campaign in Kosovo and the patterns which have characterised it. This is intended to highlight the significant degree of co-ordination and organisation involved and hence provide some insight into the policy driving and defining it. With this in mind, it is extremely important to analyse the events described in Chapter V from the perspective of the concept of crimes against humanity.

²³⁸ The terms "murder" (Article 3) and "wilful killing" (Article 2) have been found to have the same essential elements in the *Delalic et al.* Judgement.

²³⁹ The *Delalic et al.* Judgement defines "cruel treatment" as "treatment which causes serious mental or physical suffering or constitutes a serious attack upon human dignity", at para.551.

D. Article 5 - Crimes Against Humanity

As discussed in Chapter III, the category of crimes against humanity stems from the Charter of the Nuremberg Tribunal, the consequent Judgement and subsequent proceedings. The drafters of the ICTY Statute included crimes against humanity within the jurisdiction of the Tribunal in order to indicate that extremely serious atrocities had been and were being committed on a widespread basis in the former Yugoslavia and that individuals responsible for committing such atrocities, as well as those planning, ordering, instigating or aiding and abetting in their commission must be held to account.²⁴⁰ The drafters, however, limited the assertion of jurisdiction by the International Tribunal under Article 5 to acts committed in the course of an armed conflict in the territory of the former Yugoslavia and it is for this reason that the present report has gone to such lengths to explain that there was such an armed conflict in Kosovo, at least since March 1998 and ending on 10 June 1999.

To allege the commission of crimes against humanity implies the perpetration of acts of brutality and violence of a certain scale and context and such allegations should therefore not be made without careful consideration. It must be demonstrated that the acts constituting the crimes were part of a widespread or systematic attack against a civilian population and that the perpetrator or perpetrators had knowledge that his or her actions occurred in the course of such a widespread or systematic attack.

After reviewing all of the information laid out in Chapter V, there can be no question that, time and again, members of the FRY/Serbian military, security and paramilitary forces engaged in activities that occurred on a widespread scale throughout Kosovo. Moreover, the organised nature of the attacks and operations levelled against numerous towns and villages in the province is clearly demonstrated by the evidence of witnesses, detailing the participation of a variety of groups of FRY/Serbian forces, each performing their own tasks and functions with ruthless efficiency and a speed requiring some careful advance planning. Thus, while the

²⁴⁰ The various forms of individual criminal responsibility set out in the ICTY Statute and relevant to all crimes within its jurisdiction are addressed further below.

requirement of Article 5 is disjunctive in nature, being widespread *or* systematic, it is considered evident that both of these descriptive terms may be applied to the overall attack on the Kosovar population from the beginning until the end of the conflict.

Furthermore, the civilian nature of the population cannot be denied, given the sheer number of persons subject to attack by the FRY/Serbian forces and the indiscriminate targeting of entire towns and villages, containing men, women, children, infants, the elderly and the infirm. As discussed in Chapter III, it is irrelevant that some of these people may have at one time borne arms, or that there may have been individuals or groups among the civilian population who were indeed combatants. The principle of widest possible protection, which pervades the entirety of international humanitarian law, must be applied and the Kosovar population as a whole considered “civilian” in nature for the purposes of applying Article 5.

It is therefore necessary to examine the nine constitutive crimes making up the category of crimes against humanity and fit the facts, as described in Chapter V, into their terms. It is submitted that there is substantial evidence to demonstrate the commission of:

- (a) **Murder**, for the numerous acts of intentional and reckless killing, including all those detailed above;
- (d) **Deportation**, for the forcible expulsion of thousands of Kosovars from their homes and their coercion and transportation towards the borders with Albania and Macedonia;
- (e) **Imprisonment**, for the detention of many men, women and children, for varying periods, generally without reason or charge;
- (f) **Torture**, for the serious physical and mental suffering inflicted upon many hundreds of Kosovars who were beaten and otherwise violently abused by members of the FRY/Serbian forces in order to punish them, obtain money from them, obtain information from them, intimidate them and discriminate against them;
- (g) **Rape**;
- (h) **Persecutions**, for the enormous catalogue of serious violations of fundamental rights and attacks on human dignity inflicted on the ground that the victims were Kosovo Albanians (discussed below);

- (i) **Other inhumane acts**,²⁴¹ for every incident constituting a denial or negation of the humanity of the victim, such as causing persons to “disappear”, serious verbal abuse and humiliation, physical mistreatment of persons in the course of attacking, expelling and robbing them, as well as mistreatment of persons in detention.

The term “persecution” in Article 5(h) has a special, legal meaning beyond its normal, literal connotation, giving the offence the degree of specificity required by general principles of criminal law. It has, therefore, been the subject of some debate, as mentioned in Chapter III above. In their Judgement in the *Kupreskic et al.* case, Trial Chamber II considered that a variety of actions could contribute towards the commission of the crime of persecution, including those constituting separate offences under Article 5. The linkage here between international humanitarian law and fundamental human rights is evident, for the Chamber found that persecution should be defined as “the gross or blatant denial, on discriminatory grounds, of a fundamental right, laid down in international customary or treaty law, reaching the same level of gravity as the other acts prohibited in Article 5.”²⁴² Moreover, it is the cumulative effect of several acts that must be examined in order to determine whether the crime of persecution has been committed.

It is therefore submitted that every type of incident listed in section H of Chapter V can be considered as part of an overall campaign of persecution, conducted against the Kosovar population on discriminatory grounds. All of the actions described in Chapter V, and countless others not included, were committed by military and security forces intent on brutalising and terrorising a civilian population, the members of which they considered as somehow “other” and therefore not entitled to respect for their dignity and humanity. Through violence, threats, harassment, intimidation and the creation of a climate of fear, hundreds of thousands of Kosovars were swiftly expelled from their

²⁴¹ This clearly encompasses a broad range of acts not specifically enumerated elsewhere in Article 5. The Judges of the ICTY have identified such acts in international standards on human rights, again crossing the division between international humanitarian and human rights law. Citing several international human rights instruments, Trial Chamber II has given as examples of “other inhumane acts” serious forms of cruel or degrading treatment of persons belonging to a particular group, or serious widespread or systematic manifestations of cruel or humiliating or degrading treatment, the forcible transfer of groups of civilians, enforced prostitution and disappearances. See, *Kupreskic et al. Judgement*, at para. 566.

²⁴² *Kupreskic et al. Judgement*, at para. 621.

homes in a manner intended to ensure that they would not or could not return. Many witnesses report that they were told to go to Albania, for Kosovo belonged to the Serbs, and they were insulted and degraded on the basis of their ethnic identity.

Such a campaign of terror, comprising sudden attacks on villages or individual homes and families; violent expulsions; killings; beatings and other forms of mistreatment; widespread detentions; the rape and sexual assault of women and girls; the total destruction of homes, shops, farms, mosques and crops; the extortion of money through threats of extreme violence, often towards children; the public display of mutilated and burnt bodies; arbitrary arrests and abductions; the shelling of towns and villages from the air and from the ground; and insults directed towards and humiliation of individuals and groups, runs contrary to all fundamental principles of international humanitarian law. Each of these individual acts constitutes an attack on the human dignity of the victims, as does the policy of terrorisation as a whole, and it is for this reason that persons at all levels of involvement in executing the campaign in Kosovo can and must be held criminally responsible.

Evidence of persecution against the Kosovar community is contained in the thousands of witness statements gathered in the course of the Project and passed to the Tribunal. It is notable that the Prosecutor of the Tribunal herself already considered there to be a strong case for persecution in the Kosovo context, on 24 May 1999, with the issuance of the Indictment against Slobodan Milosevic and others, charging them with three counts of crimes against humanity.²⁴³ This crime is one of the most serious charges that can be brought in any criminal forum and is closely related to genocide. As stated by Trial Chamber II, in its Judgement in the *Kupreskic et al.* case,

“Persecution is one of the most vicious of all crimes against humanity. It nourishes its roots in the negation of the principle of the equality of human beings. Persecution is grounded in

²⁴³ A cursory glance over the Indictment reveals a similar factual picture to that presented in the present report, without a detailed discussion of how the provisions and prohibitions of international humanitarian law are applicable to the events in Kosovo. It has, indeed, been part of the purpose of this report to provide this more detailed discussion, in order to render both it and the processes of the ICTY more comprehensible.

discrimination. It is based upon the notion that people who share ethnic, racial, or religious bonds different to those of a dominant group are to be treated as inferior to the latter. In the crime of persecution, this discriminatory intent is aggressively achieved by grossly and systematically trampling upon the fundamental human rights of the victim group.”²⁴⁴

It has already been noted that the facts of the *Kupreskic et al.* case and the many attacks on Kosovar towns and villages in 1998 and 1999 bear a significant degree of similarity and it is therefore submitted that individual operations, such as those against Isniq, Bellanice or Beleg, to name only three, should themselves be considered as crimes under Article 5(h), as well as forming part of a broader policy to attack the Kosovar population as a whole. The implications of this in terms of individual criminal responsibility are discussed further in section F below.

E. Article 4 - Genocide

In order for each of the attacks, incidents and operations described in Chapter V to amount to the crime of genocide, it must be demonstrated firstly that they fit within the definitional framework of Article 4(2), subparagraphs (a) to (e). There can be no question that the FRY/Serbian military and security forces engaged in the killing of members of the Kosovar population and the causing of serious bodily or mental harm to them, as previous sections of this report have made abundantly clear. Article 4(2)(c) refers to the deliberate infliction of conditions of life calculated to bring about the physical destruction of a group, in whole or in part, and the question is raised of what is encompassed by the use of such terminology. In the case of the *Prosecutor v. Alfred Musema*,²⁴⁵ a Trial Chamber of the ICTR stated that these words indicate “methods of destruction by which the perpetrator does not necessarily intend to immediately kill the members of the group, but which are, ultimately aimed at their physical destruction.” Moreover,

²⁴⁴ Judgment at para.751.

²⁴⁵ *Prosecutor v. Alfred Musema*, Judgment, 27 January 2000, ICTR-96-13-T.

“the means of deliberately inflicting on the group conditions of life calculated to bring about its physical destruction, in whole or in part, include subjecting a group of people to a subsistence diet, *systematic expulsion from their homes* and deprivation of essential medical supplies below a minimum vital standard.”²⁴⁶
[Emphasis added]

The International Law Commission, in its commentary to the Draft Code of Crimes Against the Peace and Security of Mankind, also states the view that this offence includes deportation when carried out with the intent to destroy the group in whole or in part.²⁴⁷

It is suggested that the conduct of many of the FRY/Serbian forces involved in the campaign against the Kosovar people incorporated the deliberate infliction of conditions of life calculated to bring about their destruction as a group. This included the violent expulsion of whole families and villages, their transportation or coercion towards the border with Albania and Macedonia, the burning and destruction of their homes and means of survival, including crops, livestock and businesses, the deliberate pollution of sources of drinking water and the confiscation of their identity documents, such that they would not be able to return to live in Kosovo.

In order to amount to genocide, each of these types of acts must be directed against a national, ethnic, racial or religious group, as such. This requirement is easily satisfied in the Kosovo context, for there can be no question that the Kosovo Albanians were a group sharing a common language and culture, identifying themselves as different from other groups within the FRY and identified by the FRY/Serbian authorities as a separate group, against whom the FRY/Serbian forces conducted their campaign.

As discussed in Chapter III, the central and yet most difficult element of genocide to satisfy, from an evidentiary point of view, is the requisite intent. It is the specific intent of the perpetrator to *destroy* a group, in whole or in part, that distinguishes genocide from other crimes against humanity and renders it the ultimate crime of prohibited discrimination. However, in the

²⁴⁶ Ibid., at para. 157.

²⁴⁷ International Law Commission Draft Code of Crimes Against the Peace and Security of Mankind, Commentary to Article 17. Report of the International Law Commission on the work of its Forty-Eighth session, 6 May-26 July 1996, General Assembly Official Records - Fifty-first session, Supplement No. 10 (A/51/10).

absence of an admission by a perpetrator of the crimes listed in Article 4(2)(a)-(e) that his or her intention was to destroy a particular group of people, the proof of genocide rests on the legal concept of “inferred intent.” This has been recognised in the Judgements of the ICTR. To reiterate the relevant section of the *Kayishema and Ruzindana* Judgement,

“intent can be inferred either from words or deeds and may be demonstrated by a pattern of purposeful action. In particular... evidence such as the physical targeting of the group or their property; the use of derogatory language toward members of the targeted group; the weapons employed and the extent of bodily injury the methodological way of planning, the systematic manner of killing.”²⁴⁸

In the context of Rwanda, the ICTR has had no difficulty in concluding that genocide was committed in 1994 and in finding a number of accused persons brought before it guilty for their participation in the genocide. The Prosecutor has also issued indictments for genocide committed in Bosnia and Herzegovina in the period 1992-1995, but the only case of genocide thus far brought to judgement stage at the ICTY is that of the *Prosecutor v. Goran Jelusic*.²⁴⁹ The Judgement in this case does not provide much guidance on the question of evidence that may be used to infer intent for genocide, for the accused was considered to have a “disturbed personality” and to have randomly executed Bosnian Muslims, rather than have consciously formulated the intent to kill them for the purpose of destroying the group. As noted above, during the course of a number of indictment reviews, pursuant to Rule 61 of the ICTY Rules of Procedure and Evidence, Trial Chamber I of the ICTY has also given some consideration to the question of genocide in the former Yugoslavia. In the *Karadzic and Mladic* case, the Trial Chamber discussed the question of intent in the following terms:

“The intent which is peculiar to the crime of genocide need not be clearly expressed. As this Trial Chamber noted in the above mentioned *Nikolic* case, the intent may be inferred from a certain number of facts such as the general political doctrine

²⁴⁸ *Kayishema and Ruzindana* Judgement, at para.93.

²⁴⁹ *Prosecutor v. Goran Jelusic*, Judgement, 14 December 1999, IT-95-10-T.

which gave rise to the acts possibly covered by the definition in Article 4, or the repetition of destructive and discriminatory acts. The intent may also be inferred from the perpetration of acts which violate, or which the perpetrators themselves consider to violate, the very foundation of the group...²⁵⁰

In that case, emphasis was placed on the elements of the practice known as “ethnic cleansing”, which targeted the very core of the identity of the Bosnian Muslim population as a distinct group, in an attempt to eradicate them as a group. The purpose was to create whole areas of territory empty of the Bosnian Muslims who had previously lived there, and this was achieved through massive violence and terror, including killing, detention, rape, the destruction of buildings, particularly those of religious and cultural significance, expulsion and deportation.

It is an extremely difficult question whether there existed a similar intent behind all of the violent events occurring in Kosovo in 1998 and 1999. The sheer speed and scale of the expulsion campaign, particularly in late March and April 1999, certainly demonstrates an intention to remove the Kosovar population, as a group, from the province. Moreover, the attendant destruction of homes and property, the confiscation of personal identity documents and vehicle licence plates, the burning of crops and pollution of water sources, and the level of brutality imposed in order to terrorise the civilian population, all point towards the objective that the Kosovars would not wish or be able to return to their homes. This would therefore constitute their destruction as an identifiable group, for the Kosovar identity is very much caught up with their homes and the habitation of this geographic region, with its own particular cultural practices and history.²⁵¹

It is therefore submitted that it may be possible to make a case for the commission of genocide in Kosovo, subject to evidence of the requisite intent on the part of the perpetrators of this crime. However, some may argue that the intent behind the terror and expulsion campaign mounted

250 *Karadzic and Mladic* R61 Review Decision, at para.94.

251 During witness interviews and various discussions during the Project, the centrality of the home to Kosovar culture and society was made extremely clear.

by the FRY/Serbian forces was not in fact to destroy the Kosovar population as a group, but more simply to ensure that the KLA was no longer able to operate in Kosovo and to maintain strong control over the province from Belgrade. While this latter purpose may also have been served by the campaign, it is not inconceivable that the intention behind it extended further to the destruction of the Kosovar group.

The nature of the evidence gathered by the Project and utilised in the drafting of the present report, being primarily personal accounts from thousands of witnesses, is not such as can conclusively demonstrate the intent behind the myriad of acts of extreme violence leading to and accompanying the removal of over 800,000 people from Kosovo in early 1999. Thus, in an excess of caution and with a desire to remain true to the precision required when using legal terminology, the report does not reach a definite conclusion on whether genocide was indeed committed in Kosovo in 1999. It is to be hoped that the issue will soon be raised before the Tribunal, by way of particular indictments, in order that the Tribunal judges can address the intent question and determine the matter.

F. Individual criminal responsibility

The final piece of the puzzle making up the interwoven picture of facts and law relevant to the Kosovo conflict relates to the question of responsibility. It is the fundamental basis of criminal law in general, and the establishment of the ICTY, that individuals must be held to account for their actions in violation of the law. As stated at the outset, part of the rationale behind the creation of the International Tribunal was that the attribution of responsibility for violations of international humanitarian law in the former Yugoslavia to individuals would promote long term peace through reconciliation and the avoidance of stigmatisation of whole groups. Whether or not criminal trials in general, or those conducted in The Hague, in particular, do indeed further this aim is a large and much-debated question, beyond the scope of the present report. In any case, a number of principles relating to the determination of individual criminal responsibility have been developed and utilised by the Tribunal and these are addressed here.

1. The law on superior responsibility

The relevant provisions of the ICTY Statute are contained in Article 7, which reads thus:

1. A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 5 of the present Statute, shall be individually responsible for the crime.

2. The official position of any accused person, whether as Head of State or Government or as a responsible Government official, shall not relieve such person of criminal responsibility nor mitigate punishment.

3. The fact that any of the acts referred to in articles 2 to 5 of the present Statute was committed by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

4. The fact that an accused person acted pursuant to an order of a Government or of a superior shall not relieve him of criminal responsibility, but may be considered in mitigation of punishment if the International Tribunal determines that justice so requires.

It is clear from Article 7 that the Tribunal was intended to assign individual criminal responsibility at a number of levels. Indeed, the culpability of soldiers or members of the security forces who themselves commit heinous offences such as murder, rape, plunder, deportation and persecution cannot be the only, or even the primary focus of the Tribunal if it is to fulfil its function to contribute to peace and security and deter the future commission of crimes. The prevailing climate of impunity for serious violations of international humanitarian and human rights law, which has characterised international relations in the past, is felt most strongly at the

level of State elites and leaders, both political and military, and it is here that the Tribunal was intended to strike hardest. The UN Secretary-General, in his report to the Security Council, therefore stated that,

“[v]irtually all of the written comments received by the Secretary-General have suggested that the statute of the International Tribunal should contain provisions with regard to the individual criminal responsibility of heads of State, government officials and persons acting in an official capacity. These suggestions draw upon the precedents following the Second World War. The Statute should, therefore, contain provisions which specify that a plea of head of State immunity or that an act was committed in the official capacity of the accused will not constitute a defence, nor will it mitigate punishment.

A person in a position of superior authority should, therefore, be held individually responsible for giving the unlawful order to commit a crime under the present statute. But he should also be held responsible for failure to prevent a crime or to deter the unlawful behaviour of his subordinates. This imputed responsibility or criminal negligence is engaged if the person in superior authority knew or had reason to know that his subordinates were about to commit or had committed crimes and yet failed to take the necessary and reasonable steps to prevent or repress the commission of such crimes or to punish those who had committed them.”²⁵²

It is extremely important to ensure that there is no confusion surrounding the attribution of responsibility to “superiors” by the Tribunal and a distinction should therefore be drawn between the various types of responsibility described in Article 7.

Article 7(1) concerns persons directly responsible for planning, instigating, ordering, committing, or aiding and abetting in the planning, preparation or execution of a crime. This therefore covers both the individual who himself carries out the unlawful conduct and also his

²⁵² Report of the Secretary-General pursuant to paragraph 2 of Security Council Resolution 808 (1993), paras. 55 and 56.

superior, who is involved in the conduct not by physical participation in it, but by ensuring that it is carried out. For example, a soldier may execute a civilian and subsequently be found guilty of a grave breach of the Fourth Geneva Convention, a violation of the laws or customs of war, or a crime against humanity. His commanding officer, who ordered the execution of that civilian, might also be found guilty of such crimes, as might the political leader who planned that certain civilians or groups of civilians should be executed and passed these instructions on to the military commander. The criminal responsibility of the military and the political “superiors” in this situation is direct.

Article 7 also encompasses a form of superior responsibility that might be described as “indirect” for it rests not on some recognisable involvement by a superior in the commission of an offence, but rather on the omission of that superior to prevent such offences or punish persons who commit them. This type of responsibility is incorporated into Article 7(3) and has been the subject of considerable debate, particularly since the Nuremberg and Tokyo trials and subsequent proceedings. Trial Chamber II of the ICTY has also discussed this kind of superior responsibility and distinguished it from Article 7(1) thus:

“The distinct legal character of the two types of superior responsibility must be noted. While the criminal liability of a superior for positive acts follows from general principles of accomplice liability, ...the criminal responsibility of superiors for failing to take measures to prevent or repress the unlawful conduct of their subordinates is best understood when seen against the principle that criminal responsibility for omissions is incurred only where there exists a legal obligation to act. As is most clearly evidenced in the case of military commanders by article 87 of Additional Protocol I, international law imposes an affirmative duty on superiors to prevent persons under their control from committing violations of international humanitarian law, and it is ultimately this duty that provides the basis for, and defines the contours of, the imputed criminal responsibility under Article 7(3) of the Statute.”²⁵³

253 *Delalic et al. Judgement*, at para 334 (footnote omitted).

Thus far, the main ICTY decision to have discussed the parameters of responsibility under Article 7(3) is the *Delalic et al.* Judgement.²⁵⁴ In this Judgement, the Trial Chamber elaborated the various elements necessary for the assignation of such responsibility, being (a) the existence of a relationship of superiority and subordination between the accused and the perpetrator of the offence in question; (b) the knowledge of the superior that his subordinate had committed or was about to commit an offence; and (c) the failure of the superior to take measures to prevent the commission of the offence, or to punish the perpetrator.²⁵⁵

In relation to the first of these elements, the important point to emphasise is that the relevant relationship may be either *de jure* or *de facto*. In other words, not just persons in formal positions of command, but also “persons effectively in command of [...] more informal structures, with power to prevent and punish the crimes of persons who are in fact under their control, may under certain circumstances be held responsible for their failure to do so.”²⁵⁶ Moreover, it is firmly established that both military and civilian superiors are encompassed by Article 7(3), provided that the relevant relationship with the perpetrator of prohibited acts is present.²⁵⁷ With regard to the second element, the language utilised in the Article is “knew or had reason to know” and the question raised is that of the requisite amount, or kind, of awareness which puts a superior in the position of having “reason to know” that an offence was about to be or had been committed. In the view of the Trial Chamber, there are two possible situations: either the superior had actual knowledge, established through direct or circumstantial evidence, or he had “information of a nature, which at the least, would put him on notice of the risk of such offences by indicating the need for additional investigation in order to ascertain whether such crimes were committed or were about to be

254 On 3 March 2000, Trial Chamber I rendered its Judgement in the case of *Prosecutor v. Tibomir Blaskic* (IT-95-14-T), a case centred round the issue of command responsibility. The Judgement discusses the parameters of superior responsibility under Article 7, paragraphs (1) and (3) and finds the accused guilty of ordering the commission of various acts in violation of international humanitarian law. Due to the late stage in the preparation of this report at which the *Blaskic* Judgement was issued, it was not possible to include a discussion of its scope and contribution to the interpretation of Article 7.

255 There is a vast amount of literature on the concept of “command” or “superior” responsibility, as well as a large amount of jurisprudence following the Second World War. It is not considered necessary to review the many questions raised in all of this material and it is noted that the present discussion of such responsibility is related directly to the provisions of the ICTY Statute, and therefore to the review of the literature and jurisprudence examined in paras. 330-400 of the *Delalic et al.* Judgement.

256 *Ibid.*, at para. 354.

257 *Ibid.*, at para. 356.

committed by his subordinates.”²⁵⁸ The final element concerns the failure of the superior to take action to prevent or sanction an offence. Such action encompasses all measures reasonably within the power of the superior and necessary in the circumstances, for it is not required that he perform the impossible.²⁵⁹

Having given this brief outline of the scope of Article 7(3), it should be noted that the past practice of the ICTY Prosecutor, in relation to the indictment of political and military leaders, has often been to charge persons with responsibility for crimes both under Article 7(1) and under Article 7(3).²⁶⁰ This strategy allows the Tribunal judges to consider the evidence that such leaders ordered, planned or instigated crimes and, if they are not satisfied that such a direct link to the physical perpetration of the crime exists, they may also consider whether the accused persons were in a position of superiority and failed in their duty to prevent or punish the commission of the offence in question. In its Review of the Indictment pursuant to Rule 61 in the *Karadzic and Mladic* case, Trial Chamber I took the view that, while the conditions for assigning responsibility by way of Article 7(3) were unquestionably met, the circumstances in that case were such that the responsibility of the accused was better characterised under Article 7(1). In other words, the Trial Chamber was of the opinion that there was sufficient evidence to demonstrate the involvement of Radovan Karadzic and Ratko Mladic in the planning, ordering and instigation of the acts described in that indictment, at least for the purposes of a review under Rule 61.²⁶¹

2. Responsibility for crimes committed in Kosovo

As stated previously, Project staff involved in gathering information from witnesses about their experiences during the Kosovo conflict sometimes were given names of persons alleged to be involved in the perpetration of crimes. This occurred almost exclusively in cases where local Kosovo

258 *Ibid.*, at para.383.

259 *Ibid.*, at para.394-395.

260 See *Prosecutor v. Dario Kordic*, Indictment, 30 September 1998, IT-95-14/2; *Prosecutor v. Brdjanin and Talic*, Indictment 17 December 1999, IT-99-36-I; *Prosecutor v. Mladen Naletilic and Vinko Martinovic*, Indictment, 18 December 1998, IT-98-34-I.

261 *Karadzic and Mladic* R61 Review Decision, at para.81-83.

Serbs were recognised as working among or alongside the VJ, MUP and paramilitary forces present in Kosovo, for these were people known to the victims or witnesses and therefore easily identified. More often, witnesses were unable to give any such details about the perpetrators of crimes, for the FRY/Serbian forces were brought in to different areas for relatively short periods of time and were housed in barracks or temporary bases. Some witnesses were able to give a more detailed description of the types of clothing that the attacking FRY/Serbian forces were wearing and this has allowed us to draw the above conclusions about the role of various irregular units and the interaction between the different kinds of forces involved. It is, however, not to be expected that the victim of an act of extreme violence or intimidation will be able to identify particular military or police units, nor form an objective assessment of the number or affiliation of paramilitary groups present during an attack. Thus, the determination of criminal responsibility is rendered exceedingly difficult, beyond the level of personal recognition in a few cases.

Ideally, it would be possible to identify the military, police or paramilitary unit to which an individual committing one of the above described offences belonged and from there construct a chain of responsibility up, to his unit commander, the general commander of those particular forces and the persons exerting ultimate authority over them. However, as has been indicated throughout this report, the relevant chains in the FRY/Serbian context can be byzantine in their complexity, particularly in relation to the MUP forces, and the formal position often did not reflect the *de facto* relationships of control and subordination. Nonetheless, there are certain individuals in positions of superiority who are undoubtedly linked, *de facto* or *de jure*, to the totality of the violence and destruction that characterised the armed conflict and constituted so many different violations of international humanitarian law, as have been described.

It is necessary to clarify the relationship between the perpetration of individual acts, themselves constituting offences, and the broader policy to commit such acts that can be inferred from their widespread and systematic nature in Kosovo. This is, clearly, bound up with the very concept of crimes against humanity, particularly with the crime of

persecution, and also with the question of proof of intent to destroy a group, required for genocide. Certain actions, executed in the appropriate context and subject to the conditions discussed above, are themselves crimes against humanity for which the perpetrators might be charged under Article 5 of the ICTY Statute. Thus, the commission of a single act of rape may be considered by the Tribunal under Article 5(g), and the perpetrator and his superior held responsible. Where this act of rape was committed in the course of an attack on a village, involving other similar rapes by other perpetrators, along with killings, property destruction or expulsion, the attack on the village as a whole may also be considered as a crime against humanity, notably persecution, in the context of widespread similar attacks in other villages.²⁶² The commander in charge of such an operation can be held criminally responsible by the Tribunal pursuant to Article 7(1), as well as his superior, who either ordered, planned or instigated it, or failed to prevent or punish it. At the next level, in a situation where there are many such attacks, it becomes clear that there is a policy or plan, which is itself unlawful, for it involves the commission of offences on a widespread scale and in an organised manner. It is at this stage that the directors of the entire campaign must be held to account, for it is contrary to all principles and rules of international humanitarian law to carry out such a plan. Nonetheless, it is necessary to charge the ultimately responsible person or persons for specific actions, being the totality of all of the individual attacks. Thus a person cannot be charged with a campaign of "persecution" in abstract, without there being details of how this campaign was carried out.

This may appear overly abstract, but can be illustrated by precisely the situation discussed in this report in relation to Kosovo. Each and every VJ, MUP, paramilitary or other irregular involved in killing, expelling, or otherwise mistreating members of the Kosovar civilian population from March 1998, might be prosecuted and punished by the ICTY for his own criminal actions. Moreover, the relevant MUP or VJ commanders in each region of Kosovo might also be prosecuted for these individual offences, either under Article 7(1) or 7(3), and also for the attack on and terrorisation of the Kosovar population in their particular region as a

²⁶² It may also have been committed with the intent to destroy a group and amount to genocide. The problems of proving intent by inference have been dealt with sufficiently above and the focus of the examples in the remainder of this section is on persecution as a crime against humanity.

whole, as a crime against humanity. The commander of all the VJ forces in Kosovo, and all of the MUP units, might be similarly charged for committing persecution or deportation throughout Kosovo. On the same logic, the political leaders who ordered, planned or instigated the entirety of the campaign against the Kosovar people might be charged with ultimate responsibility, for they conceived of the plan and ensured its fulfillment in actual fact. The responsibility incurred by such leaders is in the nature of direct superior responsibility, under Article 7(1).

A careful reading of the Milosevic Indictment confirms that this is the approach being taken by the Prosecutor of the ICTY. President Milosevic and his close political and military associates are charged with planning, instigating, ordering, committing or otherwise aiding and abetting a “campaign of terror and violence”, with the objective of removing a substantial portion of the Kosovar population from the province. The indictment details how this campaign was carried out and the types of crimes which characterised it, giving particular examples of deportation and murder, and classifying all of the events described as persecution. The four charges are of crimes against humanity (deportation, murder and persecution) and of violations of the laws or customs of war (murder).²⁶³ The specific events outlined in the indictment may each be characterised as individual crimes and the VJ, MUP or paramilitary perpetrators involved charged and prosecuted by the Tribunal, but this has not yet occurred, and the emphasis is placed on the accumulation of criminal acts, for which the five persons named on the indictment are considered directly responsible as superiors.

In similar spirit, the focus of the present report is on the overarching responsibility of those persons in positions of authority in the FRY/Serbian political and military hierarchy who planned a campaign that violated the most basic human dignity of the members of the Kosovar population and then took steps to further that plan by issuing the necessary instructions to persons under their control in the military and security forces. Nonetheless, it is also recognised that each and every perpetrator of violations of

²⁶³ In relation to this latter count, it is interesting to note that the indictment specifies murder as a violation of common article 3 of the Geneva Conventions. This should not be read to indicate a view that the armed conflict was internal in nature, for, as noted above, common article 3 provides a “minimum yardstick” in all types of armed conflict. Nonetheless, the Prosecutor has not sought to bring charges under Article 2 of the Statute, reflecting a very cautious legal approach, nor, more significantly, has she yet brought any charges of genocide, under Article 4. It should be noted that representatives of the Prosecutor have stated her intention to soon seek an amendment of the Indictment.

international humanitarian law in Kosovo should be brought to justice, whether by the International Tribunal or in some domestic forum.²⁶⁴ This includes persons belonging to the FRY/Serbian regular and irregular forces and also members of the KLA who breached the relevant rules. It is for this reason that the Project has handed over all information collected about individual perpetrators to the ICTY investigators.

If one considers the simple organisational charts of the VJ and MUP forces set out in Chapter IV of this report, the persons holding formal authority over those responsible for executing the criminal campaign in Kosovo can be identified. With regard to the VJ, President Milosevic himself is the supreme commander, being at the head of the Supreme Defence Council and controlling the appointment and dismissal of military officers. Beneath the President comes General Odjanic, the Chief of the VJ General Staff, having command since November 1998 over all of the three VJ Armies and special forces. General Pavkovic was the commander of the 3rd Army, with the primary responsibility for operations in Kosovo, the stationing and movement of VJ troops and equipment and the defence of the borders with Albania and Macedonia. More specifically, the 52nd Mechanised Corps, and all of its brigades, regiments and battalions, was commanded by Vladimir Lazerevic, after the promotion of General Pavkovic, and he therefore also bears responsibility for the actions of all the VJ forces making up these formations.

The lines within the interior ministry structure are much less easy to discern, but there can be no question that, formally, the forces belonging to the ministry came under the control of the Serbian President, Mr Milutinovic and his Prime Minister and Minister of Interior. Thereafter, Vladimir Djordevic and Radomir Markovic controlled the departments of public security and state security respectively and therefore bear responsibility for all MUP, DB and JSO forces. Two other names which must be mentioned are those of General Lukic, who headed the MUP forces in Kosovo, and Franki Simatovic, who certainly held some position of authority over the more undefined state security operations. It is also of note that, according to the Prosecutor of the ICTY, that all of the Serbian police forces became subject to the command and control of the VJ in times of "war." Thus, when the FRY

²⁶⁴ As noted above, this also includes members of the NATO forces and their commanders, in so far as there is evidence of violations committed by them, which are not addressed in the present report.

authorities proclaimed a state of war on 24 March 1999, command over all MUP and state security personnel in Kosovo was formally transferred to President Milosevic and his subordinates in the VJ structure.²⁶⁵

In relation to the paramilitary and other irregular forces, chains of command and control are even more difficult to untangle. It is unlikely that formal linkages can be made between these groups and the more regular VJ and MUP forces and their commanders, despite the fact that the evidence outlined above demonstrates that there was a great deal of interaction and co-ordination between them. These groups were deployed in Kosovo precisely in order to avoid such linkages and to permit FRY/Serbian leaders and military commanders to evade responsibility for their actions. It may, therefore, be difficult to prove the necessary relationship of superiority and subordination between such commanders and irregular forces for the purposes of applying Article 7(3) and it is for this reason that more intensive efforts must be put into gathering evidence on the linkages between all of the forces operating in Kosovo. In particular, witness accounts of instructions being given to paramilitary forces by VJ or MUP officers are of extreme interest, as is evidence from paramilitary fighters and other soldiers or police officers themselves. The formal position in the FRY was that there were not and could not be any "paramilitary" forces, for all military or quasi-military formations had to fall within the existing army or police structures. Thus, the MUP and VJ commanders in overall charge of the FRY/Serbian campaign in Kosovo must bear some responsibility for the actions of all of the forces involved in the attacks and operations that they ordered.

On the ground in Kosovo, individual hierarchical relationships tended to vary, depending on circumstance. Thus, in some areas witnesses describe the lead role taken by the VJ forces, or a VJ commander, whereas in others it seems more that a MUP officer or even a paramilitary fighter was in charge of an operation. Additionally, it may have been the case that specific types of forces took responsibility for certain functions, such as shelling, or burning, or looting, or killing, rather than one type of force being in overall charge of the operation as a whole. Naturally, for this to be the case, significant advance planning and co-ordination would have been required, as well as some sense of hierarchical structure, in order for all to know their

²⁶⁵ See Milosevic Indictment, para.31.

defined tasks and to ensure that there were no internal disputes over the “spoils” of an operation.²⁶⁶ Moreover, it is apparent that individuals sometimes worked in one particular grouping for one operation and then changed over to another, for a different operation. This provides additional evidence of some degree of co-ordination and planning, either carried out in Belgrade, or in or close to Kosovo, at the level of operational commanders.

Despite the fluidity of the operational situation on the ground, it should be made absolutely clear that the firm hand of control remained in Belgrade. President Milosevic wielded the only real authority in Serbia in the period relevant to this report, through his political and security network built up over the preceding ten years. Moreover, the relationship between Milosevic and figures such as Franki Simatovic or Arkan is one of much speculation, despite the many years of their involvement, and public information on this issue is scarce. However, in 1999 the ICTY revealed the existence of an indictment against Arkan, the contents of which remain confidential, and it is to be hoped that continuing investigations into his activities and those of his associates, such as Simatovic, will clarify the nature of all of their interaction, in Kosovo and elsewhere in the former Yugoslavia.²⁶⁷ The Tribunal Prosecutor also recognised the reality of the situation in the FRY and the control exerted by President Milosevic over all actions by the military and security forces in the state, by issuing the indictment against him in May 1999, and it is likely that this indictment will be supplemented with further information and charges as her investigations proceed.

G. Summary

There is no question that the body of international humanitarian law was applicable to the situation in Kosovo from early in 1998, at least until 10 June 1999, for there was an armed conflict throughout this period. The nature of the armed conflict affects the rules of international humanitarian law governing the conduct of the forces involved and the characterisation of violations of that law, and has

²⁶⁶ It should be recalled that there have been many assertions in the media and elsewhere that paramilitary and other groups were often paid in kind for their work by allowing them to steal all property of value from a village or area being attacked.

²⁶⁷ With the assassination of Arkan on 15 January 2000, it becomes all the more important that investigations into his associates be brought to the stage of indictment and trial, for the evidence directly relating to him cannot now be assessed by the Tribunal judges.

particular relevance to the subject matter jurisdiction of the ICTY, in the Kosovo context. The above discussion concludes that the Kosovo conflict was internal in nature up until 24 March 1999, whereupon it was internationalised in total, by the involvement of the NATO armed forces. Thus, any violation of the prohibition on genocide and crimes against humanity, or of common article 3 of the Geneva Conventions along with other customary norms regulating internal armed conflicts, in the period up to 24 March 1999, may be prosecuted by the International Tribunal. Thereafter, the Tribunal also has jurisdiction over all other violations of customary international law concerning international armed conflicts. It has been noted that it may be possible to bring charges of grave breaches of the Geneva Conventions, if one takes a purposive approach to the Conventions and particularly the requirements for protection under the Fourth Convention. The above section has therefore described how the campaign of violence, terrorisation and expulsion committed by the FRY/Serbian forces in Kosovo may be fitted into these categories of crimes.

As is apparent from the preceding discussion, the greatest of emphasis is placed on the commission of crimes against humanity in Kosovo, for these are crimes of the most egregious nature, committed on a large scale or in an organised manner. Moreover, the crime against humanity of persecution is one which targets the fundamental identity and dignity of a particular group of people in a discriminatory manner and is characterised by many types of violations of human rights and humanitarian law. In Kosovo, the persecution of the Kosovo Albanian population is clear, from the start of the armed conflict in 1998, and it should be viewed as a policy of persecution directed and controlled from Belgrade, for reasons best known to President Milosevic and his close advisers.

It may be that the intent of these individuals was, indeed, to destroy, in whole or in part, the Kosovo Albanians as a group, in which case they should be charged with genocide by the Tribunal.²⁶⁸ As stated in Chapter III, the use of the term genocide tends to raise all kinds of controversies and debates and, while this is not a reason to ignore it, it is important to

²⁶⁸ Or, for that matter, by any national court, for genocide is a crime for which there is universal jurisdiction and which the parties to the Genocide Convention of 1949 have certain obligations to address. The jurisdiction of the ICTY is parallel with domestic courts and so there may be simultaneous prosecutions at the national and international levels for crimes against humanity and those other serious violations of international humanitarian law for which there is universal jurisdiction.

ensure that it is raised only in the correct, legally-defined sense. What this report has sought to show is that the absence of the genocide label attached to any particular crime or situation does not imply a qualitative assessment that what occurred was somehow less atrocious. Rather, describing an event or set of events as the crime against humanity of persecution signifies the commission of horrific acts and the immense suffering of a great deal of people, with the attendant extremely serious legal consequences.

All individuals who committed such crimes as are outlined in this report can and should be held responsible for their actions, either by the Tribunal, or in some other judicial forum. Moreover, the persons holding the greatest culpability are those who planned and instigated the commission of these crimes, either by directly ordering their commission or by otherwise ensuring that they occurred. Others who were negligent in their duty to take measures to prevent crimes, or to punish persons committing them, must also bear a heavy burden of responsibility, for the law requires strict supervision and control by persons in positions of command over the machinery of force in any State.

Given the number of violations of international humanitarian law that were committed in Kosovo in such a short period of weeks and months, it is clear that, as a matter of practicality, the Tribunal cannot and will not indict or prosecute all such persons. Indeed, it seems likely that the Tribunal will focus its attentions on a very small number of political and military leaders. Thus, the international community and, particularly, those responsible for the post-conflict reconstruction of Kosovo, should explore the possibilities of mounting domestic trials, either within the FRY itself or in other countries.²⁶⁹ Other, non-prosecutorial mechanisms for establishing truth and achieving some kind of healing and reconciliation for victims and perpetrators may be further examined and put in place in order to ensure that there is some degree of accountability.

²⁶⁹ It is recognised that the existing political situation in the FRY is not conducive to the conduct of impartial criminal trials for such crimes as discussed in this report within that State, nor is the present transitional status of Kosovo itself likely to result in such prosecutions within the province in the immediate future. However, attention must be paid to how the situation in FRY and Kosovo develops politically and the possibilities for holding trials discussed. Trials in third States should also be given serious consideration, should alleged perpetrators be found present in such States.

VII. CONCLUSIONS AND RECOMMENDATIONS

The purpose of this report has been to give an outline of the Project that was conceived in early 1999 and implemented through the remainder of that year, and to examine the totality of the information gathered in the course of the Project from the perspective of international humanitarian law. For various reasons, the report has been focused rather than wide-ranging, being concerned with the characterisation of events in Kosovo in 1999 as serious violations of international humanitarian law, within the jurisdiction of the International Criminal Tribunal for the former Yugoslavia. An analysis of the Kosovo conflict as a whole from the perspective of international human rights standards is also an extremely valuable exercise, and one undertaken recently by the OSCE, as well as by local and international human rights organisations. However, the emphasis of this report is on the criminal accountability of perpetrators, particularly those at the highest level of authority. It is in the field of international humanitarian law that there exist defined prohibitions and prescriptions as well as clear mechanisms for enforcement by way of criminal prosecutions.

The ICTY is the international judicial institution, in existence for several years, with temporal and geographical jurisdiction over the Kosovo conflict. It is therefore necessary to discuss how that jurisdiction may be exercised in Kosovo and demonstrate the limitations on as well as possibilities of such international prosecutions. A permanent International Criminal Court (ICC), capable of prosecuting and punishing perpetrators of similar kinds of offences to those covered by the ICTY Statute throughout the world, is currently in the process of creation. It is indeed to be hoped that the establishment of an effective ICC will mark the end of the climate of impunity that has prevailed in the past and led to the perpetration of horrific atrocities in Kosovo and elsewhere. The ongoing discussions concerning how the ICC will function are

influenced strongly by the practice of both the ICTY and its counterpart for Rwanda (the ICTR). It is therefore imperative that all persons involved in these discussions, including State representatives, NGOs and all concerned groups and individuals, are fully informed of the practical and legal considerations arising when seeking to mount an investigation and prosecution at the level of an international tribunal.

The above chapters have sought to show how international law has an extremely important role to play in determining that certain types of acts, occurring throughout Kosovo in 1999, are criminal in nature. On the basis of the information made available to the Project and our legal analysis of this information, it is concluded that there is strong evidence of the commission of several kinds of crimes against humanity, violations of the laws or customs of war and grave breaches of the Geneva Conventions, in Kosovo in 1999. The consequences of the violence and destruction that were visited upon the population of Kosovo in contravention of the most basic principles of international humanitarian law, and constituting crimes within these categories, will be felt for many years to come. In particular, we have emphasised the heinous nature of the crime of persecution, which strikes at the very human dignity of targeted persons, negating the principle of the equality of human beings. The elements of the crime of persecution have clearly been satisfied many times over by the description of events related in Chapter V and all those responsible in the planning, instigation, ordering and execution of the policy of persecution that was carried out in Kosovo bear a heavy weight of responsibility.

The President of the FRY, Slobodan Milosevic, holds ultimate authority for the Yugoslav Army (VJ) and the Serbian security forces which operated in Kosovo and it is he, primarily, who must answer for all of their actions. This includes the activities of many paramilitary and irregular forces, which were used so effectively to terrorise the Kosovar population, for there can be no question that these groups were acting in close coordination with the regular military and security forces and were essentially acting as part of the entire FRY/Serbian military machine in Kosovo. President Milosevic's military chiefs, General Odjanic and General Pavkovic, who were indeed promoted after their involvement in the Kosovo campaign, as well as the heads of the police forces, Radomir

Markovic and Vlastimir Djordevic, are further responsible for the actions of their forces on the ground. Others, such as Franki Simatovic and Sreten Lukic, should not be permitted to evade their share of responsibility for the actions of the police and paramilitary forces that they controlled, nor should the leaders and members of all groups involved in inflicting damage, destruction and suffering throughout Kosovo.

If the rule of law is to be respected, both domestically and internationally, the perpetrators of such acts as described in this report should be brought before a judicial body and their responsibility determined in accordance with fair legal procedures. As has been previously stated, it would be unrealistic to expect the ICTY to prosecute every single person who committed violations of international humanitarian law in Kosovo and it is for this reason that serious attention must be given to the possibilities of prosecutions before domestic courts, both in Kosovo and elsewhere. Assistance is required to create a fully functioning judicial system within Kosovo, capable of mounting fair and expeditious trials of *all* persons who have committed violations of international humanitarian law, irrespective of ethnicity or allegiance, and in accordance with international law. Moreover, in order to facilitate such prosecutions, there must be a commitment on the part of all States and organisations to provide information within their possession relating to such crimes to those institutions seeking to investigate and prosecute these offences. Clearly, this co-operation and assistance must be immediately directed to the Prosecutor of the ICTY and the needs of the Tribunal's investigations in Kosovo met.

The negotiation and adoption of the statute for the ICC has reinvigorated a significant debate about the value of prosecutions at an international level as a State emerges from a period of armed conflict, or political transition, for crimes committed in the past. While this report has not entered into this wider debate, it is recognised that international criminal prosecutions are not a panacea and that much careful consideration is required whenever it is decided that some process of reckoning with the past needs to be endeavoured. However, it is both unusual and of significance that in the Kosovo context there is an existing international judicial institution that may be utilised and it is the overwhelming impression of members of the Project that the majority of the population

of Kosovo wish this institution to exercise its mandate fully and bring to account those responsible for their suffering. In Kosovo, the demands of reality are strongly felt, and this reality requires justice.

Appendix A

ACRONYMS

AOR	Area of Responsibility
APC	Armoured Personnel Carrier
CDHRF	Council for the Defence of Human Rights and Freedoms
CIA	Central Intelligence Agency
ECHO	European Community Humanitarian Office
ECMM	European Community Monitoring Mission
FRY	Federal Republic of Yugoslavia
GPS	Global Positioning System
HLC	Humanitarian Law Centre
JNA	Yugoslav National Army Jugoslavenska Narodna Armije
ICC	International Criminal Court
ICG	International Crisis Group
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDPs	Internally Displaced Persons
ILC	International Law Commission
JSO	State Security Department (Jedina za Specijalne Operacije)
KDOM	Kosovo Diplomatic Mission
KFOR	Kosovo Force
KLA	Kosovo Liberation Army (Ushtria Çlirimtare e Kosovës)
KVM	Kosovo Verification Mission
LDK	Democratic League of Kosovo Lidhjes Demokratike të Kosovës
MDM	Médecins Du Monde
MUP	Ministry of Interior Police (Ministarstvo Unutrasnjih Poslova)

NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
NPWJ	No Peace Without Justice
OSCE	Organisation for Security and Co-operation in Europe
PJP	Special Police Units (Posebne Jedinice Policije)
PTS	Post Traumatic Stress
SAJ	Special Anti-terrorist Units (Specijalne Antiteroristicke Jedinice)
SFRY	Socialist Federal Republic of Yugoslavia
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Mission in Kosovo
VJ	Yugoslav Army (Vojska Jugoslavije)

APPENDIX B

PLACE NAMES²⁷⁰

<i>Albanian name</i>	<i>Serbian name</i>	<i>Municipality</i>
Arlat	Orlate	Glogovac/Gllogoc
Astrazup	Ostrozub	Orahovac/Rrahovec
Atmagje	Atmadja	Prizren/Prizren
Babaj i Bokes	Babaj Baks	Djakovica/Gjakova
Baballoq	Babaloc	Decani/Decane
Baje	Banja	Istok/Istog
Balince	Balince	Klina/Kline
Banje	Banja	Suva Reka/Suhareke
Bardhaniq	Bardonic	Djakovica/Gjakova
Batuse	Batusa	Djakovica/Gjakova
Beleg	Beleg	Decani/Decane
Billushe	Bilusa	Prizren/Prizren
Berishe	Berisa	Glogovac/Gllogoc
Bernjake	Brnjaca	Orahovac/Rrahovec
Bistrazhin	Bistrazin	Djakovica/Gjakova
Bllace	Blace	Suva Reka/Suhareke
Brekoc	Brekovac	Djakovica/Gjakova
Brestoc	Brestovac	Orahovac/Rrahovec
Brestovik	Brestovik	Pec/Peja
Broliq	Brolic	Pec/Peja
Brovine	Brovina	Djakovica/Gjakova
Bubavec	Bobovac	Klina/Kline
Bubel	Publje	Orahovac/Rrahovec
Budakove	Budakovo	Suva Reka/Suhareke
Burim	Jovic	Orahovac/Rrahovec
Carrabreg	Donji Crnobreg	Decani/Decane
Carralluke	Crni Lug	Klina/Kline

²⁷⁰ This list is largely compiled from that contained in OSCE, *As Seen, As Told*. Those towns and villages for which no equivalent in Serbian could be determined are omitted.

Brestoc	Celina	Orahovac/Rrahovec
Cerkolez	Crkolez	Istok/Istog
Cermjan	Crmljane	Djakovica/Gjakova
Cerrce	Crnce	Istok/Istog
Dal	Dolj	Djakovica/Gjakova
Damanek	Domanek	Glogovac/Gllogoc
Damjan	Damjane	Djakovica/Gjakova
Dashinovc	Dasinovac	Decani/Decane
Decane	Decani	Decani/Decane
Dedaj	Dedaj	Prizren/Prizren
Deve	Deva	Djakovica/Gjakova
Divjake	Divljaka	Lipljan/Lipjan
Dlallasaj	Dalasaj	Djakovica/Gjakova
Dobrosh	Dobros	Djakovica/Gjakova
Dobrushe	Dobrusa	Istok/Istog
Dobruzhe	Dobruste	Prizren/Prizren
Dragobil	Dragobilje	Orahovac/Rrahovec
Drenoc	Drenovac	Decani/Decane
Drenoc	Drenovac	Klina/Kline
Dubove	Dubovo	Pec/Peja
Dubovik	Dubovik	Decani/Decane
Dubrave	Dubrava	Decani/Decane
Dubrave	Dubrava	Istok/Istog
Duhel	Dulje	Suva Reka/Suhareke
Dushanove	Dusanovo	Prizren/Prizren
Duzhnje	Duznje	Djakovica/Gjakova
Gjakove	Djakovica	Djakovica/Gjakova
Gjocaj	Djocaj	Decani/Decane
Gjurakovc	Djurakovac	Istok/Istog
Gllogjan	Glodjane	Decani/Decane
Gllogjan	Glodjane	Pec/Peja
Golluboc	Golubovac	Klina/Kline
Gorozhup	Gorozup	Prizren/Prizren
Gramaqel	Gramocelj	Decani/Decane
Grazhdanik	Grazdanik	Prizren/Prizren
Guncat	Guncat	Suva Reka/Suhareke
Gurbardh	Crno Vrana	Orahovac/Rrahovec
Guri i Kuq	Petkovic	Orahovac/Rrahovec

Gurishte	Goric	Orahovac/Rrahovec
Gushe	Guska	Djakovica/Gjakova
Hereq	Erec	Djakovica/Gjakova
Hoce e Madhe	Velika Hoca	Orahovac/Rrahovec
Hoce e Qytetit	Hoca Zagradaska	Prizren/Prizren
Hoce e Vogel	Mala Hoca	Orahovac/Rrahovec
Hulaj	Huljaj	Decani/Decane
Irzniq	Rznic	Decani/Decane
Isniq	Istinic	Decani/Decane
Istog	Istok	Istok/Istog
Istog i Poshtem	Donji Istok	Istok/Istog
Jabllanice	Jablanica	Pec/Peja
Jasiq	Jasic	Decani/Decane
Jeshkove	Jeskovo	Prizren/Prizren
Junik	Junik	Decani/Decane
Kabash	Kabas	Prizren/Prizren
Kaliqan	Kalicane	Istok/Istog
Kamenice	Kosovska Kamenica	Kos.Kamenica/Kamenice
Kamenice	Kamenica	Leposavic/Leposaviq
Karashengjergj	Karasindjerdj	Prizren/Prizren
Kashice	Kasica	Istok/Istog
Katuni i Ri	Novo Selo	Kos.Kamenica/Kamenice
Kijeve	Kijevo	Klina/Kline
Kizhareke	Kisna Reka	Glogovac/Gllogoc
Klecke	Klecka	Lipljan/Lipjan
Kline	Klina	Klina/Kline
Kobaje	Kobanja	Prizren/Prizren
Kodrali	Kodralija	Decani/Decane
Komaran	Komorane	Glogovac/Gllogoc
Korenice	Korenica	Djakovica/Gjakova
Korisha	Korisa	Prizren/Prizren
Kovrache	Kovrage	Istok/Istog
Koznik	Koznik	Orahovac/Rrahovec
Krajk	Krajk	Prizren/Prizren
Kralan	Kraljane	Djakovica/Gjakova
Kramovik	Kramovik	Orahovac/Rrahovec
Krushe e Madhe	Velika Krusa	Orahovac/Rrahovec
Krushe e Vogel	Mala Krusa	Prizren/Prizren

Lebushe	Ljubusa	Decani/Decane
Leshane	Lesane	Suva Reka/Suhareke
Leskoc	Leskovac	Klina/Kline
Lez	Les	Prizren/Prizren
Lladroc	Ladrovac	Suva Reka/Suhareke
Llapushnik	Lapusnik	Glogovac/Gllogoc
Llocan	Locane	Decani/Decane
Lluke e Eperme	Donja Luka	Decani/Decane
Lubinjë i Poshtme	Donje Ljubinjë	Prizren/Prizren
Lubizhde	Ljubizda	Orahovac/Rrahovec
Lumbardh	Ljumbarda	Decani/Decane
Lupizhde	Ljubozda	Istok/Istog
Lupove	Ljubovo	Istok/Istog
Luzice	Lozica	Klina/Kline
Maliq	Moglica	Djakovica/Gjakova
Malisheve	Malisevo	Gniljane/Gjilan
Mamushe	Mamusa	Prizren/Prizren
Marali	Moralija	Orahovac/Rrahovec
Maxhare	Madjare	Orahovac/Rrahovec
Maznik	Maznik	Decani/Decane
Mazrek	Mazrek	Prizren/Prizren
Medvec	Medvece	Prizren/Prizren
Meje	Meja	Djakovica/Gjakova
Milaj	Miljaj	Prizren/Prizren
Mirushe	Mirusa	Orahovac/Rrahovec
Mitrovicë	Kosovska Mitrovica	Kos.Mitrovica/Mitrovicë
Mleqan	Mlecane	Klina/Kline
Mohlân	Movljane	Suva Reka/Suhareke
Mojstir	Mojstir	Istok/Istog
Morinë	Morina	Djakovica/Gjakova
Mrasuer	Mrasor	Orahovac/Rrahovec
Mulliq	Molic	Djakovica/Gjakova
Muradem	Muradem	Prizren/Prizren
Muzhevinë	Muzevine	Istok/Istog
Nagafc	Nogavac	Orahovac/Rrahovec
Nashec	Nasec	Prizren/Prizren
Negroc	Negrovce	Glogovac/Gllogoc
Nishor	Nisor	Suva Reka/Suhareke

Novokaz	Nivokaz	Djakovica/Gjakova
Novoselle	Novo Selo	Pec/Peja
Orize	Meja Orize	Djakovica/Gjakova
Osek Hyle	Osek Hilja	Djakovica/Gjakova
Pacaj	Pacaj	Djakovica/Gjakova
Padalishte	Padaliste	Srbica/Skenderaj
Pagarushe	Pagarusa	Orahovac/Rrahovec
Panorc	Ponorac	Orahovac/Rrahovec
Papiq	Papic	Decani/Decane
Papraqan	Papracane	Decani/Decane
Pastasel	Pusto Selo	Orahovac/Rrahovec
Peqan	Pec/Pejaane	Suva Reka/Suhareke
Pirane	Pirane	Prizren/Prizren
Planeje	Planeja	Prizren/Prizren
Planjan	Planjane	Prizren/Prizren
Plloqice	Plocica	Klina/Kline
Pobergje	Pobrdje	Decani/Decane
Polane	Poljane	Istok/Istog
Poluzhe	Poluza	Orahovac/Rrahovec
Ponoshec	Ponosevac	Djakovica/Gjakova
Popoc	Popovac	Djakovica/Gjakova
Poslishte	Posliste	Prizren/Prizren
Potocan i Eperm	Gornje Potocane	Orahovac/Rrahovec
Prejlep	Prilep	Decani/Decane
Prekalle	Prekale	Istok/Istog
Prishtina	Pristina	Pristina/Prishtina
Prizren	Prizren	Prizren/Prizren
Qikatove e Re	Novo Cikatovo	Glogovac/Gllogoc
Qikatove e Vjeter	Staro Cikatovo	Glogovac/Gllogoc
Race	Raca	Djakovica/Gjakova
Rrahovec	Orahovac	Orahovac/Rrahovec
Rakosh	Rakos	Istok/Istog
Rakovine	Rakovina	Djakovica/Gjakova
Ramoc	Ramoc	Djakovica/Gjakova
Randobrave	Randubrava	Prizren/Prizren
Rastavice	Rastavica	Decani/Decane
Ratishi i Eperme	Gornji Ratis	Decani/Decane
Ratishi i Poshtem	Donji Ratis	Decani/Decane

Ratkoc	Ratkovac	Orahovac/Rrahovec
Recak	Racak	Stimlje/Shtime
Recan	Recane	Prizren/Prizren
Reti	Retimlje	Orahovac/Rrahovec
Rogove	Rogovo	Djakovica/Gjakova
Romaje	Romaja	Prizren/Prizren
Rracaj	Racaj	Djakovica/Gjakova
Rrypaj-Madanaj	Ripaj Madanaj	Djakovica/Gjakova
Rusinoc	Rusinovce	Lipljan/Lipjan
Senoc	Sanovac	Orahovac/Rrahovec
Savrove	Savrovo	Suva Reka/Suhareke
Senik	Senik	Suva Reka/Suhareke
Sheremet	Seremet	Djakovica/Gjakova
Shishman	Sisman	Djakovica/Gjakova
Shkarashnik	Skorosnik	Klina/Kline
Shkoze	Milanovic	Orahovac/Rrahovec
Shterbullove	Strbulovo	Glogovac/Gllogoc
Shtime	Stimlje	Stimlje/Shtime
Shushice	Susica	Istok/Istog
Sinaje	Sinaje	Istok/Istog
Skivjan	Skivjane	Djakovica/Gjakova
Slapuzhan	Slapuzane	Suva Reka/Suhareke
Smac	Struzje	Prizren/Prizren
Sopije	Sopina	Suva Reka/Suhareke
Staradran	Starodvorane	Istok/Istog
Strellc i Eperm	Gornji Streoc	Decani/Decane
Strellc i Poshtem	Donji Streoc	Decani/Decane
Studenice	Studenica	Istok/Istog
Studenqan	Studencane	Suva Reka/Suhareke
Suhareke	Suva Reka	Suva Reka/Suhareke
Suhogerile	Suvo Grlo	Istok/Istog
Sverke	Svrhe	Klina/Kline
Temeqine	Tumicina	Suva Reka/Suhareke
Terdec	Trdevac	Glogovac/Gllogoc
Termje	Trnje	Suva Reka/Suhareke
Terpeze	Trpeza	Glogovac/Gllogoc
Tomane	Tomance	Istok/Istog
Trubuhovc	Trbuhovac	Istok/Istog

Turjake	Turjak	Orahovac/Rrahovec
Uqe	Ucka	Istok/Istog
Veriq	Veric	Istok/Istog
Vermice	Zivinjane	Prizren/Prizren
Vitomirice	Vitomirica	Pec/Peja
Vraniq	Vranic	Suva Reka/Suhareke
Vranoci i Vogel	Mali Vranovac	Decani/Decane
Vrelle	Vrelo	Istok/Istog
Vulljake	Volujak	Klina/Kline
Vuqak	Vucak	Glogovac/Gllogoc
Xerxe	Zrze	Orahovac/Rrahovec
Zabuaq	Zablace	Istok/Istog
Zallkuqan	Zlokucane	Lipljan/Lipjan
Zallq	Zac	Istok/Istog
Zatriq	Zatric	Orahovac/Rrahovec
Zgermle	Zagrmlje	Pec/Peja
Rakovine	Zabelj	Djakovica/Gjakova
Zhakove	Zakovo	Istok/Istog
Zhur	Zur	Prizren/Prizren
Zllakuqan	Zlokucane	Klina/Kline
Zojiq	Zojic	Prizren/Prizren
Zym	Zjum	Prizren/Prizren

APPENDIX C

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (ICG) is a private, multinational organisation committed to strengthening the capacity of the international community to anticipate, understand and act to prevent impending crises and conflicts.

ICG's approach is grounded in field research. Teams of political analysts based on the ground in countries at risk of crisis, gather information from a wide range of sources, assess local conditions and produce regular analytical reports containing practical recommendations targeted at key international decision-takers.

ICG's reports are distributed widely to officials in foreign ministries and international organisations and made available to the general public via the organisation's internet site, located at www.crisisweb.org. (which drew more than a million visitors during 1999). The organisation works closely with governments and the press to highlight key issues identified in the field and to generate support for its policy prescriptions. The ICG Board - which includes prominent figures from the fields of politics, diplomacy, business and the media - is also involved in helping to bring ICG reports and recommendations to the attention of senior policy-makers around the world. The ICG Board is chaired by former Finnish President Martti Ahtisaari; Gareth Evans, for eight years Australia's Foreign Minister, recently took over as ICG's President and Chief Executive.

ICG is headquartered in Brussels with a U.S. branch in Washington DC. The organisation currently operates field projects in nine crisis-affected countries world wide: Bosnia and Herzegovina, Albania, Macedonia, the Federal Republic of Yugoslavia, Algeria, Burundi, Rwanda, the Democratic Republic of Congo and Indonesia.

ICG raises funds from the European Union, governments, charitable foundations, companies and individual donors. The following governments currently have funding agreements with ICG: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Ireland, Japan, Luxembourg, the Netherlands, Norway, the Republic of China (Taiwan), Sweden, Switzerland and the United States. Private sector donors include the Jacob and Hilda Blaustein Foundation, the Morton K. and Jane Blaustein Foundation, the Fares Foundation, the William and Flora Hewlett Foundation, the Charles Stewart Mott Foundation, the Open Society Institute, the Smith Richardson Foundation and the U.S. Institute of Peace.

May 2000

APPENDIX D

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APPENDIX E

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APPENDIX F

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The following persons took part in the Project in Albania and in Kosovo. All have worked with untiring commitment to the goals of the Project and each has contributed their professionalism and dedication in their respective areas of work.

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With special thanks to Sensible Data.