



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/1992/S-1/10
27 October 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
First special session
Agenda item 3

LETTER DATED 5 AUGUST 1992 FROM THE PERMANENT REPRESENTATIVE OF THE
UNITED STATES OF AMERICA TO THE UNITED NATIONS OFFICE AT GENEVA
ADDRESSED TO THE UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS

Report on the situation of human rights in the territory of
the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki,
Special Rapporteur of the Commission on Human Rights,
pursuant to paragraph 15 of Commission resolution 1992/S-1/1
of 14 August 1992

1. Grave and massive violations of human rights continue to occur in the territory of the former Yugoslavia. The military conflict in Bosnia and Herzegovina, which is aimed at achieving "ethnic cleansing", remains a matter of particular and most urgent concern. Consequently, and in accordance with resolution 1992/S-1/1 of the Commission on Human Rights, the Special Rapporteur has decided to prepare the present periodic report in order to draw the attention of the Commission on Human Rights, as well as the Security Council, the United Nations High Commissioner for Refugees and all Governments and concerned international organizations, to the most compelling problems associated with the policy of ethnic cleansing. A more comprehensive report containing the findings to which reference is made in this report and a further analysis of the situation prevailing in the former Yugoslavia will be submitted to the General Assembly at its present session.
2. The Special Rapporteur carried out a second mission to the territory of the former Yugoslavia during the period 12-22 October 1992. The testimony he received confirms that serious and widespread human rights violations continue to occur. The second mission included visits to different areas in Bosnia and Herzegovina, Croatia and Serbia including Kosovo, Vojvodina and Sandjak. Special attention was given to prisons and refugee centres. The Special Rapporteur interviewed victims of human rights violations and received material which describe, in detail, the extent of these violations. The programme of the mission is attached as annex I to this report.
3. At the invitation of the Special Rapporteur, the following Special Rapporteurs, Representatives, and Experts took part in the mission: Mr. Bacre Ndiaye, Special Rapporteur on extrajudicial, summary or arbitrary executions; Mr. Peter Kooijmans, Special Rapporteur on the question of torture; Mr. Louis Joinet, Chairman of the Working Group on Arbitrary Detention; Mr. Francis Deng, Representative of the Secretary-General on internally displaced persons. In this way it was possible during the mission to operate in parallel groups and visit more places of concern. Two medical and forensic experts, Dr. Clyde Snow and Dr. Jack Geiger, also took part in the mission, along with substantive staff from the United Nations Centre for Human Rights, as well as United Nations interpreters.
4. The local authorities permitted the Special Rapporteur to visit freely different places of interest during his mission, with the exception of one occasion when members of the mission were not allowed entrance to the Serbian-controlled territory in the Bosanski Novi-Prijedor region.
5. As a result of this mission the Special Rapporteur wishes to strongly emphasize that, since his first visit in August 1992, widespread and serious human rights violations continue to be committed in Bosnia and Herzegovina and in certain respects have intensified. These violations are being perpetuated at the very time the parties are entering into commitments at the negotiating table at Geneva. As a result of these violations a great number of people are suffering and have lost their lives. Thousands more find their lives threatened and their human dignity violated. Unless immediate action is taken, many of them will not survive the forthcoming winter. As indicated in the first report, the Muslim population are the principal victims and are virtually threatened with extermination.

6. The Special Rapporteur shares the view of other observers that the principal objective of the military conflict in Bosnia and Herzegovina is the establishment of ethnically-homogeneous regions. Ethnic cleansing does not appear to be the consequence of the war but rather its goal. This goal, to a large extent, has already been achieved through killings, beatings, rape, destruction of houses and threats. Such practices have intensified in recent weeks and there is less and less resistance on the part of the non-Serbian population, increasing numbers of whom are ready to abandon everything and to flee their homeland. Recent events observed in the region of Prijedor, Doboj and Kotor Varos prove that Serbian leaders in Bosnia and Herzegovina are not ready to desist in their plans. The Muslim and Croatian populations, in the territory controlled by Serbian authorities, live under enormous pressure and terror. Hundreds of thousands of people are being forced to leave their homes and to abandon their belongings in order to save their lives.

7. During his mission the Special Rapporteur learned of two instances of resistance to this policy - both unsuccessful. The inhabitants of the Muslim village of Mahovliani sought to avoid forced displacement by demonstrating their loyalty to the local Serbian authorities, including the surrendering of weapons and the acceptance of military service when called. Despite this, they are under constant attacks by "unknown perpetrators". The inhabitants of Vesici, in the Kotor Varos region, opted for armed resistance. The Special Rapporteur intervened personally with Mr. R. Karadzic, leader of the Serbs of Bosnia, in an effort to prevent the massacre of the estimated 70 families living in Vesici.

8. A very dramatic situation was observed in the region of Travnik, where a great number of displaced Muslims live in extremely difficult conditions. The city of Travnik, with a population of 19,000, has had to accommodate more than 14,000 displaced persons. Many of them told the Special Rapporteur that both local authorities and an "emigration agency" in Banja Luka organized their displacement, and that some of them had paid a fee of up to 300 deutsch marks per person to leave for a Muslim-controlled territory. They were driven towards the front line, but were obliged to leave the bus several kilometres before reaching it and to cross the combat zone as best they could. En route they were repeatedly beaten, robbed, subjected to various forms of harassment, and in some cases raped or shot.

9. The continued fighting in the region of Travnik is threatening the safety of these persons and is endangering the delivery of humanitarian aid. The Special Rapporteur travelled on what was then the only usable road from Split, on the Croatian coast, to Travnik and Zenica in Central Bosnia, which has become known as the "Salvation Road". This road is extremely narrow, mountainous and dangerous, and will be impassable with the first snow. Those who drive humanitarian convoys along this road deserve admiration and respect.

10. The Special Rapporteur was particularly shocked by the conditions in Trnopolje camp, where persons hoping to flee ethnic cleansing by Serbs have gathered. More than 3,000 people were cramped into three buildings and a few small houses, where they live in unspeakable squalor, sleeping on thin blankets and lice-infested straw, drinking contaminated water and surviving on minimum rations of bread. Some of these persons have remained in this camp

for more than four months. The physician accompanying the Special Rapporteur stated that upper respiratory infection was spreading like wildfire. Children and adults were suffering from diarrhoea, presumably from contaminated water and a near-total absence of sanitation. There are diabetics without insulin, heart patients without digitalis, and persons suffering from hypertension without medication.

11. Trnopolje was described by the local authorities as an open camp. However, conditions in the surrounding areas where virtually all houses belonging to Muslims and Croats were destroyed are such that these prisoners could only move at great risk for their lives. Even within the camp they feel threatened by the militia guarding the camp.

12. Similarly appalling conditions are believed to be found also in a number of other smaller centres throughout Bosnia and Herzegovina. According to the medical expert, a public health disaster that will dwarf the number of victims of mass executions and of the military conflict is already under way.

13. The majority of the displaced persons can only save their lives by seeking refuge outside the borders of Bosnia and Herzegovina. However, Croatia, which already has some 300,000 displaced citizens and 400,000 Bosnians, maintains that it is not in a position to receive more refugees, since the refugee centres and hospitals are overloaded. For that reason, UNPROFOR, which controls much of the border between Bosnia and Herzegovina and Croatia, is being forced to limit their entry into the United Nations Protected Areas (UNPAs). Many displaced Muslims have been turned away at the border and some of those persons who have already crossed it, including those of military age, are being sent back both by UNPROFOR and the Croatian authorities. It is extremely regrettable that UNPROFOR has been forced to violate the principle of non-refoulement. The Special Rapporteur intervened with representatives of the Croatian Government requesting that they avoid sending refugees eligible for military service back to Bosnia and Herzegovina.

14. Better conditions were found in refugee centres in Croatia and Serbia. The Special Rapporteur also found that displaced persons of Serbian origin are living in Banja Luka in much better conditions. During the meeting with the Special Rapporteur they reported to have been subjected to various forms of atrocities in their places of origin.

15. During his mission the Special Rapporteur devoted much attention to the problem of persons detained as a result of the conflict. Serbian prisoners interviewed in Mostar did not complain of ill-treatment on the part of prison staff. However, they complained that they are not permitted to walk in the prison grounds, nor see their spouses who are in the same prison. The Serbian prisoners in Zenica complained that, in the absence of the commander, some of them were beaten by the guards. In Tomislavgrad an elderly Serbian prisoner showed the Special Rapporteur the bruises left by a severe beating received several days earlier. In these cases the Special Rapporteur requested the competent authorities to fully respect and guarantee the rights of the detainees. A camp containing approximately 1,000 Muslim prisoners was visited in Batcovic, in north-eastern Bosnia. The prisoners did not complain of ill-treatment and, in general, appeared to be in good health. However, they

sleep on straw bedding on the floor of a cavernous unheated stable, where living conditions will become intolerable as the cold weather arrives. The most common complaint of the majority of prisoners in all the prisons and camps that were visited is that they do not know the reasons for their detention.

16. During his meeting with Mr. Mate Boban, leader of the Croats of Herzegovina, the Special Rapporteur requested that he keep the commitment to free all prisoners made in previous negotiations at Geneva. Mr. Boban confirmed his willingness to free all detained persons except those accused of war crimes. The Special Rapporteur hopes that all sides will fulfil their obligations in this regard. There appears to be a risk that the notion of war crimes will be interpreted in an arbitrary manner. The Special Rapporteur believes that it would be necessary to ensure the presence of international observers during any legal proceedings.

17. During the visit to Sarajevo, representatives of religious communities, authorities and non-governmental organizations confirmed the opinion that Sarajevo was a "dying city". The population is desperate. Cases of people dying in the streets from hunger and exhaustion have been reported. They are losing confidence in the effectiveness of international assistance. As in other regions of Bosnia and Herzegovina, sacred sites are being attacked. The residence of the Muslim religious leader was hit by a rocket. The constant shelling of the city is terrorizing the population. The delivery of humanitarian aid is extremely difficult. However, only an immediate cease-fire can save the population of Sarajevo, as well as that of other besieged cities, from extermination. The extraordinary commitment of all those involved in humanitarian convoys and airlifts as well as the soldiers of UNPROFOR must be noted with gratitude.

18. During his visit to Croatia, and on the basis of the testimony of witnesses from Vukovar, Dr. C. Snow, a forensic anthropologist, located a site near Vukovar which appears to be a mass grave of victims of war crimes. A report prepared by Dr. Snow is attached as annex II to this report. After having received Dr. Snow's report, the Special Rapporteur asked the Commander of UNPROFOR to immediately place the site under surveillance, and requested the Secretary-General to provide permanent protection of the scene through UNPROFOR. Since information has been received of the existence of other mass graves in this and other areas, the Special Rapporteur considers that the Secretary-General should, either directly or through his Representative to the London Conference, warn all the parties to the conflict in the former Yugoslavia of the seriousness of any interference with such graves or other evidence of war crimes.

19. In connection with the Security Council resolutions 771 (1992) and 780 (1992), which request the Secretary-General to establish a Commission of Experts to examine and analyse information related to violations of humanitarian law, including war crimes, the Special Rapporteur believes that further investigations concerning the discovery in Vukovar should be carried out within the mandate of this Commission. In particular, there is an urgent need to establish a group of experts on forensic science and anthropology in order to conduct an in-depth examination of this site.

20. The Special Rapporteur considers the current situation in Kosovo to be dangerous. The local Serbian authorities accuse the ethnic Albanian leaders of organizing a boycott against Serbian authorities and institutions. The Albanian leaders, as well as representatives of the Muslim and Catholic communities in Kosovo, provided the Special Rapporteur with evidence of discrimination against ethnic Albanians and human rights violations in Kosovo. Shortly before his visit, police attacked a demonstration, which had been legally authorized, without warning. The Special Rapporteur on the question of torture received evidence of the brutal beating of several people during that incident. Discrimination in education and employment is dramatic. Ethnic Albanians have been almost entirely eliminated from public service, the administration of justice, and health care institutions. This discriminatory policy is also reflected in laws and in measures which have been taken with the aim of undermining Albanian culture. The continued deterioration of living conditions results in the emigration of the younger population from Kosovo.

21. There is hope that the initiative taken by the Prime Minister of the Federal Republic of Yugoslavia, Mr. Milan Panic, with a view to establishing a dialogue between Albanians and Serbs in Kosovo, may produce positive results. In a meeting with the Special Rapporteur, Mr. Panic expressed his desire to stop human rights violations and discrimination against Albanians. He also agreed to the suggestion of the Special Rapporteur that the media should not exacerbate tensions in the territory of the former Yugoslavia. The approach of Prime Minister Panic is, however, violently rejected by Serbian extremist groups. Such groups are also active in Kosovo. Although the prevailing attitude of most ethnic Albanian leaders at the present time is prudent and patient, there is also a potential for violence by radical Albanian groups. A large number of Yugoslav troops are stationed in Kosovo. Pristina, the regional capital, has the appearance of a city under martial law.

22. Whilst the Special Rapporteur was in Kosovo, the Representative of the Secretary-General on internally displaced persons visited Vojvodina. At present the information received indicates that the practices associated with ethnic cleansing are occurring with some regularity, although, thus far, on a much smaller scale than in Bosnia. Non-Serbs in Vojvodina have been purged from many public positions, including the police, the courts and public administration. Some sources give the number of Croats and Hungarians who have fled as 90,000 while the number of refugees who have come to the region has been estimated at 150,000. Hungarians, Croats, Slovaks, Slovenians, Ukrainians and other minorities fear that the refugees may be settled permanently, confiscating the property of other ethnic groups and weakening their political and cultural autonomy. The economic difficulties posed by the influx of refugees, aggravated by the effects of the economic embargo and poor harvests, contribute to resentment against the largely Serbian refugee population. In general, the situation is tense and there appears to be a tangible risk of a substantial increase in violence during the winter months.

23. During the mission, the Special Rapporteur on extrajudicial, summary or arbitrary executions visited Sandjak. It was found that the region, which is inhabited by a Muslim and Serbian population, is a potential place of conflict. Despite the apparent atmosphere of tolerance in Novi Pazar, the

capital of this region, some incidents against members of the Muslim community have been reported. In the region bordering Bosnia and Herzegovina classical methods of ethnic cleansing are employed. Houses pertaining to Muslims have been burned and mosques destroyed by terrorist attacks in the cities of Pljevlja, Prijepolje and Priboj. The presence of various military and paramilitary groups in the area, due to the proximity of the conflict in Bosnia, has increased the sense of insecurity afflicting the Muslim population. An estimated 70,000 Muslims are reported to have left the region since the beginning of the conflict. While many Muslims and Serbs continue to live together peacefully in Sandjak, and while the local authorities also show signs of tolerance, an outburst of violence due to the attitudes of the military, the authorities of the Republic of Serbia or certain political leaders cannot be ruled out.

24. During this mission, the Special Rapporteur had numerous meetings with leaders of Islam, the Catholic and Orthodox Churches and the Jewish community. These meetings confirmed his conviction that, despite appearances, the present conflict is not a religious one. The Special Rapporteur believes that the religious communities can and should play an important role in overcoming the mutual hatred and in creating conditions for future coexistence. Consequently, the Special Rapporteur has proposed that the highest authorities of all the religious communities call for a common day of prayer for human dignity, human rights and peace. He is convinced that such an initiative would serve all the peoples of the region.

Conclusions

25. The Special Rapporteur reconfirms his recommendations as formulated in the first report. He would like, in the present report, to draw attention to the most urgent problems which require prompt action.

(a) The war-torn situation in which tens of thousands of people have found themselves requires emergency action by the international community. Safe havens abroad must be found for those whose lives are in acute danger (such as persons detained in camps or trapped in places like Trnopolje). The argument that providing refuge for such people is to conform to the policy of ethnic cleansing cannot override the imperative of saving their lives. Priority must be given to the protection of the right to life. Thus far, European countries have agreed to provide refuge to only a small percentage of those whose lives are at stake. In order to ensure that providing refuge will not contribute to ethnic cleansing, it is essential to reaffirm and provide lasting protection for the right to return. The Special Rapporteur once again appeals to Governments to take urgent steps and to international public opinion to support these efforts. In this regard it is essential that prompt and adequate responses be given to the United Nations High Commissioner for Refugees and the International Committee of the Red Cross in their efforts to find solutions for these most serious situations;

(b) A large number of displaced persons would not have to seek refuge abroad if their security could be guaranteed and if they could be provided with both sufficient food supplies and adequate medical care. In this context the concept of security zones within the territory of Bosnia and Herzegovina

should be actively pursued. The Special Rapporteur urges Governments to bring pressure to bear on all parties to the conflict with a view to respecting the safety of the civilian population;

(c) Given the dramatic nature of the current situation, the Special Rapporteur calls for an increase in humanitarian assistance to all persons in the affected areas of Bosnia and Herzegovina and urges Governments to provide UNHCR with additional support;

(d) The Special Rapporteur also considers that the efforts aimed at opening humanitarian relief corridors to all besieged areas in Bosnia and Herzegovina should be given priority attention.

Annex I

PROGRAMME OF THE SECOND VISIT OF THE SPECIAL RAPPORTEUR
ON THE SITUATION OF HUMAN RIGHTS IN THE TERRITORY OF THE
FORMER YUGOSLAVIA (12-22 October 1992)

Monday, 12 October 1992

Arrival in Zagreb

Meetings of the Special Rapporteur with

- The President of Croatia
- UNPROFOR, UNHCR and ICRC
- Human rights and opposition groups

Tuesday, 13 October 1992

Visit of the Special Rapporteur to Split

Meetings of the Special Rapporteur with

- Representatives of UNHCR and ECMM

Visit of the Special Rapporteur to Mostar military prison

Meeting of the Special Rapporteur in Grude with

- Mr. Mate Boban

Visit to a refugee centre in Posusje

* * *

Visit of the Special Rapporteur on extrajudicial, summary or arbitrary
executions to a refugee centre in Karlovac, Croatia

Meetings with

- UNHCR
- Former detainees

Wednesday, 14 October 1992

Visit of the Special Rapporteur to Tomislavgrad

Meetings of the Special Rapporteur with

- Serbian detainees

Visit of the Special Rapporteur to Travnik (via Salvation Road)

Meetings of the Special Rapporteur with

- The Mayor and other local authorities

Visit to a refugee centre

Meeting of the Special Rapporteur with

- The Mufti of Travnik

* * *

Visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions to a refugee centre in Varazdin, Croatia

Thursday, 15 October 1992

Visit of the Special Rapporteur to Zenica prison (Serbian detainees)

Friday, 16 October 1992

Arrival at Belgrade

Meetings of the Special Rapporteur with

- The Prime Minister of the Federal Republic of Yugoslavia
- The Federal Minister of Human Rights and Minorities
- The Federal Minister of Justice
- The Chief of staff of JNA
- The Deputy Patriarch and other dignitaries of the Orthodox Church
- Human rights and opposition groups

* * *

Meetings of the Special Rapporteur on extrajudicial, summary and arbitrary executions, the Special Rapporteur on the question of torture and the Representative of the Secretary-General on internally displaced persons with

- UNHCR and ICRC
- Human rights and opposition groups

Saturday, 17 October 1992

Visit of the Special Rapporteur and the Special Rapporteur on the question of torture to Pristina, Kosovo

Meetings of the Special Rapporteurs with

- CSCE observers and UNHCR
- Pristina District executive and local authorities
- Albanian political and community organizations

Visit of the Special Rapporteur on the question of torture to the prison of Pristina

* * *

Visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions to Novi Pazar, Sandjak

Meetings with

- Local authorities and representatives of non-governmental organizations in Novi Pazar
- Leaders of Muslim and Orthodox communities
- Leaders of the Sandjak Democratic Alliance

* * *

Visit of the Representative of the Secretary-General on internally displaced persons to Batcovic and Bijeljina

Meetings with

- Local authorities

Visit to Batcovic detention camp

Visit to the local Red Cross and interviews with refugees

* * *

Visit of Dr. Snow to Vukovar (until Monday, 19 October 1992)

Sunday, 18 October 1992

Meetings of the Special Rapporteur with

- The Muslim religious leader, the Catholic Bishop and the representatives of the Albanian Pen Club in Pristina

* * *

Meetings of the Special Rapporteur on question of torture with

- Albanian witnesses of human rights violations in Pristina

* * *

Visit of the Representative of the Secretary-General on internally displaced persons to Vojvodina

Meetings with

- The Mayor of Subotica and local authorities
- Minority groups in Subotica
- CSCE representatives

Visit to a refugee centre in Backa Topola and meetings with the local Red Cross

Monday, 19 October 1992

Meetings of the Special Rapporteur in Zagreb with

- The Catholic Auxiliary Bishop
- Minister without Portfolio competent for media questions
- Minister of the Interior
- Round table with Croatian journalists

* * *

Visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture and the Representative of the Secretary-General on internally displaced persons to Vukovar

* * *

Visit of the Chairman on the Working Group on Arbitrary Detention with UNPROFOR officials in Zagreb

Tuesday, 20 October 1992

Visit of the Special Rapporteur and the Representative of the Secretary-General on internally displaced persons to Banja Luka and Trnopolje

Meetings with

- ICRC and UNHCR officials in Banja Luka

Visit to Trnopolje camp (Muslim and Croats)

Visit to a Serbian refugee centre in Banja Luka

* * *

Visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture to a refugee centre in Zagreb

* * *

Meeting of the Chairman of the Working Group on Arbitrary Detention with

- UNPROFOR officials in Zagreb

* * *

Meeting of the Representative of the Secretary-General on internally displaced persons with

- The Director of the Croatian Office for Refugees and Displaced Persons

Wednesday, 21 October 1992

Visit of the Special Rapporteur and the Representative of the Secretary-General on internally displaced persons to Sarajevo

Meetings of the Special Rapporteur with

- Members of the Presidency and Government of Bosnia and Herzegovina
- Muslim and Catholic leaders, members of the Jewish community and representatives of non-governmental organizations

* * *

Visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture to Dvor (UNPAs-North) and meeting with UNPROFOR officials

* * *

Visit of the Chairman of the Working Group on Arbitrary Detention to UNPAs-South and meeting with UNPROFOR officials

Thursday, 22 October 1992

Meetings of the Special Rapporteur with

- The UNPROFOR Force Commander in Zagreb and the UNPROFOR Deputy Head of Mission
- Cardinal Kuharic
- Press conference

Return to Geneva

Annex II

STATEMENT BY DR. CLYDE SNOW

During the course of the mission, members of the delegation met with UNPROFOR Civilian Police (UNCIVPOL) who provided information on several mass graves in the Vukovar area, some of which contain victims of atrocities. On 18 and 19 October 1992, Dr. Clyde Snow, in his capacity as forensic expert, inspected a site located in an isolated wooded area about 2 km south-east of the farming village of Ovcara, near Vukovar. Scattered on the surface of a 10 x 30 m area of disturbed earth were the remains of young adult males bearing skeletal signs of perimortem trauma. In the opinion of the expert, these skeletons appear to be eroding out of a mass grave which may contain many more bodies.

This discovery is significant because it appears to confirm witness evidence bearing on the disappearance of about 175 patients from the Vukovar Hospital during the evacuation of Croatian patients from that facility on 20 November 1991. At that time, the hospital held several hundred civilian and military patients - both Serb and Croat - most of whom had been wounded in the heavy fighting in and around Vukovar during the preceding months. When the hospital was occupied by Serbian forces in mid-November, both sides agreed that the 420 Croatian patients should be evacuated to Croatian-held territory. According to this plan, the evacuation was to be monitored by representatives of the European Community Monitoring Mission and the International Committee of the Red Cross. Most of the patients - primarily women, children and the elderly - arrived safely in Croatia.

However, according to statements made by witnesses, the lightly wounded civilian and military males were separated from the rest and boarded on Yugoslav National Army (JNA) buses near the hospital. The buses, each containing about 60 prisoners and two JNA guards, were driven to the JNA barracks in Vukovar at about 11.00. At 14.00 the buses proceeded to Ovcara where the captured were transferred to a large building used as a garage for farm equipment and vehicles. While moving from the buses to the building, they were beaten with a variety of blunt instruments by JNA soldiers and Serbian paramilitaries. The beatings continued for several hours inside the building. At least two men were beaten to death.

It was further reported that at about 18.00 the prisoners were divided into groups of about 20 men. One by one, each group was loaded onto a truck and driven away. At intervals of about 15 to 20 minutes, this truck returned empty and another group was loaded onto it. According to testimony collected, the truck left the building and turned onto a paved road to Grabovo, a village about 3 km south-east of Ovcara. A few minutes later, the truck made a left turn onto a dirt road. This road ran between a cultivated field on the left and a heavily timbered area on the right.

From the given estimates of time and distance between the building where prisoners were being held and from the description of the roads used, only one

location fits the description: the dirt road turning off the main road at 1.1 km south-east of the Ovcará complex. This road runs north-east, between a cultivated field on the left and a heavily wooded ravine on the right. The area where the skeletons were discovered is located at the head of this ravine, at 0.8 km from where the field road turns off the main road.

After the discovery was made, UNPROFOR authorities took immediate action to ensure round-the-clock security of the scene until a proper medico-legal investigation of the site can be conducted by an international team of forensic experts.

The mission has also received information concerning the possible existence of mass graves in other areas, and further investigations will be carried out in the future.

- - - - -



General Assembly Security Council

Distr.
GENERAL

A/47/666
S/24809
17 November 1992

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-seventh session
Agenda item 97 (c)

SECURITY COUNCIL
Forty-seventh year

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS
OF THE SPECIAL RAPORTEURS AND REPRESENTATIVES

Situation of human rights in the territory of the
former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the Security Council the report on the situation of human rights in the territory of the former Yugoslavia prepared by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, in accordance with paragraph 15 of Commission resolution 1992/S-1/1 of 14 August 1992 and Economic and Social Council decision 1992/305 of 18 August 1992 (see annex).

ANNEX

Report on the situation of human rights in the territory of the former Yugoslavia prepared by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 15 of Commission resolution 1992/S-1/1 and Economic and Social Council decision 1992/305

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION	1 - 7	4
II. BOSNIA AND HERZEGOVINA	8 - 60	6
A. Ethnic cleansing	8 - 27	6
1. General observations	8 - 16	6
2. Situation in Serbian-controlled areas	17 - 20	8
3. Situation in areas under Government and/or Bosnian Croat control	21 - 25	10
4. Destruction of religious sites and rape as features of ethnic cleansing	26 - 27	12
B. Arbitrary detention and the treatment of prisoners	28 - 39	13
1. Situation in Serbian-controlled areas	28 - 35	13
2. Situation in areas controlled by the Government and/or Bosnian Croats	36 - 39	15
C. Other war crimes	40 - 47	16
D. Humanitarian crisis	48 - 60	18
III. CROATIA	61 - 87	21
A. United Nations Protected Areas (UNPAs)	77	24
B. UNPA Sector South	78 - 81	25
C. UNPA Sectors West and North	82	26
D. UNPA Sector East	83 - 87	26

/...

CONTENTS (continued)

	<u>Paragraphs</u>	<u>Page</u>
IV. SERBIA	88 - 128	27
A. Kosovo	99 - 114	29
B. Sandzak	115 - 119	33
C. Vojvodina	120 - 128	34
V. CONCLUSIONS	129 - 148	36
A. Violations of legal obligations and other commitments	129 - 133	36
B. Conclusions and recommendations	134 - 148	38

I. INTRODUCTION

1. Massive and systematic violations of human rights are occurring in the territory of Bosnia and Herzegovina. In other regions of the former Yugoslavia internationally recognized human rights standards are also being violated. The very nature of these violations conditions the way the mandate entrusted to the Special Rapporteur by the United Nations Commission on Human Rights must be implemented. The mandate is part of the response of the international community to the Yugoslavia crisis. It is to be recalled that this unprecedented mandate has been created by the Commission on Human Rights at its historic first special session in August 1992 to provide credible information about the human rights situation in those territories on the basis of which recommendations aiming at effective prevention of human rights violations and war crimes could be proposed. Commission resolution 1992/S-1/1 of 14 August 1992, containing the mandate, also requests the Special Rapporteur to implement his mandate on a continuing basis, in close cooperation with all United Nations bodies and other international organizations.

2. It is indispensable that the mandate be implemented in a way that has concrete and immediate effect. For that reason, it is not sufficient to limit the mandate to the preparation of reports listing incidents of human rights violations and expressing opinions which are submitted to United Nations bodies. The Special Rapporteur believes that his mandate should lead to prompt and specific measures benefiting the populations which are suffering and whose rights are being violated.

3. Since the inception of his mandate on 14 August 1992, the Special Rapporteur has carried out two visits to the territory of the former Yugoslavia and has submitted two reports to the Commission on Human Rights; a these reports were also made available to the Security Council (A/47/418-S/24516 and A/47/635-S/24766). The present document is the third report prepared by the Special Rapporteur and, like the two previous ones, concentrates on Bosnia and Herzegovina, which requires priority attention at the present time. Nevertheless, the Special Rapporteur has also given attention to human rights violations in the areas protected by the United Nations Protection Force (UNPROFOR), in Kosovo, Sandzak and Vojvodina as well as the general situation throughout Croatia and Serbia. It is his intention to travel also to Macedonia and Slovenia prior to the next session of the Commission on Human Rights and to report thereon to the Commission.

4. During his first visit to the former Yugoslavia, from 21 to 26 August 1992, the Special Rapporteur was accompanied by the Chairman of the Working Group on Arbitrary Detention, Mr. Louis Joinet, and the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Bacre W. Ndiaye, who were in a position to accept his invitation at that time. During the second visit, from 12 to 22 October 1992, the Special Rapporteur on the question of torture, Mr. Peter Kooijmans, and the Representative of the Secretary-General on internally displaced persons,

/...

Mr. Francis Deng, were also able to join the mission. In this way it was possible to operate in parallel groups and visit a maximum number of places of concern. One forensic expert, Dr. Clyde Snow, and one medical expert, Dr. Jack Geiger, also took part in the mission, along with substantive staff from the United Nations Centre for Human Rights, and United Nations interpreters.

5. In preparing the present report the Special Rapporteur has taken into account materials received prior to and during his two missions. The amount of documentation received from both Governments, intergovernmental organizations and non-governmental sources, and from many victims of and witnesses to human rights violations, is indeed impressive. Amnesty International, Helsinki Watch and other organizations concerned with human rights provided well-documented reports. The Special Rapporteur hopes that it will be possible to evaluate all the information he continues to receive even more fully and systematically once all the staff put at his disposal are operational, including those whom he intends to place in the area.

6. The content of the report is based mainly on information received by the Special Rapporteur and his delegation directly from credible witnesses or from reliable and impartial sources. Many other allegations of atrocities have been received from the parties to the conflict, as well as from non-governmental sources and the international press. Some of these allegations are plausible and some of them no doubt will, in time, prove to be true. Yet there is also a great deal of disinformation, rumour and propaganda which, upon investigation by objective international monitors, has been disproven. The dissemination of such falsehoods only serves to dehumanize the enemy, deepen the persecution complex, fuel the flames of ethnic hatred and, ultimately, prolong the conflict. For this reason the Special Rapporteur believes that he should refrain from giving echo to such allegations before credible evidence has been received either from direct witnesses or from impartial international bodies having a mandate to monitor the human rights situation, such as UNPROFOR, the European Community and the Conference on Security and Cooperation in Europe (CSCE).

7. The Special Rapporteur wishes to express his appreciation for the cooperation he has received from United Nations agencies and other intergovernmental and non-governmental organizations which are active in the area. He would like to mention in particular the logistical support he has received from UNPROFOR without which it would have been impossible to travel to so many places in Bosnia and Herzegovina. It is to be hoped that such cooperation can be further enhanced in future with a view to monitoring the human rights situation even more effectively and thereby increasing the potential of preventing violations from occurring.

II. BOSNIA AND HERZEGOVINA

A. Ethnic cleansing

1. General observations

8. Ethnic cleansing is the direct cause of the vast majority of human rights violations which have occurred in Bosnia and Herzegovina since the present human rights emergency began, in March and April 1992.

9. The term ethnic cleansing refers to the elimination by the ethnic group exercising control over a given territory of members of other ethnic groups. A wide variety of methods are used to accomplish this end, including threats, harassment and intimidation; shooting or using explosives against homes, shops and places of business; destruction of places of worship and cultural institutions; transfer or relocation of populations by force; summary execution; the commission of atrocities calculated to instil terror among the population, such as torture, rape and the mutilation of corpses; and the shelling of civilian population centres.

10. Ethnic cleansing is often accompanied by confiscation of the property of those forced to leave, including homes, farms and agricultural equipment. In some areas, homes and farm buildings have been razed, in order to preclude any possibility of return. Departure often involves long and arduous journeys during which the displaced population is systematically robbed of savings, jewellery and other personal effects, exposed to beatings and rape, deprived of food and shelter. In many instances the fleeing population has been obliged to cross through areas of armed conflict.

11. Many of the inhumane practices employed in Serbian-controlled areas as a means of achieving ethnic cleansing also occur in those parts of Bosnia and Herzegovina under the control of the Government, and in the so-called "Croatian Community of Herzeg-Bosna". b/ According to the best information available at the present time in the areas under government control, human rights violations associated with ethnic cleansing are not committed in a systematic fashion and the violations which do occur, while they must be strongly condemned, do not appear to form part of a deliberate campaign to cleanse these areas of the Serbian population. In the areas controlled by the "Croatian Community of Herzeg-Bosna" there is somewhat more evidence of deliberate efforts to force the Serbian population to depart. However, in general a more limited range of measures is used, and the effort is not as systematic as in the Serbian-controlled areas.

12. While precise figures are not available, the number of Croat and Muslim refugees fleeing areas of Bosnia and Herzegovina under Serbian control is three to four times greater than the number of Serbian refugees and displaced persons from Bosnia and Herzegovina. The greater prevalence of ethnic cleansing in Serbian-occupied territories is undoubtedly related to the political objectives formulated and pursued by Serbian nationalists, namely, ensuring Serbian control over all territories inhabited by significant numbers

/...

of Serbs, as well as adjacent territories assimilated to them owing to logistical and military considerations. It should be noted that ethnic cleansing is not practised exclusively in areas where Serbs form a majority of the population. In some of the cities most strongly affected by Serbian ethnic cleansing, such as Prijedor, Muslims and Croats were in the majority.

13. This lends credence to the fear that the ultimate goal may be to incorporate the Serbian-occupied areas of Croatia and Bosnia and Herzegovina into a "Greater Serbia". Whether or not this fear is justified, the rejection by de facto Serbian authorities in Bosnia and Herzegovina (and in Croatia) of integration into a multi-ethnic State in which Serbs would constitute a minority, and their claim to the right to govern themselves, are openly admitted. From advocating Serbian control over all areas inhabited by Serbs to expelling the non-Serbian population from such areas is but a small step. Croatian nationalists also bear a share of the responsibility for this extreme position, having practised discrimination against the Serbian population of Croatia, which fuelled Serbs' fears and contributed to their ultra-nationalistic stance.

14. Another factor which has contributed to the intensity of ethnic cleansing in areas under Serbian control is the marked imbalance between the weaponry in the hands of the Serbian and the Muslim population of Bosnia and Herzegovina. In 1991 war broke out between the newly independent Croatia, on one side, and the Yugoslav National Army and Serbian irregular forces in Croatia on the other. Muslims in Bosnia, then still part of Yugoslavia, sought to avoid mobilization and becoming entangled in the conflict, while part of the Serbian population of northern Bosnia joined militia forces fighting in neighbouring areas of Croatia. When Croatian independence was recognized and the Yugoslav army withdrew, many of the forces withdrawn were relocated in Bosnia. When they were subsequently "demobilized", very large stocks of military hardware remained in the control of Bosnian Serbs, and many of the "demobilized" troops remained in Bosnia to become the army of the Serbian de facto authorities. The Muslim population remained poorly armed.

15. The Special Rapporteur has received considerable evidence from many sources indicating that irregular paramilitary units have played a major role in ethnic cleansing, as well as in the commission of war crimes and other human rights violations. Paramilitary forces have been active on all sides of the conflict. Some well-known paramilitary leaders come from a criminal background and some employ professional mercenaries. Certain groups are large, with several thousand members operating under close control of their own leadership. Others are small bands, operating independently.

16. The existence of such groups has provided a useful excuse for political leaders looking for a plausible way to deny responsibility for atrocities and war crimes which they in fact condone. On the other hand, impartial observers agree that some such groups do in fact function with a degree of autonomy and that on occasion political leaders experience considerable difficulty in ensuring that their policies are implemented and decisions respected. Recently, there have been welcome signs that the most important paramilitary

/...

groups aligned with the Government of Bosnia and Herzegovina and with the Croatian community of Bosnia and Herzegovina are being brought under control, either by integrating them into the regular armed forces or by forcing them to cease operations.

2. Situation in Serbian-controlled areas

17. During his missions the Special Rapporteur received a substantial body of evidence describing ethnic cleansing in Bosnia and Herzegovina from victims, witnesses and competent international monitors. The following are excerpts from a report prepared on the basis of testimony, received during the second mission from a number of reliable sources, which illustrates the deliberate and methodical character of ethnic cleansing carried out by Serbian forces in the Prijedor area:

(a) On 30 April 1992, armed men from Banja Luka took control of strategic positions in Prijedor. Identity checks began, allegedly because of the failure of Muslims to turn in their arms. The elected head of the district, Mr. Cehajic, a Muslim, was obliged to make a statement on the radio indicating that the political authority had changed, and calling on the population not to resist and to surrender their arms. He was then removed from office, and his place was taken by a Serb.

(b) The following week most Muslim police and military officials surrendered their arms. The television and radio began to broadcast only programmes from Belgrade. Police identity checks intensified, and Mr. Cehajic and his staff were detained. Threats by armed men became more frequent, and for the first time some Muslims suffered beatings. Later in May many leaders of the Muslim community, such as teachers, physicians and religious leaders, had their homes searched and were detained.

(c) Between 23 and 25 May, the Muslim village of Hambarine, 5 km south of Prijedor, received an ultimatum: all weapons must be surrendered by 11 a.m. Then, alleging that a shot was fired at a Serbian patrol, heavy artillery began to shell the village and tanks appeared, firing at homes. The villagers fled to Prijedor. Witnesses reported many deaths, probably as many as 1,000.

(d) Shortly afterwards, on 26, 27 or 28 May, the Muslim village of Kozarac, 20 km east of Prijedor, suffered a similar fate. Citing the same pretext as in Hambarine, Serbian heavy artillery began to shell the town, following which an attack was launched by tanks and infantry. Some inhabitants, anticipating the attack, had dug shelters, and a few of them tried to resist with the meagre arms at their disposal. The combat lasted some seven days. Those who fled the village, including women and children, were detained in camps at Karmina, Omarska and Trnopolje. Mass arrests also took place, and those arrested were taken away in buses and trucks. The population, estimated at 15,000, suffered a great many summary executions, possibly as many as 5,000 persons, according to some witnesses.

/...

(e) The night of 29 May tanks and infantry took up position around Prijedor, citing the same pretext as at Hambarine and Kozarac. When the attack began, Serbs from the village guided the tanks to the homes of certain Muslims, and the inhabitants were asked to come out and show their identity documents. Many of those who did were summarily executed. According to witnesses, some 200 residents of a single street (Partisan St.) were executed, and a hundred homes were destroyed. During the attack the local radio continued to call for the surrender of arms, yet not one shot had been fired by the Muslims.

(f) When the artillery barrage stopped around noon, groups of extremists, probably under the control of the paramilitary leader Arkan, began executing people, taking their victims to the street and slitting their throats, according to witnesses. The bodies of the dead were carried away by trucks, which left a trail of blood. Those who were not killed on the spot were taken to a hotel, where they were transferred to a convoy which left in the direction of Omarska (see para. 31). In the aftermath, houses which had been too badly damaged were bulldozed, and their foundations covered with fresh earth. Five mosques were destroyed, and the Muslim cemetery was razed.

(g) In mid-July, more villages in the Prijedor region were attacked. Bicani and Rokovcahi, located some 5 km to the west of Prijedor, were attacked by artillery and mortars, followed by tanks and infantry. There were many casualties, and the survivors were sent to Omarska and Keraterm. Lubjica, a Croatian village, also suffered many casualties, as did Vugovici-Selo, a Muslim village which was shelled before being attacked by tanks and infantry. The population of Gornji Puharska was forced to leave by repeated searches, which sometimes culminated in summary executions; the destruction of its mosque led to panic, and caused the population to flee their homes and seek shelter in other buildings until such time as their departure was organized; in contrast to the fate of other villages, few homes were destroyed.

(h) During the second half of August, two convoys of Muslims wishing to leave Prijedor were organized. The first, consisting of some 500 persons loaded into trucks, headed off towards Travnik, in central Bosnia. It was joined en route by a second convoy containing a similar number of persons from the towns of Kluj and Sanski Most. At some point during the journey, the men in the convoy, some 20 in number, were separated from the women and children and executed forthwith, in the presence of their wives and children.

(i) In September the last remaining mosque in Prijedor, and the Catholic church, were destroyed by explosions 10 minutes apart, at approximately 1 a.m.

18. The Special Rapporteur spoke with many victims of ethnic cleansing, in particular in refugee reception centres in Travnik, Karlovac and Posusje and in the "transit" camp in Trnopolje. A witness from the village of Resanovci, south of Bosanski Petrovac, recounted several executions he observed personally during the "cleansing" of his village early in October, including two neighbours burned to death when their home was set afire, a local leader

/...

of the Muslim political party cut in half by a machine-gun fired at close range and three relatives whose throats were cut. He estimated that more than 60 persons were killed during two days of cleansing, including women and children.

19. In Bosnia and Herzegovina ethnic cleansing is practised systematically by Serbs in order to expel Muslims, Croats and smaller ethnic groups from areas under their control. In some such areas, including the area west of Banja Luka, the objective of ethnic cleansing has been largely accomplished. A large percentage of the Muslim and Croatian population has already left or is confined to a camp of one kind or another. The vast majority of the remaining Muslim and Croatian population is anxious to leave as soon as it is materially possible to do so. In other areas, including Banja Luka itself, a substantial percentage of the Muslim population has not yet fled, and many have not yet given up hope of being able to remain in their place of origin, despite the hardships they endure. In still other areas, such as the predominantly Muslim city of Jajce, in central Bosnia, which fell under Serbian control shortly after the return of the Special Rapporteur from his second mission, ethnic cleansing is in full force.

20. The methods used to implement ethnic cleansing in areas under Serbian control vary according to time and place. Some of those interviewed reported that they left due to harassment, discrimination and fear, without having personally experienced or witnessed atrocities. Indeed, some reported leaving due to warnings received from sympathetic Serbian friends and neighbours, or with their help. In other instances, ethnic cleansing has been accomplished through the use of the most cruel and merciless methods imaginable.

3. Situation in areas under Government and/or Bosnian Croat control

21. Information concerning the situation of Serbs in Bosnia and Herzegovina was received from Serbian refugees interviewed in Backa Topola, Bijeljina, Banja Luka and near Belgrade, as well as from Serbian prisoners interviewed in Bosnia and Herzegovina and from international observers having access to those parts of Bosnia and Herzegovina under government and Croatian control. Their testimony indicates that many Serbian refugees have fled, not because of any deliberate ill-treatment on the part of the Muslim or Croatian forces, but because they had been involved in the fighting, or because of the hardships of living in besieged cities. A man interviewed in Bijeljina, for example, indicated that he and some neighbours had taken up arms against the Bosnian forces and had fled when they suffered heavy losses in combat. Serbian refugees from Sarajevo indicated that the main reasons that they had fled were being obliged to live in basements, the constant fear and shortages of food, water and electricity. There have also been numerous reports of Serbian forces warning the Serbian population of towns and villages to flee prior to ethnic cleansing operations against Muslims and Croats. Encouraging Bosnian Serbs to resettle in areas under Serbian control is consistent with the nationalist aims and policy of the Serbian leadership in Bosnia and Herzegovina.

/...

22. Threats, arbitrary detention and ill-treatment or torture of prisoners also contribute to the flight of Serbs from Bosnia and Herzegovina. For example, a Croatian mother from Sarajevo, whose husband is a Serb, said that Muslim neighbours had told her that her children were Serbs, and would be killed. An elderly man from the Mostar area, under Croatian control, was detained for several weeks before being allowed to leave. During detention he suffered beatings and was forced to swallow lit cigarettes. Such abuse of Serbian detainees is commonplace. His wife was expelled to Serbian-occupied territory, together with other women from the same village.

23. Arbitrary detention of Serbian civilians is also practised. The release of detained persons often takes the form of an "exchange of prisoners". Consequently, the detention of Serbs in Bosnia and Herzegovina appears to be motivated, at least in part, by the need to obtain prisoners who can be exchanged for Muslim and Croatian prisoners held by the Serbs. For example, the delegation was informed of an exchange which had taken place in Stolic on 18 August, under the supervision of the European Community monitors. The Serbian forces exchanged 400 persons, all of whom were combatants. The Croatian forces also brought 400 persons, of whom some 300 were children, women or elderly persons. Similarly, some observers also consider that Serbs placed under house arrest or confined to certain villages are in effect hostages, retained in the hope that their presence may deter Serbian shelling of civilian population centres. It is thus arguable that in Bosnia and Herzegovina arbitrary detention by Serbs is used as a instrument of ethnic cleansing, while arbitrary detention of Serbs by Muslims and Croats is largely a response to ethnic cleansing.

24. Collective expulsion of Serbs, summary execution of Serbian civilians and razing of Serbian villages do occur. They do not appear to be regular practices, however, and in any event are certainly far less widespread than in Serbian-controlled areas. In the area now under the control of the "Croatian Community of Herzeg-Bosna", some cases of burning of Serbian homes have been reported, and the Special Rapporteur viewed one destroyed Serbian village near Tomislavgrad. Efforts have been made recently to dismantle the "HOS", the extremist Croatian paramilitary force reportedly responsible for these and other abuses, or to incorporate its members into the regular armed forces. Since then, incidents of this kind have ceased, according to international monitors.

25. In central Bosnia, under the control of the governmental Territorial Defence (TO) and the Croatian Defence Council (HVO), international observers informed the delegation of the razing of two Serbian villages. The reason for the destruction of Ponihovo, consisting of some 30 homes, is not known; Zepce, a smaller village, was reportedly destroyed after the inhabitants fired on government forces.

4. Destruction of religious sites and rape as features of ethnic cleansing

26. During the present conflict many mosques, churches and other religious sites, including cemeteries and monasteries, have been destroyed or profaned. All faiths have suffered such damage, including Muslims, Catholics, Orthodox Christians, Protestant denominations and the Jewish community. On his travels throughout the country, the Special Rapporteur was particularly distressed by the systematic destruction and profanation of mosques and Catholic churches in areas currently or previously under Serbian control. The systematic destruction of such holy sites suggests a deliberate effort not only to expel the Muslim and Catholic population, but also to erase the traces of their presence. The religious leader of the Muslims of Sarajevo indicated that the number of mosques destroyed was in the hundreds. In the diocese of Banja Luka alone Catholic sources provided the Special Rapporteur with a list of 12 churches which were completely destroyed, adding that 25 other churches had been wantonly damaged.

27. Rape is another repugnant feature of ethnic cleansing. Serbs and Muslims accuse each other of systematically raping thousands of women, in particular while in detention camps. This is a particularly sensitive allegation, both because of the inflammatory way in which these allegations are being disseminated by the parties to the conflict, and because of the need to put the moral and psychological well-being of the presumed victims above all other considerations. Thus far, the Special Rapporteur and his delegation have not had sufficient opportunity to investigate these allegations carefully and thoroughly. Nevertheless, specific cases which have been investigated by impartial sources such as UNPROFOR Civilian Police (UNCIVPOL), the Office of the United Nations High Commissioner for Refugees (UNHCR) and Amnesty International demonstrate that rape is a serious problem in this conflict. Moreover, the identity of the victims, who have included young girls, old women and members of religious orders, and the circumstances in which these crimes have been committed indicate that rape is deliberately practised as yet another method of expressing contempt and hatred for the ethnic group which the unfortunate victims are made to symbolize. Islamic clergy from Sarajevo emphasized that large-scale and systematic rape of Muslim women, often very young, is one of the most tragic aspects of the plight of the Muslim population.

B. Arbitrary detention and the treatment of prisoners

1. Situation in Serbian-controlled areas

28. The Special Rapporteur has had only limited access to prisons and other places of detention in Serbian-controlled Bosnia. During his first mission, he was denied access to prisoners in Manjaca military prison. During his second mission, the delegation was allowed to visit Batcovic detention facility, in north-eastern Bosnia. However, members of the delegation who intended to visit detention facilities near Prijedor were not allowed into the area. Nevertheless, considerable information was obtained from interviews with refugees who had recently been released from prisons in this area. This information confirms the conclusions of other international delegations which have visited prisons in this region, including CSCE and French missions, as well as reports prepared by various Governments whose representatives have interviewed refugees who are former prisoners. c/

29. The camp in Batcovic contained approximately 1,000 Muslim prisoners at the time of the visit, housed in two storage buildings. The prisoners did not complain of ill-treatment and, in general, appeared to be in good health. However, they sleep on straw bedding on the floor of cavernous unheated buildings, where living conditions will become intolerable as cold weather arrives.

30. Conditions in other prisons and detention facilities in northern Bosnia are or were much worse, according to interviews with former prisoners. A ceramic factory in Prijedor known as Keraterm was used to detain several hundred persons from the Muslim villages of Hambarine and Kozarac. During the second mission, members of the delegation interviewed two former prisoners who described in detail an incident during the month of July in which approximately 100 prisoners were fatally shot, and another 40 wounded, by machine-gun fire. The dead and wounded were taken away in the same truck by the Special Police and none of the wounded returned to the camp, raising fears that they too may have perished. During the days that followed, small groups of men were taken out, lined up against a wall and shot by machine-guns, according to the witnesses. They estimate that from 30 to 40 persons were killed on these occasions. According to other sources, the execution of these prisoners is believed to have been a reprisal for the death of the brother of the liaison officer of the local Red Cross responsible for this facility, who was killed in combat at Kozarac.

31. Another camp containing approximately 3,000 persons, mainly Muslims from Prijedor and the surrounding area, was located in the mining complex of Omarska. It was operated by militia from Omarska, with interrogations being carried out by militia from Prijedor. A single daily meal consisting mostly of bread, rice and water was provided. Torture was practised regularly, in a special building set aside for the interrogation of prisoners. One witness reported that prisoners were forced to run the gauntlet in order to receive their meals. A number of witnesses interviewed by different agencies on

/...

various occasions agreed that many prisoners were executed at this camp, and that political and religious leaders and professionals were particularly singled out for execution. One witness interviewed by the Special Rapporteur indicated that every morning an average of four or five dead prisoners were removed from the room in which he was detained, having expired during the night as a result of injuries suffered during beatings, poor nutrition and unsanitary conditions and lack of medical care. This prisoner had been detained in a room containing some 150 prisoners; if the same death rate is applied to the whole population of the camp, the daily toll would have been approximately 100 persons per day. Another witness put the death toll even higher. This camp is now reportedly closed, although many of the prisoners it contained are said to have been transferred to other places of detention.

32. Evidence of the killing of prisoners was also received from former prisoners who had been detained in Bileca and Sanski Most. A witness who had been detained in Sanski Most indicated that, after five days of interrogation accompanied by beatings, he was informed that he had been sentenced to death, and taken to a wooded area where the execution was to take place. There he managed to escape, thanks to the intervention of a Serbian officer with whom he was acquainted. A former prisoner who had been detained in Bileca indicated that those taken out for questioning returned with signs of severe beatings, and that 12 persons who had been taken out for interrogation never returned. Subsequently, when an exchange of prisoners took place, those in charge indicated that those 12 prisoners had escaped.

33. Despite being denied access to the Manjaca prison camp, the Special Rapporteur has received ample information about conditions there. Most sources give the number of detainees as being approximately 4,000 men, who are housed in large, open buildings formerly used as stables. Physical conditions were especially bad during the first several months after the detention facility was opened. Evidence of serious malnutrition, harsh discipline, strictly rationed water, poor sanitation, overcrowding, lack of proper medical care and beating of prisoners has been received from a variety of credible sources. Physical conditions have improved somewhat since the camp began to be visited by international bodies in August.

34. The administrators of this facility, who are officials of the army of the Bosnian Serbs, maintain that the prisoners are prisoners of war. However, other observers consider that most of them probably never bore arms, and were detained simply because their age and Muslim ethnic origin made them potential combatants in the eyes of the Serbian authorities.

35. The administrators of the Manjaca camp informed the Special Rapporteur that they looked forward to exchanging the prisoners at the earliest possible opportunity. This illustrates the role that detention of the Muslim and Croatian civilian population plays in ethnic cleansing: those deprived of liberty for no reason except their ethnic origin will be released only on condition that they leave Serbian-controlled territory. Few detainees are ever released and allowed to return to their homes in Bosnia and Herzegovina.

2. Situation in areas controlled by the Government
and/or Bosnian Croats

36. In Zenica the Special Rapporteur visited a prison operated by the Government of Bosnia and Herzegovina. A special section of the prison contained some 80 Serbian prisoners purportedly detained because of their support for the Serbian militia. In most cases these persons appeared to have been detained on mere suspicion based on their ethnic origin rather than any concrete evidence of material support for Serbian forces. The main concern of the prisoners, apart from the lack of any substantial reason for their detention, was beatings administered occasionally by guards during the night. No complaints were made about food, medical care or living conditions, and the prisoners indicated that the director of the camp was fair and humane. Several prisoners who had formerly been detained in Visoko prison complained that they had been subjected to ill-treatment and had been forced to dig trenches.

37. During a visit to Mostar, the Special Rapporteur went to a prison under the control of HVO and met with detained Serbian civilians. The main complaints were lack of outdoor exercise and lack of contact between spouses detained in the male and female sectors of the prison. Some of the female prisoners complained of having been raped while detained in a camp, prior to transfer to the prison. When concern with these allegations was expressed to the "Croatian Community of Herzeg-Bosna" authorities, they claimed that that camp had been operated by HOS, and that it had been closed by HVO because of the atrocities committed there.

38. Among the prisoners interviewed was a group of civilians who had been returned to prison after refusing to be exchanged because they did not want to abandon their homes and farms. The prison authorities indicated that they were all suspected of contributing in some way to the war effort of the Bosnian Serbian militia, who were very active in the region. The authorities admitted that the prisoners were being held "for investigation" and that no court system is functioning in the "Croatian Community of Herzeg-Bosna". Responsibility for determining who will be detained, and for how long, thus lies with the police or military authorities. One is left with the clear impression that no serious investigation into the commission of offences is made or even contemplated, and that the majority of prisoners are detained either because of their ethnic origin, or at best because of some wrong attributed to their village or neighbourhood.

39. The Special Rapporteur also visited a group of nearly 50 Serbian prisoners in Tomislavgrad, where they were working in a field. Once again, the main complaint was that the prisoners were deprived of liberty simply because of their ethnic origin, with no idea how long their detention might be expected to last and no way to demonstrate their innocence. The men agreed that they were treated properly by those responsible for the detention facility, located in a school, but that unknown persons - possibly members of

/...

the police or a militia group - sometimes came in the night to beat them. One man in his sixties showed the marks left by a severe beating received a few days earlier.

C. Other war crimes

40. Occurring as they do in time of war, ethnic cleansing, the arbitrary detention of civilians and the mistreatment of prisoners constitute war crimes as well as human rights violations. Other practices occurring in Bosnia and Herzegovina that also constitute both human rights violations and war crimes include the summary execution of civilians, the execution of wounded combatants, the indiscriminate use of military force against civilian population centres, and attacks on hospitals and failure to respect the Red Cross symbol.

41. The indiscriminate shelling of Sarajevo, which has caused countless civilian deaths, is well known. In addition to the physical danger, the shelling of civilian residential and commercial areas and the targeting of civilians by snipers cause great mental and psychological stress. The destruction of vital services, including water, sanitation and electricity, for which both sides share responsibility, has made living conditions primitive. The medical care available is also often primitive, owing to the shortage of medical supplies. In some cases, for example, serious operations have been performed without general anaesthesia. There is a critical shortage of heating fuel, and the great majority of residential buildings have suffered damage (such as broken windows) which leaves the residents at the mercy of the cold winter weather. The population is heavily dependent on food relief, yet flights and convoys bringing relief supplies continue to be attacked, despite agreements ensuring their safety. UNPROFOR forces responsible for ensuring the safety of relief operations also come under attack, and have suffered proportionately more casualties than in any other peace-keeping operation. During his second mission, the Special Rapporteur noted the progressive destruction of Sarajevo, as compared to his first visit in August 1992, as well as the physical and psychological deterioration of the population.

42. All sides are guilty of the use of military force against civilian populations and relief operations in Sarajevo. However, one cannot lose sight of the fact that the main responsibility lies with the Serbian forces, since it is they who have adopted the tactic of laying siege to the city. Indeed, Sarajevo is but the largest and best known of the cities besieged by Serbian forces in Bosnia and Herzegovina. During his first mission, members of the Special Rapporteur's delegation visited the Bihac pocket in north-western Bosnia, which was then and still remains under siege. Cities in eastern Bosnia and Herzegovina besieged by Serbian forces include Gorazde and Srebrenica. The central Bosnian town of Jajce, which had been under siege for several months, fell to Serbian forces in late October. In all such cities the basic pattern is the same: shelling of civilian population centres,

/...

essential services and facilities protected by international humanitarian law, in particular hospitals and places of worship, and interference with the delivery of humanitarian relief.

43. Since the Special Rapporteur submitted his first report to the Commission on Human Rights, a growing number of reports of summary execution of civilians have been received. Reports concerning executions committed in the course of ethnic cleansing and in detention facilities have been summarized above. Reports have also been received concerning execution in other circumstances, in particular the execution of persons who have fled their homes or who have been released from detention camps and are attempting to reach areas under the control of friendly forces.

44. During the second mission members of the delegation interviewed five persons who had witnessed an execution which took place in such circumstances. The following is a summary of their testimony:

(a) On or about 21 August, while detained in the Trnopolje camp, the witnesses were given the opportunity to board four buses which arrived at the camp in order to transport persons wishing to leave for Muslim-controlled central Bosnia. Before reaching Banja Luka, the buses were joined by six other buses and two police cars which escorted the convoy. South of Skander Vakuf, the convoy stopped on two occasions, to allow the Serbian militia and Special Police accompanying it to segregate the passengers by age and sex. The young and middle-aged men were put into two buses containing some 100 persons each. Not long thereafter, these two buses stopped again, at the edge of a steep ravine at the bottom of which lay a river or stream. The occupants of one bus disembarked and were ordered to form two lines, kneeling, along the edge of the ravine. After they complied, the police and militia opened fire with machine-guns. Three of the witnesses escaped execution by lunging quickly over the edge of the cliff. The men from the second bus were then taken off in groups of three, led to the edge and shot in the head at point blank range. Two witnesses from this bus also escaped by jumping off the cliff, one sustaining serious injuries during his fall. The police and militia later fired at the bodies from the top of the cliff.

(b) The witnesses reported finding decomposed bodies at the bottom of the cliff, suggesting that similar executions had taken place on previous occasions and corroborating published accounts of the testimony of other witnesses to similar executions in the same area on other dates.

(c) Within a week all five of the witnesses were captured and transferred to a hospital in Banja Luka, where they suffered severe mistreatment at the hands of militia guards. While in the hospital they witnessed the death due to beatings of a Muslim combatant reputed to have executed many Serbs.

45. One report of the summary execution of Serbian civilians was received in September. Negotiations led to an agreement that Serbian hostages from the

/...

city of Gorazde, under siege by Serbian forces, would be allowed to depart. However, the convoy evacuating them was attacked by Muslim forces, and between 100 and 200 civilians, including many women and children, were killed.

46. An incident involving the execution of combatants who had surrendered has also been confirmed. A report published by Helsinki Watch indicates that at least 13 Bosnian soldiers from Travnik who had surrendered to the Yugoslav National Army were executed summarily on the night of 15 May at Vlasic in central Bosnia. Autopsies indicated that the corpses of the 13 men, whose names are given, bore evidence of violent beatings and gunshot wounds inflicted at close range. The testimony of two surviving witnesses describes how the victims were killed as they were forced to crawl in a field, and identifies the force responsible.

47. The International Committee of the Red Cross (ICRC) has repeatedly stressed the need for the parties to the conflict in Bosnia and Herzegovina to respect the Red Cross symbol. The Special Rapporteur personally visited the hospital in Sarajevo and witnessed the damage caused by shelling. In one particularly grave incident, an ICRC convoy carrying medical supplies to a civilian hospital in Sarajevo was shelled, resulting in the death of an ICRC delegate and the injury of two others. While this is the only such incident involving a fatality to date, threats and harassment of ICRC and its personnel are frequent, handicapping its ability to provide humanitarian relief, to locate and pass messages to missing and separated relatives and to encourage respect for humanitarian law.

D. Humanitarian crisis

48. Bosnia and Herzegovina is in the throes of an acute humanitarian crisis, caused by ethnic cleansing and the war. The population of Bosnia and Herzegovina is estimated at 4 million persons. UNHCR, which has overall responsibility for humanitarian relief in Bosnia and Herzegovina, estimates that there is a risk that 10 per cent of the population will die during the winter as a result of malnutrition or starvation, combined with inadequate protection from the cold and lack of medical care. The death toll from these causes will very likely surpass, by far, the thousands who have already died in combat and during ethnic cleansing.

49. The humanitarian crisis has several dimensions. The groups most directly affected are the displaced, the population of besieged cities and those attempting to flee ethnic cleansing, especially those in camps. During his second mission the Special Rapporteur was able to observe all the aspects of this crisis: he again visited Sarajevo, as he had during his first mission; he visited centres for displaced persons in Travnik and Posusje, and he visited a camp in Trnopolje for persons waiting to flee northern Bosnia.

50. Conditions in the camp in Trnopolje, where 3,600 to 4,000 persons have gathered hoping to flee ethnic cleansing by Serbs, are shocking. In October

/...

1,560 detainees were removed and taken to Croatia by ICRC as part of a plan to release all civilians in detention. Not all the detainees were evacuated, however, and the camp was filled with twice as many persons from neighbouring villages who, in their desperation, viewed the camp as a possible way to escape from Serbian-controlled territory. At the time of the visit 3,600 persons were crammed into three buildings and a few small houses, where they live in unspeakable squalor, sleeping on thin blankets and lice-infested straw, drinking contaminated water and surviving on minimum rations of bread. A physician accompanying the Special Rapporteur found that an upper respiratory infection was spreading rapidly, and that many children and adults were suffering from diarrhoea, presumably from contaminated water and very poor sanitation. Persons suffering from conditions requiring medication, including diabetics and heart patients, had no access to needed drugs. Fear of the guards who control the camp was easily perceived.

51. The camp is described by authorities as an "open" one, where the occupants can leave at will. However, the very reason that they have fled to the camp is to escape the danger to their lives and safety in the surrounding villages and towns. Since the occupants are not recognized as either detainees or refugees, only limited assistance is received from international agencies. The Special Rapporteur personally witnessed the devastation of this region, including many burned houses and razed villages. He also has received information concerning camps at other locations in northern Bosnia, which it has not yet been possible for him to visit, indicating that more persons may also be confined in similar conditions there.

52. The Special Rapporteur also witnessed dramatic conditions in reception centres for displaced persons in Travnik and Posusje. At the time of his visit, Travnik, a town of 19,000, had to accommodate 14,000 displaced persons. Since then, the fall of Jajce has led to a new exodus of some 15,000 persons. Because of the brutal treatment many of these displaced persons endured during their flight (see para. 44), many arrive in Travnik with no possessions other than a minimum of clothing, and some of them require medical treatment for injuries. Although some aid has been received, in particular blankets, food was in very short supply. Young children received only two meals a day and older children and adults only one meal, of poor quality. Moreover, the influx of displaced persons, together with the disruption of farming and supply routes by the war, was creating a food shortage affecting the entire population of this area. In Travnik and Posusje much of the displaced population is provided temporary shelter in schools and other public buildings not intended for residential purposes. Such shelters are extremely crowded, with people sleeping in rows on the floors of classrooms and corridors. Sanitary facilities are completely inadequate for the large numbers housed there. Since the visit, fighting between Muslims and Croats has broken out in Travnik and neighbouring towns, creating new dangers for the displaced population.

53. In Sarajevo, the Special Rapporteur witnessed the further destruction inflicted on the city since his visit in August, and the further deterioration

of the physical and psychological state of the inhabitants. Efforts to restore water and electricity, which were cut off around the time of his first visit, have failed because the parties refuse to allow the repair work to proceed. Ninety per cent of the teams sent to repair electrical lines have come under sniper fire. Fire-fighters likewise often come under fire when they respond to fires caused by shelling. Food is increasingly scarce, and many inhabitants have not eaten meat or vegetables for months. Lack of adequate shelter and fuel for heating are major problems, and will soon become life-threatening ones with the onset of winter. Conditions in other besieged cities throughout Bosnia are less well known, and very possibly worse.

54. According to UNHCR estimates provided early in November, the number of refugees and displaced persons from Bosnia and Herzegovina is 1.5 million. Of this number, some 322,000 have sought refuge in Serbia and Montenegro and some 400,000 have fled to Croatia. The number of displaced Bosnians remaining in Bosnia and Herzegovina is thus approximately 770,000. Since the war and ethnic cleansing continue unabated, the number of displaced continues to rise.

55. Forty-five per cent of the displaced are children and 30 per cent are elderly. These two groups are particularly vulnerable to the health risks due to malnutrition and cold, as well as the psychological harm due to uprooting and the separation of family members.

56. UNHCR estimates that the population in need of assistance throughout Bosnia and Herzegovina is 1.6 million. However, the parties to the conflict, in particular the Bosnian Serbs, continue to raise obstacles to the delivery of aid. The amount of aid reaching Sarajevo by air falls short of the target required to sustain its population of 380,000, mainly as a result of shelling which frequently prevents relief flights from landing at the airport. The main paved highway from Split to Sarajevo, which could also provide access to 380,000 persons in need of relief in central Bosnia, is only open sporadically. In recent weeks, some relief convoys have been ordered back, and at least one has been shelled. During his second mission the Special Rapporteur travelled to Vitez, where UNHCR maintains a relief distribution centre for central Bosnia, over the narrow, unpaved, mountainous route which has become known as Salvation Road. Whether or not it would be possible to keep this road open throughout the winter, as planned, is doubtful. Moreover, a new obstacle has arisen: days after the visit by the Special Rapporteur the road was closed due to the outbreak of hostilities between government forces and the HVO militia of the Bosnian Croats.

57. The local relief organizations Caritas, Merhamet and Dobrotvor play a valuable role in distributing aid to those in need. Foreign non-governmental organizations also make commendable efforts to provide badly needed relief, although effectiveness would be enhanced by better coordination between private efforts and UNHCR.

58. Delivery of humanitarian aid in areas under Serbian control is also a problem, although of a different nature. There are an estimated 50,000 displaced Bosnian Serbs in areas of Bosnia and Herzegovina under Serbian

/...

control, as well as an estimated 100,000 Serbian refugees from Croatia. The Special Rapporteur had the opportunity to meet Serbian refugees in the Banja Luka region. While they experience some hardships, their living conditions are far better than those in the reception centres for Muslims and Croats that he visited. During the second mission the Representative of the Secretary-General on internally displaced persons also had the opportunity to speak with displaced persons and local authorities in Bijelina. There, he interviewed a Serbian refugee whom the authorities had housed in the home of a Muslim who is working abroad. After further investigating the circumstances, the Representative came to the conclusion that Muslims are being forced to leave the area by a variety of means, and that their homes are being used without their consent to accommodate Serbian refugees. Thus, the resettlement of Serbian refugees in this fashion is part and parcel of ethnic cleansing.

59. The most critical problem in the areas under Serbian control is the fate of those persons who have fled into what might be called transit camps and, in general, the population which is the victim of ethnic cleansing in these areas. The needs of this population are twofold: access to humanitarian relief, including food and medicine, and protection against violence. The violence which is used in these areas as an instrument of ethnic cleansing has been described above. Serious difficulties in the distribution of humanitarian aid also exist, owing to the hostility of local officials, and even local agencies purportedly committed to the humanitarian cause, towards Muslims and Croats. In some towns Muslims and Croats are denied medicine or medical care, and food is distributed only to those who fight for the Serbian cause and their families. In Prijedor, officials of the local Red Cross have been accused not only of refusal to distribute food aid to Muslims, but also of direct participation in ethnic cleansing.

60. The obstacles to meeting the needs of this population are at once obvious and formidable. Unless these needs can be met, lives will continue to be lost, the humanitarian crisis in other areas will worsen, and it will become increasingly difficult to think in terms of an honourable political solution to war in Bosnia.

III. CROATIA

61. During his two missions to the country, the Special Rapporteur received numerous allegations of human rights violations occurring in the Republic of Croatia.

62. In particular, the Special Rapporteur received information which reveals that ethnic minorities living in the Republic of Croatia remain vulnerable to human rights violations. For example, a number of organizations representing the Serbian minorities assert that the criteria prescribed for obtaining Croatian citizenship discriminate against residents of non-Croatian ethnic origin. The organizations charge that ethnic Croats automatically obtain citizenship regardless of the place or duration of their past residence, while

/...

minorities living in the Republic of Croatia, despite often long-term residence, commonly experience up to six-month delays or are simply refused citizenship.

63. In his meeting with the Minister of the Interior, the Special Rapporteur expressed his concern over reports of discrimination against ethnic minorities in areas under the Government's administration, with particular reference to discriminatory practices relating to the right to citizenship. The Minister acknowledged that problems did exist in the process of obtaining citizenship, but claimed that delays of up to six months were a result of technical problems rather than discrimination. He stated that of the 3,000 people whose applications have been refused, all have been allowed judicial review of the decision.

64. Despite an existing legal framework guaranteeing equal rights for all Croatian citizens, as adopted in the Constitutional Law on the Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia, passed in 1991 and amended in April 1992, the Special Rapporteur has received information of human rights violations which are incompatible with those standards. A considerable number of cases have been brought to his attention, including cases reported by the European Community Monitoring Mission (ECMM) and in the latest CSCE report. Methods of harassment include the destruction and confiscation of property, arbitrary arrest, the dismissal from employment and verbal as well as physical abuse.

65. The Special Rapporteur has received additional information that ethnic minorities who cannot obtain citizenship have, as a consequence, lost the right to maintain private business activities, to possess or sell real estate, and to free education in secondary schools and universities. ECMM has expressed concern over the confiscation if not destruction of homes belonging to ethnic minorities in the Split region, a policy which has at times become systematic. ECMM has also expressed concern over the imprisonment of ethnic minorities who have no previous political or military involvement for the sole purpose of using these people - including women, children and the elderly - in prisoner of war exchanges.

66. There have been reports as well of torture and mistreatment of Serbs in Croatian police and military custody. The Special Rapporteur received such testimony from witnesses in the Split region, including a Serbian resident who stated that he was arrested "without reason, drugged, tormented" and imprisoned. He claims to have no previous political affiliation. He was released during a prisoner exchange but his personal property, including his apartment and cash savings, were confiscated during his detention and have not been returned and he is forbidden to return to Split.

67. During their visit to Split, members of the delegation interviewed a Serbian resident of Croatia who, having already lost his job as a result of his ethnic background, continues to receive threats that his home will be

/...

destroyed. The man was temporarily detained by Croatian military police who, he claims, badly mistreated him. His experience is common to Serbs living in the Split region.

68. The Special Rapporteur has received information from the most recent CSCE report concerning the arbitrary arrest of Serbs (report of 5 October 1992). In most of the cases reported, Serbs are charged, despite lack of evidence, with "rebellion against the State" under section 236(f) of the Criminal Code of Croatia. There have also been reports of cases of torture and mistreatment of Serbs in Croatian police or military custody. The military prison of Lora near Split was singled out in this regard.

69. According to the CSCE report, the names of Serbian intellectuals have been published in newspapers in the form of a "wanted" list and that, if located, these people may be arrested. Concern is also expressed in the report over the legal action "pursuant to section 236(f) of the Criminal Code of Croatia [which] has been taken against some 20,000 Serbs, many of whom have been tried in absentia". It should be recalled that, in his first report, the Special Rapporteur expressed his concern over the published lists of citizens of Croatia which indicated their ethnic origin and were widely distributed, and even available for sale to the public. The circulation of such lists facilitates discrimination and harassment throughout the society. Tens of thousands of persons have reportedly lost their jobs as a result. On that occasion, the mission was informed that ethnic Serbs suffer discrimination in the exercise of their political rights, in education and in their right to a pension (A/47/418-S/24516, para. 27).

70. The Special Rapporteur is concerned that human rights are threatened by an escalation of nationalist ideology which marginalizes not only ethnic minorities, but also those Croats who are critical of the present Government. This is felt by intellectuals in particular. This phenomenon is fuelled by the continuation of strict government control over radio and television. The privatization process of the media is also encountering problems, thus limiting journalistic freedom.

71. Serbian Orthodox clergy based in Zagreb reported several incidents of the destruction of church property in the Republic of Croatia. This issue was raised by the Special Rapporteur in his meetings with Croatian authorities, who asserted that the defacing or destruction of such buildings other than as a result of armed conflict was a criminal offence and would be treated as such.

72. A particular problem for Croatia is the continuing influx of refugees into the Republic. According to UNHCR, there are approximately 631,000 refugees in Croatia. Many refugees residing in Croatia live in difficult conditions and the Croatian Government is unwilling to receive a further influx.

73. Members of the delegation visited two refugee centres in the cities of Karlovac and Varazdin. The number of refugees in Karlovac varies as the

/...

centre is used as a transit point for further travel. The delegation noted that, although the centre's facilities appeared relatively clean and food and water supplies were ample, there was no heating to counter the already piercing October chill. UNHCR felt that the refugees (mostly male Bosnian Muslims), although in relatively good physical health, were psychologically deeply traumatized.

74. The situation of the refugees in Varazdin was more disturbing. Over 3,000 refugees are housed primarily in public buildings which are no longer used. The particular site visited by the delegation was heavily crowded and lacked not only heating but basic sanitary facilities. There was no access to even basic medical care. Many refugees complained that they lacked official refugee status. In this respect, UNHCR confirmed that the refugees in the centre fall into the category of "not registered", following the decision of Croatia of 13 July 1992 not to register refugees from Bosnia and Herzegovina. This had implications on the assistance side, but also raised protection concerns.

75. The Special Rapporteur has been informed that occasionally Muslim refugees are sent back to combat in Bosnia and Herzegovina. A refugee in Varazdin described his deportation to the Bosnian border by Croatian authorities, together with a truckload of male refugees, in an unannounced midnight "roundup". The men were then forced to fight with Bosnian militias despite their desire to leave the conflict area as refugees. The witness interviewed managed to return to Varazdin. He fears the possibility of further "roundups". The Special Rapporteur raised this problem with Croatian authorities who admitted that the "roundup" was not an isolated case, but stated that only criminals are taken back to the Bosnian border. However, the arbitrary nature of these incidents casts doubt on the explanation given.

76. Because accepting more refugees would be a considerable burden on the Republic of Croatia, thousands of refugees fleeing for their lives are, at present, being refused permission to cross the border. For this reason, UNPROFOR, which controls much of the border between Bosnia and Herzegovina and Croatia, is being forced to limit their entry into the United Nations Protected Areas (UNPAs). Many displaced Muslims have been turned away at the border and some of those persons who have already crossed it, including those of military age, are being sent back by both UNPROFOR and the Croatian authorities. It is extremely regrettable that UNPROFOR has been forced to violate the principle of non-refoulement.

A. United Nations Protected Areas (UNPAs)

77. UNPAs have been created in the following areas: western Slavonia (Sector West), eastern Slavonia (Sector East) and Krajina (Sectors North and South). In most regions within UNPA borders, Serbian groups maintain de facto rule. During the second mission, members of the delegation visited Sectors East and South, where UNPROFOR and UNCIVPOL are experiencing extreme difficulty in

/...

implementing the United Nations Peace-keeping Plan, in particular in relation to the demilitarization of the population, the demining of the area and the return of refugees.

B. UNPA Sector South

78. In Sector South, part of the so-called "Republic of Krajina", local authorities practise discrimination. Courts are still not functioning properly and the investigative processes of the local police have, in the opinion of UNPROFOR officials, almost ceased to exist. This is of great concern to United Nations staff, who collect evidence of murders, robberies, looting and other forms of criminal violence often related to ethnic cleansing. Where, in accordance with their mandate, such evidence is transferred to the local authorities, the latter are reluctant to take action, if not overtly uncooperative. UNPROFOR officials explained that Serbian militias which were to be disbanded have, in many cases, simply "changed uniforms", often working under the auspices of such groups as the Special Police, Border Police or Multi-purpose Brigades. Until demilitarization has been completed, UNPROFOR officials believe they cannot guarantee the security either of refugees hoping to return or of the remaining minority populations.

79. Many people are desperate to flee the area. Yet before being granted permission from local authorities, these persons are often forced to sign a statement that their departure is voluntary, thus confusing the legal status of their property as well as erasing evidence of ethnic cleansing. UNPROFOR officials are deeply concerned over the safety of these people as well as over the reallocation and use of abandoned houses.

80. The Special Rapporteur is particularly concerned for the welfare of the many thousands of Muslims who have fled to UNPA Sector South from massacres in regions south and south-east of Bihac. The atrocities which provoked this flood of refugees were instigated by, among others, a Serbian paramilitary group claiming to work under the leadership of the notorious Arkan, a paramilitary leader known for his brutality. The areas through which refugees must travel to reach Sector South are combed by Serbian paramilitaries. According to credible sources, Arkan maintains considerable support amongst local Knin authorities. UNPROFOR officers believe that the number of fighting forces under the Knin authorities may well total 16,000 armed men.

81. The Special Rapporteur is also concerned by the possibility of Serbian forces in the Krajina region resorting to terrorist acts. During his second visit the Special Rapporteur was informed that the Peruca High Dam, south-east of Knin, is in poor condition and is situated in an area which has yet to be demined. Although UNPROFOR is now in control of the dam site, a CSCE report has expressed fear that "Knin authorities might threaten to destroy the dam, which would result in an ecological disaster and endanger the lives of 40,000-50,000 people" who reside in the Dalmatian region. The report also

/...

notes the vulnerability of a store of explosives near Zemunik airport which "could, if detonated, cause a seismic tremor" endangering the surrounding population of some 135,000 people.

C. UNPA Sectors West and North

82. Although the Special Rapporteur was not able to visit UNPA Sectors West and North, he has been informed by UNPROFOR officials that, in Sector North, a few formerly dislocated families have returned to their respective homes. Unfortunately, these officials believe the cases are an exception, and they are not optimistic about the future.

D. UNPA Sector East

83. The severe problems occurring in Sector South are also prevalent in Sector East. Serbian militias frequently regroup under special police units. Ethnic cleansing continues to be carried out by militias and local Serbian authorities. The few Croatians, Hungarians, Ukrainians and Slovaks who have not yet left voluntarily are faced with persistent, and often extremely violent, forms of intimidation.

84. Catholic churches have been destroyed in an attempt to erase all forms of non-Serbian institutions. Serbian refugees from other areas of fighting are being placed in the empty homes of those who have fled. UNPROFOR cannot guarantee the security of victimized families despite the placing of United Nations soldiers in targeted homes, and its officials express a sense of powerlessness to curb the violence. In effect they have not been able to demilitarize all armed groups and secure the safety of persons of non-Serbian ethnic origin who still live there or who have expressed their desire to return.

85. UNPROFOR officials have witnessed the export of feed, harvests and even livestock from UNPA Sector East into Serbia, but believe few supplies are being imported to replenish supplies. UNPROFOR is thus concerned over the possibility of widespread starvation this winter.

86. The Special Rapporteur places much emphasis on the tracing of some 2,000 to 3,000 people who apparently disappeared after the fall of Vukovar in 1991. On the basis of testimony given by witnesses from Vukovar, the forensic expert accompanying the Special Rapporteur on his second mission located a potential mass grave site approximately 2 km south-east of the farming village of Ovčara, near Vukovar. Scattered on the surface of a 10 x 30 m area of disturbed earth were four partially exposed human skeletons. All four were the remains of young adult males bearing skeletal signs of perimortem trauma. In the opinion of the forensic experts, these skeletons appear to be eroding out of a mass grave which may contain many more bodies. The discovery is significant because it appears to confirm witness evidence bearing on the disappearance of about 175 persons from Vukovar hospital during the evacuation

/...

of Croatian patients from that facility on 20 November 1991. The Special Rapporteur has requested that UNPROFOR provide round-the-clock protection of the site and that an international team of experts begin an exhumation of the grave. Such a team could also investigate other potential sites. UNCIVPOL officials have reported that there are at least eight mass graves in the area, but this requires further investigation.

87. The Special Rapporteur has informed the Commission of Experts recently established under Security Council resolution 780 (1992) of 6 October 1992 of the foregoing and considers that this matter should be pursued further in the framework of the Commission.

IV. SERBIA

88. During his first two missions the Special Rapporteur studied the general situation of human rights in Serbia as well as questions concerning the rights of minorities and ethnic groups. The Special Rapporteur discussed these questions with representatives of the federal and republic Governments, as well as with representatives of a wide variety of organizations and political parties. There are significant differences between the views of federal and republic authorities concerning compliance with pertinent human rights standards in Serbia. The federal Government admits that the situation is far from being satisfactory, and a newly established federal Ministry of Human Rights and Minorities is taking some steps aiming at the improvement of that situation. However, the federal Government has limited competence and influence in this regard, compared to the competence of the Governments of the republics which make up the federation, i.e., Serbia and Montenegro. The leadership of the Republic of Serbia maintains that human rights are fully protected in its territory.

89. However, there is a considerable discrepancy between legal rules and norms and the actual implementation of such standards. The Constitution of the Federal Republic of Yugoslavia, promulgated on 27 April 1992, contains a broad catalogue of fundamental human rights and freedoms.

90. The absence of a democratically approved constitutional order and a firm commitment to the Constitution on the part of some political authorities, together with lack of effective procedures and mechanisms for the protection of the human rights and freedoms recognized in the Constitution, are two factors which contribute to this situation.

91. The influence of the communist system of government, with tight control of the State by political leadership and lack of an effective system of checks and balances, is still strong. In many instances and under various guises the dominant political forces are in effect the heirs of the former Communist Party. Although their political goals have been redefined, administrative and political structures are still largely run by the same persons who wielded power in the past. It can be argued that the ruling élite has turned to nationalistic slogans and is using them as a method of preserving its privileged position and power.

/...

92. The human rights situation in Serbia is also strongly influenced by military conflict in neighbouring republics, the economic situation of the country and the lack of an effective democratic system. All these factors are interdependent.

93. The lack of more rapid progress towards the development of modern democratic institutions is due, inter alia, to the war in Bosnia and Herzegovina. The CSCE fact-finding mission pointed out, regarding the elections in Yugoslavia originally scheduled for 31 May 1992, that "the fairness of any elections in Yugoslavia will be debatable as long as hostilities continue Nationalistic fervor and a lack of democratic development have shrouded the people ... in a cloak of misinformation and an atmosphere of distrust".

94. The declining economy, hyperinflation and rapid deterioration of the standard of living have led to an atmosphere of general frustration and growing tension. It should also not be forgotten that Serbia and Montenegro have received some 500,000 refugees from Croatia, Bosnia and Herzegovina and Slovenia. A rapid growth in the crime rate has occurred, creating a feeling of insecurity among a large part of the society. The economic sanctions imposed by the United Nations in accordance with its Charter have also had an effect upon the everyday life of people. In official propaganda, the sanctions are described as punishment or blackmail. Only some democratic Serbian groups openly admit that sanctions have been imposed upon the authorities in Serbia because they bear main responsibility for threatening international peace and security in the region.

95. The information blockade which has existed since the beginning of hostilities in the former Yugoslavia has far-reaching consequences. The Government-controlled electronic media and press have been engaged in a one-sided and nationalistic propaganda campaign. The official media have done nothing to distance themselves from the politics of intolerance and, as a result, have fed the fires of hatred. In doing so, they blatantly disregard a well-established rule of international human rights law which prohibits advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. It is to be recalled that in developments leading up to the bloodshed in that region, neutral television stations, such as the "Jutel", were silenced in both Croatia and Serbia, while in other instances some journalists were dismissed and others put in their place.

96. It has been observed that quite often facts are distorted, data falsified and sometimes atrocities invented or deliberately exposed in order to contribute to an atmosphere of mutual hatred. Media are using offensive and abusive appellations. The activities of various international bodies are presented in a false light and the atmosphere of siege has been created. Democratically inclined opposition political parties and human rights movements have very limited access to television and radio, and little opportunity to make their views known to the society as a whole.

97. The citizens of Serbia are deprived of the effective methods used in a democratic society to influence the policy of their Government. As a result, the Serbian population at large is a victim of the consequences of a policy which it cannot influence. This confirms once again the notion that full enjoyment of human rights is impossible without democratic development in a society.

98. The human rights situation in Serbia, in particular the development of political rights and freedoms, will have a very strong influence on the situation throughout the region.

A. Kosovo

99. Since the inception of his mandate, the Special Rapporteur has received alarming reports from various sources inside and outside the country describing the tense situation in Kosovo, in particular as regards the different forms of discrimination suffered by the Albanian population, which constitutes the majority.

100. One of the major current problems brought to the Special Rapporteur's attention concerns discrimination against Albanians in labour relations. Since the administration in Kosovo was taken over by the Serbian Government on 5 July 1990, thousands of ethnic Albanian workers in government and public enterprises have been dismissed from their jobs and many were replaced by workers from Serbia and Montenegro. In this regard the Special Rapporteur was provided with the official gazette of the Socialist Republic of Serbia dated 30 March 1990 containing a programme for the establishment of peace, liberty, democracy and prosperity in the autonomous province of Kosovo. Paragraph 17 of the operative plan of this programme stated that workers from Serbia and Montenegro were to be sent immediately to Kosovo to replace striking Albanian workers who were subsequently dismissed. The same paragraph called for the promulgation of laws facilitating the recruitment of Serbian and Montenegrin workers in Kosovo.

101. Subsequently, on 26 July 1990, the Serbian parliament passed a law, called "Special Circumstance", on labour relations in Kosovo which facilitated dismissals based on arbitrary criteria and at the same time allowed recruitment of Serbs for posts in Kosovo. Workers of Albanian origin were obliged to sign, before being hired or in order not to be dismissed, a document attesting that they accepted the political and other measures taken by the Serbian authorities in Kosovo. According to many reports received, those who refused not only lost their jobs but many were expelled from their apartments. Many workers were dismissed because they persisted in using the Albanian language at work while the authorities had ordered the use of the Serbian language and the Cyrillic alphabet in public.

/...

102. It should be noted that the mass discrimination against Albanian workers in Kosovo is contrary to the International Labour Organisation (ILO) Convention concerning Discrimination in Respect of Employment and Occupation, 1958 (No. 111), the Convention concerning Freedom of Association and Protection of the Right to Organise, 1948 (No. 87), and the Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, 1949 (No. 98) to which Yugoslavia is a party. The International Labour Office has reported that industrial plants have been dismantled and transferred to Serbia. The textile factory "Kuzla" in Glogova and the construction firm "Put" have been closed and the machinery sent to Serbia. In Jakovica the central telephone system was dismantled and sent out of Kosovo without being replaced.

103. Furthermore, ILO provided the Special Rapporteur with copies of the following allegations submitted by the Union of Independent Trade Unions of Kosovo: (a) Yugoslav authorities have refused to give effect to the Union's application for registration; (b) the authorities concerned have refused to recognize the Union as an interested party in the collective bargaining process; (c) many workers and trade union officers who are members of the Union have been dismissed by reason of their participation in a strike and their refusal to be members of the Serbian Trade Union. These allegations are at present under consideration by the competent ILO organs.

104. Over 300,000 Albanians decided to leave Kosovo during the past three years, since they were not able to sustain a minimally adequate living there. Many observers fear that this movement is being provoked in many ways by the Serbian authorities and will progressively change the ethnic structure of Kosovo.

105. The policy of mass dismissal has also affected the education system. With thousands of teachers dismissed because they refused to teach the new curricula instituted by the Government of the Republic of Serbia in 1990, there has been a gradual loss of access to education by students of Albanian origin. This has not only affected primary and secondary education but also the university level. It has been estimated that some 400,000 children in Kosovo have not attended school for approximately two years because many parents did not agree to their children being taught according to the Serbian curricula. The Special Rapporteur has been informed that some dismissed Albanian professors have been offering private instruction, but in some instances police have reportedly prevented pupils from attending these courses.

106. Albanian organizations have reported that over 27,000 teachers have not been paid since April 1992. More than 800 university staff were said to have been dismissed. Reportedly, there are still a few primary schools following curricula in Albanian, but no secondary schools teach the Albanian language. On 12 October 1992, tens of thousands of Albanians demonstrated for one hour in Prishtina as well as in other towns of Kosovo, demanding the re-establishment of Albanian curricula in schools instead of teaching systems imposed by the Serbian authorities.

/...

107. Another serious problem concerns freedom of information. Although the Serbian administration informed the Special Rapporteur that the Albanian community had more than 15 hours of radio programmes per day and was permitted to publish 15 periodicals in the Albanian language, the Albanians reported a much more restricted policy. According to them, only four periodicals are being published in Albanian at the present time, namely, Bujku (5-6 issues a week), Shkendija and Fjala (both once every fortnight), and Zeri (once a week). The existing limitations are also due to the fact that the entire printing and distribution system is controlled by the Government. As regards Albanian radio programmes, the Special Rapporteur was informed by leaders of the Albanian community that on average only some 15 minutes per day were being broadcast in Albanian, consisting mainly of a translation of a Serbian news programme. However, occasionally, especially during the visit of foreign missions, Albanian programmes are extended.

108. According to Albanian sources, 296 Albanian judges have been dismissed without reasons being given for their dismissal; moreover, Serbian judges have been appointed in their place. In addition to these arbitrary dismissals there are serious doubts about the independence of the judiciary. Furthermore, Albanian attorneys have very limited access to files, which also threatens the impartiality of the administration of justice.

109. Amnesty International reported recently that 19 ethnic Albanians were tried by the district court in Pec on charges of "association for the purpose of carrying out hostile activity" and "undermining the territorial integrity of Yugoslavia" under articles 116 and 136 of the Criminal Code of Yugoslavia and received prison sentences of between one and seven years. Many irregularities, especially with regard to the role of lawyers during the trials, have been reported regarding these cases.

110. Many allegations have been received concerning torture in police stations as well as police brutality against demonstrators, university students and high school pupils. The most frequently alleged form of ill-treatment consists of beatings with rubber truncheons and rifle butts. Complaints against the perpetrators of such abuses have frequently remained without result.

111. The Special Rapporteur on the question of torture and the medical expert accompanying the mission visited the municipal prison in Prishtina. In this prison pre-trial detainees were held together with prisoners who had been sentenced for up to six months. Testimonies were heard about an alleged case of severe maltreatment. After having consulted the file, including medical data, they came to the conclusion that it was improbable that the alleged maltreatment had occurred.

112. They also interviewed 25 witnesses who in various towns in Kosovo had been victims of police brutality when mass demonstrations against the closure of schools were violently dispersed on 12 and 13 October 1992. Without exception, their bodies showed severe bruises and sometimes serious wounds, e.g., of the eyes. It was said that the authorities had been duly given seven

/...

days' notice about the planned demonstrations and that, since no reaction had been received, the demonstrations were legally authorized according to the law. However, when the crowd gathered the police massively attacked the demonstrators with truncheons without giving the usual order to disperse. A great number of persons were severely injured and some of them had to be hospitalized; in one case an ear had been hewn off. A number of those arrested were detained in police custody in spite of their injuries. Some of those arrested were released after a few hours, while others were summarily tried and given prison sentences of up to 60 days.

113. Allegations that Albanian doctors were dismissed from the hospital at Prishtina and that Albanian patients were discriminated against were also received. The medical expert, together with other members of the mission, visited the adult medicine in-patient wards of the hospital. The hospital staff they met were apparently Serbs. However, patients included members of all ethnic groups and medical treatment, as revealed by patients' charts, seemed appropriate. Albanian patients told the members of the mission that they had received only the initial doses of their medications from the hospital; all subsequent doses had to be purchased by family members from Albanian pharmacies and brought to the hospital. Such information was confirmed by the hospital staff but it was not clear whether this was true of all patients. Hospital physicians reported significant but not desperate shortages of medicines - antibiotics, drugs for chemotherapy and the like - and indicated that these were a consequence of the sanctions. Hospital physicians also confirmed that the primary reliance of the Albanian population was on private clinics and that they often received emergency cases that had proved to be too complex for their limited facilities. It seemed clear to the mission that medical care in Prishtina, similar to other aspects of political, social, economic and cultural life, was affected by deep mistrust between the Albanian population and the Serbian authorities.

114. It is to be hoped that the recent initiative taken by the Prime Minister of the Federal Republic of Yugoslavia, Mr. Milan Panić, with a view to establishing a dialogue between Albanians and Serbs in Kosovo, will produce positive results. In a meeting with the Special Rapporteur, Prime Minister Panić expressed his desire to stop human rights violations and discrimination against Albanians. He also agreed with the suggestion of the Special Rapporteur that the media should not exacerbate tensions in the territory of the former Yugoslavia. The approach of Prime Minister Panić is, however, violently rejected by Serbian extremist groups, which are active in Kosovo. Although the prevailing attitude of most ethnic Albanian leaders at the present time is prudent and patient, there is considerable potential for an outbreak of violence, the consequences of which it is impossible to predict. A large number of Yugoslav troops are stationed in Kosovo and recent information indicates that their number is on the increase.

B. Sandzak

115. The attention of the Special Rapporteur had been drawn by different sources to the dangerous situation which exists in Sandzak. The Special Rapporteur on extrajudicial, summary or arbitrary executions visited the area while the Special Rapporteur was in Kosovo. It was found that the region, which is inhabited by a Muslim, Serbian and Montenegrin population and is situated partly within the Republic of Serbia and partly within the Republic of Montenegro, is a place of potential conflict. The human rights situation in Sandzak is affected to a large extent by the same factors which prevail in various other areas of the former Yugoslavia: war in Bosnia and Herzegovina, a strong paramilitary and military presence, the rise of nationalistic ideology, the inefficiency of the law enforcement bodies, economic crises, an information blockade and influxes of refugees.

116. Despite the apparent atmosphere of tolerance in various parts of Sandzak, including to some extent in Novi Pazar, classical methods of ethnic cleansing are employed in the region bordering Bosnia and Herzegovina. Houses and shops belonging to Muslims have been burned and mosques destroyed by terrorist attacks in the cities of Plevlja, Prijepole, Priboj and Bjelo Polje. These acts, as a rule, take the form of bombs planted in the buildings. According to the federal authorities, "besides bombs and fires, certain extremist national parties have engaged in activities - or, more precisely, extremist members of those parties have applied pressure, in the form of verbal threats and open demands - to force Muslims to leave". They also report that certain measures have been adopted to stop this situation, including the arrest of several suspects and strengthening the police forces. The Montenegrin Ministry of the Interior is conducting an investigation of 11 police officers in places where public order has been threatened, including Plevlja. One can only hope that these measures prove to be effective. Nevertheless, at present there is a growing sense of insecurity among the Muslim population, which has led to a massive exodus: an estimated 70,000 Muslims are reported to have left the region since the beginning of the conflict.

117. The Special Rapporteur has been especially alarmed by a number of dramatic incidents which occurred in October, including the abduction and arbitrary killing of Muslims. One such incident involved the abduction and presumed execution of 17 inhabitants of the village of Sjeverin. The federal authorities informed the Special Rapporteur that they have taken steps to investigate that case and to prevent such incidents in future.

118. Members of the mission during their visit to Sandzak met with representatives of local authorities, non-governmental organizations, political parties and religious communities. They received various kinds of information and confronted differences of opinion, but did not have the opportunity to verify allegations concerning human rights violations. It is an unfortunate fact that all too frequently false or exaggerated information is used to pursue political goals. The Special Rapporteur believes that the deployment of the permanent CSCE mission in the Sandzak region will enable a real and impartial picture of the human rights situation in Sandzak to be obtained.

/...

119. It is apparent that while many Muslims and Serbs continue to live together peacefully in Sandzak, and while local and federal authorities also show signs of tolerance, an outburst of violence owing to the attitudes of the military, the authorities of the Republic of Serbia or certain political leaders cannot be ruled out.

C. Vojvodina

120. While the Special Rapporteur was in Kosovo, the Representative of the Secretary-General on internally displaced persons visited Vojvodina, where he met with representatives of the federal Ministry of Human Rights and Minorities, the Serbian Commission for Refugees, the Serbian Red Cross, the Mayor of the city of Subotica, and representatives of organizations of ethnic Hungarians, Croats, Slovaks, Ukrainians and Romanians. He also visited a refugee camp and interviewed refugees from Croatia and Bosnia.

121. Vojvodina is traditionally an agriculturally wealthy and ethnically complex area. The population is composed of Serbs, Hungarians, Croats and Slovaks. Smaller minorities, including ethnic Germans, Romanians, Russians and Ukrainians, make up approximately 17 per cent of the population.

122. Since 1991 Vojvodina has simultaneously produced and received large numbers of refugees. The first major exodus coincided with the fighting against Slovenia and Croatia in 1991, and consisted in large part of Croats, Slovenes, Hungarians and others who did not want to fight with Serbs to oppose the independence of Slovenia and Croatia. The 1991 war also generated the first influx of refugees who were fleeing both the fighting and discrimination against Serbs in Croatia.

123. The outbreak of fighting in neighbouring parts of Croatia and the influx of Serbian refugees coincided with an increase in incidents of harassment and violence against non-Serbs in Vojvodina, including rape, shootings, death threats, the use of explosives against homes and churches and forcible eviction. In a recent special report to the Human Rights Committee, the federal Government stated that "some of these people, fleeing from the conflict in the hope of saving their lives and those of their families, have arrived in the Federal Republic of Yugoslavia bringing with them their weapons, resolved to set up a new home, even if it means using force to achieve their aim, at the expense of people belonging to non-Serb nations (Croats and others), whom they regard as 'enemies' simply because they do not belong to the Serb nation". The report cites the example of Hrtkovici where 500 refugee families, including 350 former servicemen, were resettled in May 1992. A campaign of intimidation and harassment took place, including beatings and culminating in the death of one person and the departure of 600 persons who sought refuge in Croatia. The Government indicates that the Serbian Ministry of the Interior has begun an inquiry to determine whether there was any complicity by local authorities in these events, that large quantities of weapons and explosives have been seized, and that a number of individuals have been charged with criminal offences, including homicide,

/...

illegal use or possession of weapons or explosives and "offences against the freedom and rights of persons of another nationality". However, the impartiality of the police and the courts, increasingly dominated by Serbs, and their commitment to the protection of the rights of minorities are open to question. In one case reported by the Democratic League of Croats in Vojvodina, persons convicted of having bombed the home of a leader of their organization were sentenced to only three and four months' imprisonment.

124. The town of Novi Slankamen has also been the scene of many violent incidents. A Croatian cultural centre was destroyed and a Roman Catholic church was damaged in 1991, a number of Croatian homes were damaged by machine-gun fire or explosives, one person was raped and many others were beaten or threatened. In the city of Sombor, explosives damaged a church on the night of 31 December 1991-1 January 1992, and two nights later two Croatian restaurants and the home of a leader of a Croatian political party were damaged by explosives. These crimes were announced on the local radio by the paramilitary leader Arkan. Ethnic Croatians have been told that they must leave by a certain date, under threat of death. In Subotica, where the Hungarians are the largest ethnic group, religious sites have been attacked or vandalized repeatedly since 1991. The cathedral was damaged by explosives; an attempt was made to burn a religious school; a monastery in Bac, classified as a protected cultural monument, has been attacked and damaged on three separate occasions; and several churches have suffered damage.

125. Local authorities and political leaders who met with the delegation indicated that an estimated 90,000 Croats and Hungarians and other minorities have fled Vojvodina. More refugees continue to arrive, fleeing the fighting and discrimination in Bosnia. Resettlement of refugees is coordinated by the Commissioner for Refugees of the Republic of Serbia, which has adopted a plan indicating the number of refugees who must be accommodated by each locality. In some instances, the number of refugees assigned to localities in Vojvodina is greater than 90 per cent of the original population.

126. The number of refugees being relocated in Vojvodina is disproportionate to the total number of refugees in Serbia, according to local authorities and political leaders who spoke with the delegation. The economic difficulties posed by the influx of refugees, as well as the United Nations-imposed economic embargo and poor harvests, contribute to resentment against the Serbian refugee population. The economy is still largely under public control and the ethnic leaders who spoke to the delegation alleged that dismissal of non-Serbs in order to give employment to Serbian refugees was a significant problem. In some instances, the political activities of a worker or failure to report for military service have been cited as the reasons for dismissal. In general, the large non-Serbian minority fears that the refugees may be settled permanently, confiscating the property of those who have been forced to flee and further weakening the political autonomy and cultural traditions of the region.

127. The implications of the influx of refugees from Croatia and Bosnia and Herzegovina, most of whom are Serbs, can only be fully appreciated in the context of certain political developments which have occurred during the last few years. Under the 1974 Constitution of the Socialist Federal Republic of Yugoslavia, Vojvodina, like Kosovo, was an "autonomous province". In 1987, the leadership of the Communist Party of Serbia began a campaign for the "reunification" of Serbia, that is, full integration of the two autonomous provinces into the Republic. In 1990 this campaign culminated in an amendment to the Constitution of the Republic of Serbia eliminating the autonomous status of the two provinces.

128. Although the non-Serbian ethnic groups who make up the majority of the population of Vojvodina thus lost their right to self-government as an autonomous province, they still retained control over many elected positions in local government. It is thus understandable why they fear that the large influx of Serbian refugees, and legislation facilitating their acquiring citizenship and political rights, is part of a deliberate strategy to further reduce the right of the traditional inhabitants of this region to self-government. According to information received from representatives of ethnic groups interviewed in Vojvodina during the second mission, since 1990 many Serbs have been appointed to non-elective positions, particularly in the police and judiciary. This greatly contributes to the feeling of insecurity among non-Serbs, at a time when violent incidents associated with ethnic cleansing are increasing.

V. CONCLUSIONS

A. Violations of legal obligations and other commitments

129. The preceding chapters describe the scope and nature of human rights violations occurring in those territories of the former Yugoslavia visited by the Special Rapporteur during his first and second missions. These violations transgress some of the most fundamental rules of international human rights law, including the obligation to respect the right to life and the prohibition of torture and other cruel, inhuman and degrading treatment, consecrated by articles 3 and 5 of the Universal Declaration of Human Rights and articles 6 and 7 of the International Covenant on Civil and Political Rights. These rights have the status of jus cogens; they are binding on all the parties to the conflict and cannot be derogated from in any circumstance or for any reason, not even in time of war.

130. The human rights abuses described above also constitute grave violations of international humanitarian law, in particular common article 3 of the Geneva Conventions of 12 August 1949, d/ which provides as follows:

"(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 judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples."

131. Similarly, the Special Rapporteur observed widespread, deliberate infringement of the rules of international humanitarian law prohibiting the forced movement of civilians and "acts of hostility directed against historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples" (articles 17 and 16 of the Second Protocol Additional to the Geneva Conventions e/).

132. The Special Rapporteur thus concludes that elements of the policy of ethnic cleansing are expressly prohibited by international human rights law and humanitarian law.

133. The information contained in the preceding chapters also demonstrates beyond any doubt the failure to respect commitments solemnly agreed to by the parties on various occasions in London and Geneva. In particular, mention should be made of the agreement to respect the Geneva Conventions of August 1949, in particular common article 3, made under the auspices of ICRC, signed on 22 May 1992, and the Programme of Action on Humanitarian Issues adopted during the International Conference on the Former Yugoslavia (London, 26 and 27 August 1992) and signed by all parties on 27 August 1992, according to which the parties agreed, inter alia:

(a) To respect the Geneva Conventions and Protocols;

(b) That "persons who commit or order the commission of grave breaches are individually responsible";

(c) To "exercise full authority over undisciplined elements within their area";

(d) That "refugees and displaced persons should be allowed to return voluntarily and safely to their place of origin";

/...

(e) That "all practices involving forcible displacement, all forms of harassment, humiliation or intimidation, confiscation and destruction of property and all acts involved in the practice of ethnic cleansing are abhorrent and should cease forthwith".

B. Conclusions and recommendations

134. Between the first and second missions of the Special Rapporteur in August and October 1992, ethnic cleansing has continued, and in some regions intensified. Arbitrary executions, terrorist attacks against homes and places of worship and the taking of hostages continue, primarily in Bosnia and Herzegovina but also in the United Nations Protected Areas. The victims are primarily Muslim and Croatian civilians.

135. The continuation of ethnic cleansing is a deliberate effort to create a fait accompli in flagrant disregard of international commitments entered into by those who carry out and benefit from ethnic cleansing. The continuation of this policy presumes the inability or unwillingness of the international community to enforce compliance with solemn agreements adopted under the auspices of the United Nations, and thus undermines the credibility and authority of international institutions. The international community cannot allow the London and Geneva agreements to continue to be systematically ignored and violated.

136. The Serbian authorities in de facto control of certain territories in Bosnia and Herzegovina and in the United Nations Protected Areas bear primary responsibility for the policy of ethnic cleansing carried out there. The command of the Yugoslav National Army and the political leadership of the Republic of Serbia also share responsibility for this policy, which could not have been continued until the present time without their active support.

137. Albanians, Croats, Hungarians, Muslims and other ethnic minority groups are discriminated against in Kosovo, Vojvodina and Sandzak. In some instances, violent methods characteristic of ethnic cleansing are used, and there is a real danger that widespread violence, including armed conflict, may spread to these regions.

138. Discrimination and serious violations of the human rights of Serbs also occur in territories controlled by the Government of Bosnia and Herzegovina, and to a somewhat greater extent in territory under the control of Bosnian Croats. In some instances, these violations are committed in response to ethnic cleansing by Serbs, but this in no way excuses or justifies violation of the rights of innocent persons.

139. Discrimination and other human rights abuses also occur in Croatia, in particular against Serbs, contributing to a feeling of insecurity and persecution on their part.

140. There is growing evidence that war crimes have been committed. Further investigation is needed to determine the extent of such acts and the identity of those responsible, with a view to their prosecution by an international tribunal, if appropriate. In this regard, the Special Rapporteur intends to provide all pertinent information in his possession to the Commission of Experts established pursuant to Security Council resolution 780 (1992), and recommends that the Commission should receive all necessary support from all concerned.

141. More effective steps must be taken to put a halt to ethnic cleansing in the areas where it is still being carried out. In his first report, the Special Rapporteur recommended that the mandate of UNPROFOR be expanded to cover Bosnia and Herzegovina, and to include the prevention of human rights violations (A/47/418-S/24516, para. 63). The Security Council subsequently decided to extend the mandate of UNPROFOR, but ambiguities persist as to its mandate concerning the prevention of the serious human rights violations which characterize ethnic cleansing.

142. A large number of displaced persons would not have to seek refuge abroad if their security could be guaranteed and if they could be provided with both sufficient food supplies and adequate medical care. Prompt establishment of security zones within Bosnia and Herzegovina is indispensable, and consideration should be given to expanding the mandate of UNPROFOR in this regard.

143. An immediate, concerted effort is needed to save the lives of those who are at imminent risk of death, in particular due to inhumane conditions in detention and transit facilities in northern Bosnia. In this regard, the Special Rapporteur urges all States which are in a position to do so, in particular European States, to offer asylum or temporary refuge to such persons, in cooperation with ICRC and UNHCR, in order to facilitate their prompt release and evacuation to a place of safety.

144. The international community must not acquiesce in demographic changes caused by ethnic cleansing. In this regard, the Special Rapporteur recommends that the right of refugees and displaced persons to return should be reaffirmed and protected.

145. Similarly, all necessary efforts should be made to prevent the imminent death of tens of thousands of persons living in besieged cities and areas by the immediate opening of humanitarian relief corridors.

146. The conflict in Bosnia and Herzegovina is not a religious conflict, but one which is fomented by certain nationalist groups and parties in order to further their own political and material interests. The nationalistic ideologies underlying the conflict must be counteracted by the active promotion of human rights. In order to achieve full realization of human rights, a profound and far-reaching process of democratization will be required, first and foremost in Serbia. To this end, the Special Rapporteur recommends that democratically oriented groups should be given appropriate support and assistance by the international community.

/...

147. In his first report (A/47/418-S/24516, para. 68), the Special Rapporteur pointed out the negative role of the media in disseminating inflammatory material and disinformation, thus encouraging the climate of mutual hatred and prejudice that fuels the conflict in Bosnia and Herzegovina. In this regard, the Special Rapporteur would like to reiterate his earlier recommendation concerning the establishment of an independent international agency to provide objective coverage of the news throughout the territory of the former Yugoslavia. He further recommends that appropriate material and technical assistance be provided to independent, democratically oriented national press and media.

148. In order to have the capacity to respond meaningfully to the need for continued and systematic investigation of serious human rights violations, and to maintain closer contact and cooperation with relevant national authorities and international bodies in the former Yugoslavia, the Special Rapporteur considers it necessary to have a small number of human rights monitors under his direction located in the territory of the former Yugoslavia, and requests that the necessary arrangements be made.

Notes

a/ E/CN.4/1992/S-1/9 and 10.

b/ The "Croatian Community of Herzeg-Bosna" is a self-proclaimed "autonomous unit" located in south-western Bosnia and Herzegovina, where a large part of the population is of Croatian ethnic origin. The political leadership, headed by Mr. M. Boban, is located in Grude. The "Croatian Community of Herzeg-Bosna" appears to command the loyalty of at least a considerable part of the "Croatian Defence Council" (a militia better known by the acronym HVO), and has a separate legislative body. It nominally supports the recognized Government of Bosnia and Herzegovina in Sarajevo, but has pursued separate negotiations with the Bosnian Serbs. Fighting has recently broken out between HVO and forces loyal to the Government (Territorial Defence, also known as the "green berets" or by the acronym "TO").

c/ Reports based on interviews with refugees have been submitted to the Special Rapporteur by the Governments of Norway, Slovenia and the United States of America.

d/ See United Nations Treaty Series, vol. 75.

e/ Ibid., vol. 1125.

Distr.
GENERAL

E/CN.4/1993/50
10 February 1993

Original: ENGLISH

Commission on Human Rights
Forty-ninth session
Agenda item 27

SITUATION OF HUMAN RIGHTS IN THE TERRITORY
OF THE FORMER YUGOSLAVIA

Report on the situation of human rights in the territory of the
former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special
Rapporteur of the Commission on Human Rights, pursuant to
Commission resolution 1992/S-1/1 of 14 August 1992

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION	1 - 15	4
A. Activities of the Special Rapporteur	1 - 8	4
B. Collection of information	9 - 15	5
II. BOSNIA AND HERZEGOVINA	16 - 117	7
A. General observations regarding ethnic cleansing	16 - 31	7
B. Summary executions	32 - 43	9
C. Arbitrary detention and the treatment of prisoners	44 - 81	11
D. Investigation of widespread occurrence of rape	82 - 89	19
E. The particular suffering of children	90 - 94	20

CONTENTS (continued)

	<u>Paragraphs</u>	<u>Page</u>
F. Forced transfer of population	95 - 101	21
G. Attacks on non-military targets	102 - 109	23
H. Humanitarian crisis	110 - 117	24
III. CROATIA	118 - 145	26
A. United Nations Protected Areas (UNPAs)	138	30
B. UNPA Sector South	139 - 140	30
C. UNPA Sector East	141 - 143	31
D. UNPA Sectors North and West	144 - 145	31
IV. FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)	146 - 190	32
A. Kosovo	153 - 171	33
B. Sandzak	172 - 181	39
C. Vojvodina	182 - 190	40
V. SLOVENIA	191 - 216	43
A. Introductory remarks	191 - 192	43
B. Legal and institutional framework of human rights violations	193 - 201	43
C. Elections in Slovenia	202 - 203	44
D. The refugee problem	204 - 209	45
E. Freedom of speech and the press	210 - 212	46
F. Conclusions	213 - 216	46
VI. MACEDONIA	217 - 255	47
A. Introductory remarks	217 - 218	47
B. Constitutional regulations	219 - 231	47
C. Situation of nationalities	232 - 240	49
D. Mass media	241 - 245	52
E. The refugee problem	246 - 247	52
F. Conclusions	248 - 255	53
VII. CONCLUSIONS AND RECOMMENDATIONS	256 - 269	55
A. Conclusions	256 - 268	55
B. Recommendations	269	56

CONTENTS (continued)

	<u>Page</u>
<u>Annexes</u>	
I. Summary of the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his mission to investigate allegations of mass graves from 15 to 20 December 1992	59
II. Report of the team of experts on their mission to investigate allegations of rape in the territory of the former Yugoslavia from 12 to 23 January 1993	63
III. The London International Conference: Programme of Action on Humanitarian Issues Agreed between the Co-Chairmen to the Conference and the Parties to the Conflict	77

I. INTRODUCTION

A. Activities of the Special Rapporteur

1. At its first special session, the Commission on Human Rights adopted resolution 1992/S-1/1 of 14 August 1992 in which it requested its Chairman to appoint a special rapporteur to investigate first hand the human rights situation in the territory of the former Yugoslavia.
2. At its second special session, the Commission on Human Rights adopted resolution 1992/S-2/1 of 1 December 1992, by which it, inter alia, requested the Special Rapporteur "to continue his efforts, especially by carrying out such further missions to the former Yugoslavia as he deemed necessary ...".
3. Since his appointment the Special Rapporteur has conducted three missions to the former Yugoslavia and has submitted the following reports: report of the Special Rapporteur to the Commission on Human Rights of 28 August 1992 (E/CN.4/1992/S-1/9), hereafter referred to as the "first report"; report to the Commission on Human Rights of 27 October 1992 (E/CN.4/1992/S-1/10), hereafter the "second report", and his report to the forty-seventh session of the General Assembly (A/47/666-S/24809), hereafter the "third report".
4. During his third mission the Special Rapporteur visited Slovenia, Macedonia and Croatia from 10 to 17 January 1993. This mission is further discussed in the relevant chapters below.
5. In December 1992 and January 1993, two other missions to the territory of the former Yugoslavia were conducted within the framework of the Special Rapporteur's mandate to investigate the human rights situation there.
6. The Special Rapporteur requested the Special Rapporteur on extrajudicial, summary or arbitrary executions to carry out a preliminary investigation into allegations that victims of war crimes are to be found in certain mass graves in the former Yugoslavia. The mission was carried out from 15 to 20 December 1992 with the participation of a forensic expert to assess the extent to which these allegations are prima facie reliable (see annex I). As agreed by the Special Rapporteur and the Commission of Experts established pursuant to Security Council resolution 780 (1992), the results of the preliminary inquiry have been forwarded to the Commission for in-depth investigation. More generally, the Special Rapporteur shares with the Commission any information he receives which is of relevance to its mandate.
7. A mission to investigate allegations of the widespread occurrence of rape, particularly in relation to Bosnia and Herzegovina, was conducted from 12 to 23 January 1993, in parallel to the Special Rapporteur's visit. A team of four medical and psychiatric experts, accompanied by the Director of the United Nations Division for the Advancement of Women and staff of the Centre for Human Rights visited Croatia, Bosnia and Herzegovina and the Federal Republic of Yugoslavia (Serbia and Montenegro) to collect and analyse the testimony of victims and witnesses as well as related statistical data and medical records (see annex II).

8. In addition to his missions the Special Rapporteur has conducted several other visits and discussions with political leaders which aimed at promoting understanding of the human rights problems in the former Yugoslavia. He has made statements to the Security Council and to the General Assembly. He also participated in the extraordinary meeting of the Islamic Conference in Jeddah on 1 and 2 December 1992.

B. Collection of information

9. A great deal of the evidence of human rights abuses has been gathered on missions. Apart from that, more and more testimony is emerging which documents violations of human rights, providing convincing and verifiable detail and naming the names of those responsible. A substantial proportion of the documentation received by the Special Rapporteur is from Governments which are not party to the conflict, intergovernmental agencies and missions as well as other United Nations bodies. This report, due to limitations of space, refers to only a fraction of the allegations received by the Special Rapporteur.

10. The Special Rapporteur also receives large amounts of documentation from sources whose objectivity is difficult to confirm and which needs corroboration from disinterested sources.

11. Interviews with refugees after they have fled the territory where their human rights were violated provide very valuable information. In the coming months, and particularly as hundreds of thousands of applications for asylum are considered all over Europe, this evidence will mount. The Special Rapporteur intends to establish direct contact with the governmental and non-governmental organizations which assist refugees, or process applications for asylum, in order to systematize the flow of information which is emerging from their testimonies.

12. However, the Special Rapporteur, in accordance with his mandate to investigate the human rights situation in the territory of the former Yugoslavia, remains convinced that investigations must be conducted in that territory to assemble a more complete picture. The presence of field officers would provide the Special Rapporteur with information in a more systematic manner and enable him to act more rapidly against violations. The assessment of the credibility of allegations is an ongoing process and is an important aspect of the work envisaged for the Special Rapporteur's field officers.

13. The Special Rapporteur notes the encouraging work being undertaken in very difficult circumstances by local non-governmental organizations in all parts of the former Yugoslavia. As a rule, they are making valiant efforts to document human rights abuses and war crimes in an independent, objective manner. For many such bodies the task is not easy in a prevailing climate of propaganda, misinformation and incitement to hatred. The Special Rapporteur encourages such independent work and hopes to expand his contact with those organizations through the operations of his field staff.

14. The Special Rapporteur's appreciation is once again due for the invaluable support and cooperation which he has received from his fellow Special Rapporteurs. In this connection, he wishes to thank

Mr. Bacre Waly Ndiaye, Special Rapporteur on extrajudicial, summary or arbitrary executions, for having agreed to carry out the above-mentioned mission to Croatia.

15. The Special Rapporteur would also like to take this opportunity to express his appreciation for the cooperation he has received from the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Protection Force (UNPROFOR), the International Committee of the Red Cross (ICRC), the European Community Monitoring Missions, missions of the Conference on Security and Cooperation in Europe (CSCE), other international agencies and non-governmental organizations, both in Geneva and in the field.

II. BOSNIA AND HERZEGOVINA

A. General observations regarding ethnic cleansing

16. Massive violations of human rights and international humanitarian law are not simply features of the war in Bosnia and Herzegovina. They are being used deliberately to achieve ethnically homogenous areas.

17. In his first report the Special Rapporteur emphasized the variety of methods used in ethnic cleansing: replacement by extremists of those elected representatives who refused to cooperate with ethnic cleansing, harassment, discrimination, beatings, torture, summary executions, expulsions, forced crossing of the confrontation line, confiscation of property, dismissal from work, intimidation, destruction of mosques, use of the siege and cutting off supplies of food and other essentials to civilian population centres. The report drew on the experience of the city and region of Bihac as well as Bosanska Dubica, Celinac, Sanski Most and Sarajevo.

18. In his second report the Special Rapporteur described ethnic cleansing in and around Bosanski Novi, Prijedor, Doboj, Kotor Varos, Travnik and conditions in Trnopolje.

19. In his third report the Special Rapporteur illustrated the deliberate and methodical character of ethnic cleansing carried out by Serb forces in and around the Prijedor area where the aim of this policy had largely been accomplished (paras. 17-19).

20. In the present report the Special Rapporteur presents accounts and testimonies which are characteristic of the information which is increasingly becoming available from refugees regarding the systematic nature of ethnic cleansing as well as the human rights and humanitarian law violations. They show the methods by which a violent change in the demographic map of Bosnia and Herzegovina has been achieved, leaving 810,000 people displaced internally and 700,000 refugees in other countries formerly part of Yugoslavia.

21. It is now estimated that two thirds of Bosnia and Herzegovina is under the control of Serb forces, leaving some of the central area, three enclaves in the east and the north-western area of Bihac in the control of government forces.

22. The Special Rapporteur would like to emphasize that not only Croats and Muslims are the victims of ethnic cleansing; Serbs who refuse to cooperate with this policy have also been victimized. There are reports of the arbitrary execution of such Serbs, for example in Teslic on 2 June 1992 when three Serbs were reportedly killed for refusing to cooperate with the Yugoslav National Peoples' Army (JNA) and Serbian Democratic Party militia in persecuting Muslims and Croats. It has also been reported that the Serbian Neskovic family, accused of hiding Muslims, as well as a commander of the Serbian police were killed because they opposed the killing of Muslims in Bratunac and the surrounding area.

23. Ukrainians in the Banja Luka region were reportedly subjected to psychological pressure which included the blowing up of the Ukrainian church

in Prnjavor, the destruction of the old church in Dubrava and of a village church near Omarska. The homes of Ukrainians were regularly shot at and they were repeatedly asked: "When are you planning to leave, you Ukrainians?". It is reported that by August 1992, all 1,100 of them had decided to do so.

24. Over and over again in their testimonies, witnesses express their incomprehension at what has happened between neighbours who previously had not made distinctions based on nationality. In January 1993, the Special Rapporteur met a Muslim man and his two daughters in the Croat refugee camp at Reznik, near Zagreb. They came from Prijedor and had fled only a few days previously. This man's testimony speaks for very many:

"In Prijedor, there were no conflicts between nationalities. We didn't make the distinction. My colleague at work was an Orthodox Serb, we worked together. When we were children we went to the Orthodox church or to the mosque together. I don't understand. Before there were never any problems between us. We lived together. My sister is married to a Serb and a brother of my wife is married to a Croat. [In June 1992 the family was detained by ethnic Serb forces.] We were in Tronopolje camp for five days. It was horrible. There, one of the Serb guards [who had been the father's work colleague] recognized us and got us out. Some of them help us, others kill us."

25. A well-orchestrated campaign of intimidation of Muslims and Croats in places under the control of Serb forces is reportedly continuing the policy of ethnic cleansing up to the present time. The Banja Luka and Prijedor areas may be regarded as illustrative. In Banja Luka, Muslims and Croats are reportedly dismissed by employers, evicted from premises which the employer owns and receive official notices that their "protection" has expired. They are harassed on the telephone and their property damaged.

26. Prijedor used to have a population of 120,000 of whom approximately 65,000 were Muslims and 10,000 were Croats. Today it is estimated that there are only 10,000 Muslims and Croats left and it is reported that, to all intents and purposes, those remaining desperately wish to leave. While visiting the refugee centre at Reznik, the Special Rapporteur himself heard, from refugees who had fled Prijedor only days previously, how life there had become impossible: "We were threatened by neighbours. Fear reigns in Prijedor". They were unable, as Muslims, to find work, intimidated and terrorized on the streets, afraid to use local restaurants, had their homes destroyed and were bereft of their old community of friends and relatives. One family, which had arrived in Croatia only four or five days previously, described how their 15-year-old son had sustained the family by trading fruit on the street. They recounted how, on 7 January 1993, New Year, the last mosque in Prijedor was blown up. There had been about 50 mosques. It is reported that now even moderate Serbs are being forced to leave.

27. It is also reported that, in the mainly Muslim village of Cela near Prijedor, 10 villagers have been shot and killed in their homes in the last few months. Random shootings, bombings and house burnings are reliably reported to be the norm there.

28. Furthermore, the Special Rapporteur is gravely concerned by reports that ethnic cleansing is currently being carried out by Serb forces especially in towns such as Cerske, Kamenica, Srebrenica, Zepa and Gorazde in eastern Bosnia and Herzegovina. Problems of access by international monitors and the severing of communications with the outside world have led to grave concern for their inhabitants' safety.

29. According to current reports the relatively good relationship which previously existed between Muslims and Serbs in Trebinje, southern Bosnia and Herzegovina, has been destroyed. In recent days a large number of the town's Muslim population has fled due to the climate of fear which seems to have developed. The main mosque in the town was reportedly destroyed on 26 January 1993 and a Serb was beaten to death for defending his Muslim friend against civilians.

30. There are accounts of ethnic cleansing being carried out by Croat forces in the area of Prozor towards the end of 1992. Clashes between Muslim and Croat forces resulted in as many as 3,000 Muslims fleeing into the mountains in October 1992. There are reports of large-scale arbitrary detention of Muslim men, women and children by Croat forces. Muslim detainees were also reportedly asked to sign an oath of allegiance to the Croat authorities. It is estimated that 70 to 80 Muslim homes were destroyed in Prozor even after combat had stopped. Non-violent attempts by Muslim residents to return to the town after the fighting were reportedly blocked by Croats. The freedom of movement of those Muslims who remain in Prozor has reportedly been severely restricted.

31. The following sections portray some of the major component parts of ethnic cleansing as well as other violations of human rights and war crimes. For the most part, they are based on the accounts of witnesses. These are but a few selected examples of the testimonies received by the Special Rapporteur, which are used here to illustrate the scale of human rights abuses in Bosnia and Herzegovina.

B. Summary executions

32. The Special Rapporteur has received a large number of reports of arbitrary execution by the armed forces of all sides when new towns and villages are taken. It appears that prominent members of the community are targeted in particular. The reports relate to all areas of Bosnia and Herzegovina. Summary executions which allegedly took place in detention camps are reported in later sections concerning treatment of prisoners.

33. It is reported that many of the villages around Foca, in south-east Bosnia and Herzegovina, suffered large-scale summary executions by Serb forces around March 1992. A witness from the village of Jelec reports that all the men were rounded up and shot with machine-guns. She reportedly lost her husband, his five brothers and their four sons. The women and children had reportedly escaped to the mountains and returned to the village four days later to bury the men.

34. On 6 April 1992 most of the town of Zvornik was taken by Serb forces. According to one report, a Serb woman, her Muslim husband and several

neighbours were forced to lie face down in their orchard by a group of 30 Serb paramilitaries. The woman's husband, two elder sons and three neighbours were then allegedly strangled by the Serb forces.

35. A Muslim pensioner from the town of Visegrad reports that in mid-April 1992 she watched for 36 hours from the window of her house as Serb forces executed groups of people on the old Visegrad bridge. Victims were either pushed off the bridge and shot in the water, or shot and then pushed. Groups of people were reportedly picked up by car and killed on the bridge every 30-60 minutes. The witness managed to leave the town but had to cross the bridge to do so. She vividly describes walking through the remains of victims as she crossed it. The Special Rapporteur has been informed that, due to the many atrocities which have taken place along its banks as it winds its way through Foca, Bratunac and Bijeljina in central and eastern Bosnia, the river is locally known as the river of death.

36. Reports from the east of Bosnia and Herzegovina include the testimony of a witness from Srebrenica who gives 21 April 1992 as the date when "organized killing of the Muslim population began with the emphasis on younger people and distinguished Muslims". According to the account, dozens were killed. Another witness from the nearby village of Gostilj reports that he witnessed the beating to death of his neighbour when Serb forces took the village.

37. Zaklopaca is a village near the town of Vlasenica in eastern Bosnia which had a mainly Muslim population of about 150 prior to the conflict. Reports state that on 16 May 1992, at least 83 Muslim men, women and children were arbitrarily executed by Serb forces there. Surviving eye-witnesses have provided the names of 83 victims but one witness reportedly counted 105 bodies including 10 members of one family, 8 members of another and 7 members of a third. Witnesses were returning from the fields at about 5 p.m. when the first of seven or eight cars carrying Serb forces arrived. One car reportedly had the word pokolj (massacre) written on it.

38. It is reported that on 26 May 1992 about 200 Muslim refugees from Visegrad hoping to reach Macedonia were turned back at the Mokra Gora border crossing into Serbia. An employee of the bus company transporting the refugees said that later that day the group was stopped outside Bosanska Jagodina by Serb forces. The witness alleges that 17 men were taken from the buses and executed on the spot.

39. There used to be six small mountain villages called Hambarne, Rizvanovic, Rakovcani, Sredice, Carakovo and Bisceni near Kozarac in north-west Bosnia and Herzegovina. When Serbian forces took these villages around May 1992 three quarters of the 4,500 inhabitants are reported to have been executed. One survivor provided a list of 282 people killed at this time. In Bisceni 75 people from 50 houses were reportedly executed. A boy aged 16, now a refugee in France, was taken by the Serb forces to help loot houses there. Together with a neighbour, he witnessed the death of his uncle, 61 years old, and a neighbour aged 58: "They made them punch each other's head before hanging them from a bridge". In the village of Blagaj, near Bosanski Novi, at least nine Muslim men were reportedly shot when several hundred people were rounded up by Serb forces on 9 June 1992.

40. Mostar is the second largest city of Bosnia and Herzegovina, situated in the south-east. In June 1992 a number of arbitrary executions are reported to have taken place in the parts of the town then controlled by Serb forces. A number of mass graves have reportedly been discovered since Croat forces took these areas in late June. One such grave containing 150 bodies was reportedly found at Sutina due to the testimony of the sole survivor. Serb forces allegedly interrogated and killed several men at the morgue in the graveyard there. A local pathologist stated that almost all of the dead had been shot at close range with automatic weapons. The witness reported being forced to carry the bodies to a rubbish dump where he was himself shot at. He escaped by throwing himself down an embankment.

41. It is alleged that massacres by Serb forces frequently took place on forced journeys from Kotor Varos to Travnik. A Serb bus driver reports that on 18 August 1992, 70 Croats were executed by Serb forces near the cliffs on the River Ugar. Six people reportedly survived the massacre and the driver is said to be in a state of deep shock. In his third report (at para. 44) the Special Rapporteur described witnesses' accounts of another alleged massacre on the road to Travnik, south of Skender Vakuf. On or about 21 August 1992, 200 detainees travelling in a convoy of buses were reportedly executed along the edge of a ravine by Serb forces. Five witnesses apparently escaped by throwing themselves into the ravine.

42. The Special Rapporteur has received reports of summary executions being carried out by government forces in villages near Bratunac as recently as December 1992. It appears from reports that government forces attacked and entered the villages, conducted a house-by-house search and killed many of those they found. After the government forces retreated, Serb forces entered the villages to collect the dead and wounded. The remains, reportedly mutilated, were taken to Bratunac Hospital before burial. Reliable estimates put the number of dead at 100 and the wounded at 320.

43. The Special Rapporteur has also received reports of the alleged summary execution of Serb combatants by Muslim forces in the village of Bradina on 26 May 1992. Between 85 and 100 Serbs reportedly surrendered after 30 hours of fighting at the predominantly Serb village and were immediately executed. Reports state that the remaining villagers were protected by Croat forces who had already gained control of the territory.

C. Arbitrary detention and the treatment of prisoners

1. General observations regarding arbitrary detention

44. From July until the end of December 1992 the ICRC registered approximately 10,800 detainees in more than 50 places of detention in Bosnia and Herzegovina. During the same period a total of 5,534 prisoners were released under the auspices of the ICRC and all were transferred to safe areas, except 115 who decided to remain in Bosnia and Herzegovina.

45. In addition, some 2,500 persons are believed to have been released or exchanged without an ICRC presence. However, the ICRC was not informed of

where these exchanges took place nor of the circumstances. The practice of exchanging prisoners encourages all sides to engage in the arbitrary and unlawful rounding-up of civilians.

46. There has recently been public discussion of allegations that a large number of detention camps exist which have not been declared to international organizations. Despite the continuous efforts of the ICRC, it has not been possible to verify these allegations.

47. It is doubtful whether anyone knows the exact number of prisoners and hostages held by all sides. The ICRC does not have access to all parts of the territory of Bosnia and Herzegovina due to the failure of the parties to guarantee the security of ICRC delegates. This problem of access is particularly acute in the eastern part of the country, in and around Foca, Zepa, Gorazde and Srebrenica.

48. Furthermore, the parties to the conflict have consistently refused to notify the ICRC of all places of detention as well as the names of all those detained. This is so despite their own repeated, public commitments to do so. It is evident from several reports that when the military forces of any of the parties to the conflict enter a newly taken town or village, men are detained, for example in the local school, for later exchange. It is also suspected that undeclared prisoners are kept by all parties along the confrontation lines.

49. The Special Rapporteur believes that only a very small percentage of detainees are genuine prisoners of war. The remainder should never have been imprisoned. Most prisoners are innocent people who have been seized for exchange, which furthers ethnic cleansing.

50. After the ICRC visited camps in early August, the parties agreed on 1 October that 1,560 prisoners would be released and transferred to Karlovac in Croatia, which has served as a transit camp pending the granting of asylum by a third country. About 5,000 other detainees had also been targeted for release and were waiting for the Karlovac camp to empty. In an attempt to free all of these 6,560 people, the ICRC and UNHCR launched several urgent appeals for asylum to which 25 countries responded positively. The Special Rapporteur was deeply disappointed by the slow and inadequate response of the international community to these appeals. The delay seriously hampered efforts to free detainees in October 1992.

51. It is alleged that in some camps in August 1992, some prisoners, whose appearance would have revealed too clearly ill-treatment and under-feeding, were executed. At the same time, it reportedly became the practice for prisoners to be transferred from camps as soon as the ICRC announced they would be visited. Convoys were formed which brought prisoners to be exchanged for detainees in the hands of opponents, often leaving them to make their own way across the battlefield at the confrontation line. Furthermore, it is alleged that some convoys ended in mass executions, such as the massacre of several hundred detainees which is reported to have taken place south of Skender Vakuf on or around 21 August 1992.

52. On 27 August 1992 the three parties to the conflict agreed that all civilians who had been illegally detained were to be liberated and the sick and wounded evacuated from the camps. On 1 October 1992 the parties signed an Agreement on the Release and Transfer of Prisoners which this time committed them to liberate all detainees including the small percentage of combatants detained - except those who were accused of committing grave breaches of international humanitarian law. The Special Rapporteur would like to reiterate his concern that internationally recognized fair trial standards be applied in all such cases. The parties also repeated their commitment to notify the ICRC regularly of all places of detention and all detainees. On 9 December 1992 the three leaders orally and individually reaffirmed their commitment to release all detainees. When he met with representatives of the parties during his second mission in October 1992, the Special Rapporteur emphasized the importance of honouring these commitments and one leader gave a personal promise to do so.

53. In mid-September 1992, the Government of Bosnia and Herzegovina held 1,024 known detainees and by the end of December had released 137 of them; Croat forces held 894 known detainees and by the end of December had released 357 while Serb forces held 6,373 known detainees and by the end of December had released 5,040.

54. By now all detainees should have been released, but the process has come to a standstill. As of 22 January 1993, the releases are blocked with 2,757 persons still detained in 19 known places of detention.

55. The Special Rapporteur has received many testimonies which substantiate his earlier reports and amplify their detail. In describing the treatment of prisoners in the present report the Special Rapporteur focuses on testimonies concerning places of detention which have not been referred to in his other reports. Some of these are now closed, but others are still in use. The closure of the camps did not always mean the liberation of prisoners, as exchanges and transfers frequently emptied the camps on the eve of their "closure". An example of this procedure is the December 1992 closure of the camp at Manjaca which is described in the following sections.

56. Although it is difficult to assess conditions in camps currently in use, testimonies from recently released detainees referred to in the following sections give rise to fears for the health and safety of all those presently detained, particularly those to whom the ICRC has not been accorded access.

2. Situation in Serb-controlled places of detention

(a) Known places of detention

57. According to the ICRC, there are presently 1,333 persons detained in five known camps run by Serb forces: Banja Luka Tunjice, Doboje, Kotor Varos, Vlasenica and Batcovic (where 17 Croats who were reportedly imprisoned during the first military conflict in Croatia are now held).

58. In December 1992 Serb forces emptied the Manjaca detention camp by releasing a total of 2,435 detainees to the ICRC. Conditions at Manjaca camp before it was closed are reliably reported to have been extremely poor, with

life-threatening neglect of prisoners, lack of food and inadequate hygiene. Just before the closure of the camp, 532 persons were transferred from Manjaca without prior notification to the ICRC despite the undertaking of 9 December 1992 that all prisoners visited and registered by the ICRC in Manjaca camp were to be released, unilaterally and unconditionally, along with all other prisoners held by all sides. The majority of the transferees, 401 people, were received by Batcovic camp; 131 prisoners were not accounted for by Serb forces for more than a month. Finally, the ICRC was informed that the missing 131 were at Kula camp near Sarajevo airport in preparation for an exchange of prisoners. However, the ICRC has as yet been unable, for security reasons, to verify this information.

59. At Batcovic camp, in the north-eastern part of Bosnia and Herzegovina, 1,163 prisoners were kept in what the Special Rapporteur described, after the visit there by his second mission, as two cavernous, unheated storage buildings. Temperatures there dropped to between -10° and -12° C at the beginning of January 1993 and prisoners there face a fight for survival against such temperatures in the winter months still to come.

60. There are reports that all parties to the conflict have closed off entire villages segregated by ethnic background to make them function as detention camps. Sixty Muslims are reported to have been so detained by Serb forces in Ripac, near Bihac. In these villages, detainees are guarded, harassed and kept in complete isolation.

(b) Some testimonies regarding treatment of prisoners

61. The town of Bileca, in the south-east of Bosnia and Herzegovina, had a population of over 13,000 prior to the conflict, of whom 80 per cent were Serb. There were reportedly three waves of detentions of Muslims in the town: in June, October and December 1992. In the most recent wave, women and children were reportedly detained. Several men reportedly turned themselves in to be with their families but were kept in detention even after their families were released three days later. They were never told the reason for their detention. On 19 December 1992, 51 ex-detainees, who had been held in the police station and at a boarding school, were transferred from Bileca to Montenegro under ICRC supervision. The accounts of their detention included allegations by some that they were tortured with electric shocks as guards interrogated them.

62. One hundred and seventy Croats and Muslims were reportedly imprisoned in a cellar in Bileca which measured 120 square metres and had three small windows. The detainees were reportedly beaten by their Serb guards three times on the night of their arrival and one is reported to have died 10 days later from the injuries received. Detainees were also reportedly beaten as they went to the toilet by three or four soldiers. During the whole period of his captivity, from 1 June to 18 August 1992, the witness reports that he was given the opportunity to wash himself only once and never had a change of clothes. The guards reportedly closed the windows of the cellar and turned on reflectors of 2,000 watts: "We did not know what to do so we started to roar in an attempt to get one of them to beat us up because they would then open the door so that fresh air would come into the room. We used to lose about four litres of liquid per night and they would not give us any water until

late in the afternoon of the next day". One prisoner reportedly went into a coma and died as a result. The witness states that everything improved when the ICRC arrived and the detainees were registered.

63. In north-east Bosnia and Herzegovina lies the town of Brcko, which had a population of 87,000; 44 per cent of the inhabitants were Muslim, 25 per cent Croat and 21 per cent Serb. Reports from one source state that from May to June 1992, between 2,000 and 3,000 mainly Muslim men, women and children were arbitrarily executed by Serb forces at a brick factory (the Luka camp) on the Sava river and at a pig farm near Brcko. The Luka camp reportedly consisted of three hangars enclosed by an electric fence which the prisoners themselves erected. The guards had laid mines around the outside. Approximately 1,000 prisoners, mainly Muslims, were reportedly kept there at any one time. Due to overcrowding, prisoners in one hangar reportedly had to sleep standing up. It appears that neither the ICRC nor international observers ever visited the camp. Witnesses claim to have seen the execution of up to 50 prisoners at a time. One witness's account of what he saw during 50 days' imprisonment at the Luka camp includes the following: people who had been beaten to death were brought in the trunks of cars and dumped in the middle of the warehouse; the witness himself had to carry out the bodies of those who had died from night-time beatings and throw them into the Sava river; he saw the corpses of 15 young men whose genitals had been mutilated; the leader of the territorial defence force was killed by soldiers who jumped up and down on his torso; the witness also reports seeing at least 30 people taken to the sewage canals outside the warehouse where their throats were cut. Testimonies include reports of rape and sexual assaults against women and children. Until May 1992 bodies were reportedly dumped in the Sava river or buried in a mass grave whose location has allegedly been identified by a former camp guard, but thereafter they were transported at night by two-ton refrigerated meat lorries to be burnt at the old and new "Kafilnerija" factories near Brcko.

64. Another witness, who spent 27 days at Luka camp around mid-May 1992, described the food as consisting of a piece of bread about every three days. He also reports seeing one woman in her mid-thirties die of starvation.

65. The Special Rapporteur has received reports that after the mass arrest of about 2,000 Muslims by Serb police in Bratunac in eastern Bosnia and Herzegovina on 9 May 1992, 500 to 600 men were detained in the hall of an elementary school there. Those who could not fit inside were reportedly shot with automatic weapons in front of the hall. Beatings were reportedly carried out according to lists naming those most influential in the community. Between 30 and 50 people reportedly died from their injuries the first night while nine others suffocated in the crush as the 500-600 detainees struggled to escape the beatings. An imam was allegedly beaten and stabbed to death in front of the 500-600 prisoners after refusing to take the Christian faith and raise three fingers in the Serb manner. After three days of beatings the group was transferred to Pale, where the ill-treatment continued until they were exchanged. It is alleged that before they left Pale, the detainees were tied in groups of 10 and had to pass between lines of soldiers who beat them with cables, clubs and iron batons.

66. A witness reports being arrested by Serb forces and brought to Kula camp near Sarajevo airport in May 1992. Fifty people, including women and children

aged from 3 to 13 years old, were also detained there. Elderly Serbs and Serb women were released, while young male Serbs were forcibly recruited under threat of death. Muslims and Croats were reportedly kept in an overcrowded room without beds and with only a can for a toilet. Their one meal a day reportedly consisted of a cup of tea and a piece of bread. The witness states that they were heavily beaten during interrogation and that one person died from his injuries. The witness himself reports fainting from beatings and being denied medical help.

67. Men from Gacko were reportedly imprisoned by Serb forces in the basement of the Hotel Rudnik and the Gacko power plant from June 1992. The detainees were reportedly beaten constantly, especially at night, to prevent them sleeping. At least 10 detainees are reported to have disappeared after the guards called them by name. The witness reports that he saw the arbitrary executions of five detainees on separate occasions.

3. Situation in Government and/or Croat-run places of detention

(a) Known places of detention

68. According to the ICRC, there are 887 persons being held by the Government of Bosnia and Herzegovina in 10 known places of detention: Bihac, Breza, Konjic, Tarcin, Tuzla, Tesanj, Travnik, Visoko, Zenica and Kupra. It refuses to release the remainder of its detainees, saying they are accused of grave violations of international humanitarian law.

69. The Government-run camp at Tarcin was notified to the ICRC, despite the clear obligation to notify promptly, and visited for the first time in November 1992. Conditions there are reported to be appalling with inadequate heating and insufficient coverings for those detained. In Visoko, detainees are locked in houses in the town and come under shell-fire. In Kupra, detainees are also reported to be at risk because of the proximity of the camp to the confrontation line.

70. A total of 279 prisoners are still in detention at Government-run Zenica prison. The building is over 200 years old and is a former maximum-security prison. The Special Rapporteur described conditions there in his third report (at para. 36). Since then, testimonies from Serb ex-detainees who were released on 23 December 1992 have been received. They include allegations of beatings and under-feeding.

71. Croat forces are detaining 537 persons in four known places of detention even though their leaders had stated that they held no further detainees. They are: Livno, Mostar Rodoc, Orasje and Rascani.

72. A total of 367 people are "assigned to residence" in de facto detention in the villages of Livno and Rascani. Rascani lies in the south-west Bosnia and Herzegovina and has 250 Serb inhabitants, mostly women and children, and is reportedly guarded by Croat police. There is reported to be no communication with the outside world whatsoever and no freedom of movement. All of the inhabitants reportedly wish to go to a Serb-controlled area. They do not feel safe and allege provocations, shooting and intimidation by Croat forces.

73. ICRC delegates who visited the Croat-run camp at Orasje on 9 December 1992 found 161 prisoners who had been transferred from Bosanski Brod. Fifteen prisoners are reported to have died at Orasje while being forced to dig trenches under constant shelling near the confrontation line. Ten days before the 9 December 1992 visit 60 prisoners were reportedly transferred to Slavonski Brod on Croat territory in preparation for an exchange.

74. Ninety-five Serb civilians and one child have reportedly been kept in Stupari, 8 kilometres north of Kladanj, central Bosnia, since May 1992. According to the Mayor of Kladanj this has been "for their own security, to protect them from retaliation by the Muslim population". A team from the European Community Monitoring Mission (ECMM) has visited the three buildings in Stupari where the detainees are held. Their own homes were burnt by Muslim forces. They are guarded by five armed soldiers and allowed to go outside for one hour a day. It is reported that their food consists of rice and some bread, but that sometimes they have nothing to eat for three days. The detainees stated that the guards were frequently violent towards them and no medical care is offered. They appeared to the visiting team to be "psychologically worn out and very weak". The ICRC registered these detainees in December 1992.

(b) Some testimonies regarding treatment of prisoners

75. The Special Rapporteur has received reports that torture and ill-treatment were suffered by Serbs in places of detention in Konjic between June and July 1992. Two young Serbs were reportedly eye-witnesses to five deaths from beatings by Muslim guards. They did not want to specify the exact location of the prison out of concern for the safety of relatives who were still detained. Thus it is unclear whether the allegations relate to the Konjic camp where 106 detainees are currently being held by government forces and which is visited by the ICRC. Both witnesses stated that they themselves were beaten when they left the building to go to the toilet.

76. A Serb witness has recounted how he was detained by government police when they found him in the basement of his house in Visoko on 6 June 1992, while the town was under attack by Serb forces. At a local military barracks the witness states that he was put in a chair with his arms tied by ropes, then beaten and interrogated by soldiers and police for four hours. During the beating, the police revived him by throwing water over him. He reports that he was the first detainee in the barracks but that over time the number grew to 150 people detained in two rooms. The witness reportedly saw two prisoners beaten to death with the camp commander participating in these killings. There are also reports that Muslim civilians in Zenica and Visoko were allowed free access to the camps in order to beat prisoners.

77. On 7 July 1992, men and women from the village of Presjenica, near Sarajevo, were reportedly taken prisoner by government forces and held in a camp in Decic for two months. A 95-year-old Serb man was reportedly beaten to death by guards just before the prisoners were exchanged. Conditions of life at the camp reportedly involved under-feeding, beatings for "anything and everything", humiliations and intimidation.

78. The Special Rapporteur has received the direct testimony of a 58-year-old Serb woman from Mostar who was taken prisoner by Croat forces in her apartment there on 31 July 1992. The soldiers had a list of names of those who were to go to detention camps. She was first taken to a Croat-run prison in Mostar where she reports being beaten on the left side of her body during interrogation. She was still unable to lift her left arm six months later. She reports that younger women there were forced to perform sexual acts before Croat forces and other prisoners. When later transferred to Capljina, south of Mostar, the witness was kept with about 100 other women in barracks separate from the male detainees. All the women were Serbs except for a Muslim and a Croat who both had Serb husbands. At night, one bucket served as the women's toilet. It is alleged that at times, male prisoners were forced to drink its contents, and at others, forced to eat grass and act like sheep. It is alleged that beatings at the camp sometimes ended in the death of the victim. It appears that on 31 July 1992 the camp was first visited by an international delegation and on a second visit, the women were reportedly locked in their barracks and hidden. The witness was exchanged on 18 August 1992.

79. Detainees released from Konjic on 23 December 1992 have provided the following detailed accounts of their earlier detention at the Celibici camp between May and September 1992. Prisoners were kept in three buildings in the camp. One is reported to have been a ventilation tunnel about 120 centimetres wide, 30 metres long and 2.5 metres high. Air entered through a small glass window in the door and there was no light. Prisoners in the tunnel used a bucket as a toilet but were not allowed to empty it regularly. Thus, as the tunnel inclined, up to 10 centimetres of human waste accumulated at the bottom. For the first 20 days the detainees were not allowed to wash. For the first three days the ex-detainees reported that they were not provided with any food. For the next one and a half months they were given stale pieces of bread the size of a matchbox, with some vegetables, three times a day. For about the following two months they were given only bread. One witness states that prior to his detention in Celebici camp, he weighed 96 kg. By the time he was transferred, he weighed 60 kg. Accounts of the beating to death and mistreatment of prisoners are common to all testimonies which the Special Rapporteur has received regarding this camp. One witness describes the torture and beating to death on 4 July 1992 of a man accused of running a radio station and transmitting information to Serb forces.

80. Incidents of arbitrary detention of Muslims by Croat forces have been reported during clashes between Croat and government forces in and around Prozor, near Gornji Vakuf, in October and November 1992. These include the case of a 14-year-old Muslim boy who was reportedly detained by HVO (Croatian Defence Council) military police. He was reportedly only released four days later when his father and others surrendered their arms.

81. Many reports have been received of the arbitrary detention and ill-treatment of civilians by government forces in and around Sarajevo. The Special Rapporteur has obtained direct testimony from a Serb refugee who arrived in Serbia from Sarajevo in December 1992 regarding the use of prisoners as human shields. The witness states that Muslim forces took Serbs prisoner in order to use them as human shields against snipers when going to

and from their military posts. The witness reportedly saw this from the window of her home which was situated next to the Muslim forces' headquarters.

D. Investigation of widespread occurrence of rape

82. An alarming number of allegations of the widespread occurrence of rape have been made, particularly in the context of the conflict in Bosnia and Herzegovina. It was repeatedly stated that rape was being used as an instrument of ethnic cleansing. Many documents have been received by the Special Rapporteur in this connection. Wide-ranging estimates of the total number of rape victims had been made.

83. Gravely concerned at the nature of these reports, the Special Rapporteur decided to send an international team of medical experts to investigate the allegations and report to him on their findings. The report of the medical experts who visited the former Yugoslavia from 12 to 23 January 1993 is attached, in extenso, as annex II. The Special Rapporteur strongly endorses the observations, conclusions and recommendations of the team of experts.

84. In particular, the Special Rapporteur would like to emphasize the following from among their conclusions:

"Rape of women, including minors, has occurred on a large scale. While the team of experts has found victims among all ethnic groups involved in the conflict, the majority of rapes that they [the team of experts] have documented had been committed by Serb forces against Muslim women from Bosnia and Herzegovina.

"The team of experts is not aware of any attempts by those in positions of power, either military or political, to stop the rapes.

"There is clear evidence that Croat, Muslim and Serb women have been detained for extended periods of time and repeatedly raped.

"In Bosnia and Herzegovina and in Croatia, rape has been used as an instrument of ethnic cleansing."

85. Rape is an abuse of power and control in which the rapist seeks to humiliate, shame, degrade and terrify the victim. In all his reports, the Special Rapporteur has emphasized the variety of methods which are used to achieve ethnic cleansing. Rape is one of these methods, as has been stated from the outset. In this context, rape has been used not only as an attack on the individual victim, but is intended to humiliate, shame, degrade and terrify the entire ethnic group. There are reliable reports of public rapes, for example, in front of a whole village, designed to terrorize the population and force ethnic groups to flee.

86. The Special Rapporteur feels that it is not possible at present to determine the number of victims of rape in this conflict. However, it is clear that there are large numbers involved and care for them must be the first priority. The importance of respect for the victims was highlighted by the team of experts thus: "While the media have been helpful in bringing the issue of rape to international attention, some women have been revictimized

through repeated interviewing without consideration of the psychological consequences or social support available to them." Furthermore, the experts noted that a number of missions to investigate allegations of widespread rape had been undertaken in the previous two months. These included missions by the following: the European Community, the World Council of Churches, Amnesty International, Helsinki Watch and two French physicians. The team of experts found that "lack of coordination has led to duplication of effort and has contributed to 'mission fatigue' among victims, care-givers and personnel involved in delivery of services and assistance to refugees."

87. In January 1993, during his stay in Zagreb, the Special Rapporteur was informed of joint endeavours by governmental and non-governmental agencies in Croatia, including charitable organizations, to provide medical care for victims of rape. Their urgent needs must be addressed. In this regard, the Special Rapporteur endorses the view of the medical experts that "establishing health services that are designed specifically for rape victims will lead to further stigmatization. Therefore, programmes should be created for all women and children who have been traumatized by war. These considerations should be taken into account by the international community when awarding aid for specific programmes". Women should not be required either to declare or prove that they have been raped in order to qualify for health care or other assistance.

88. Many women have sought refuge outside the territory of Bosnia and Herzegovina. While each application for refugee status should be considered on its merits, it should be clearly stated that a well-founded fear of rape is a well-founded fear of "persecution" within the definition of refugee contained in the Convention relating to the Status of Refugees of 1951 and the 1967 Protocol thereto if the persecution is due to the victim's "race" or "nationality". This is certainly the case where it is used to further ethnic cleansing. In countries of asylum, refugees who have in fact been victims of rape in connection with ethnic cleansing should be accorded appropriate medical and psychological care.

89. Article 27, paragraph 2, of the Fourth Geneva Convention states: "Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault". Rape in this context is a grave breach of the Fourth Geneva Convention (art. 147) and as such, a war crime (Additional Protocol I).

E. The particular suffering of children

90. The Special Rapporteur is gravely concerned at the violations of the human rights of children in Bosnia and Herzegovina. He supports the work of the Committee on the Rights of the Child to implement the Convention on the Rights of the Child and, in particular, to raise international awareness of the effects of armed conflicts on children. The Convention, inter alia, prohibits the torture, abuse or neglect of children and provides for their protection in all circumstances.

91. The indiscriminate targeting of civilian population centres has particularly profound consequences for the children involved. They have themselves been killed and wounded in these attacks; witnessed the death and

injury of others including close family members and neighbours and have seen their homes destroyed. They have been arbitrarily imprisoned in appalling conditions and there are reports of rape of children in and out of detention camps. This war has created countless orphans and a generation of refugees.

92. A particular problem arises with regard to the children who have been born, or are expected to be born in the near future, as a result of rape. Suggestions have been made that adoption of these children should be facilitated. At present, there would appear to be difficulties under national adoption legislation in Bosnia and Herzegovina, Croatia, as well as in the Federal Republic of Yugoslavia. In order for a married woman to place her child for adoption, her husband's consent is required by law. While this provision may be regarded as serving the best interests of the child in peacetime, circumstances are fundamentally different in times of armed conflict and in the context of rape. Wives may not wish to inform their husbands that they have been raped. Husbands fighting at the front may be impossible to contact, in detention or disappeared. The national parliaments concerned may wish to consider this matter in view of the circumstances currently prevailing.

93. In any event, inter-country adoption may be considered, although only "as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin" (art. 21 (b) of the Convention on the Rights of the Child). The Special Rapporteur has been informed by religious leaders of Muslim communities and by concerned individuals and organizations in Croatia and in Bosnia and Herzegovina that there is a strong will to raise these children within the local communities. However that may be, in considering international assistance, the Special Rapporteur emphasizes that the wishes of the mother and the efforts of local communities should be identified, respected and supported by the international community. It goes without saying that the guiding principle in any such discussion must be the best interests of the child, as provided for in article 3 of the Convention on the Rights of the Child.

94. The Special Rapporteur supports the work of UNICEF as the lead agency in this field and shares its concern to avoid, at all costs, the stigmatization of, or trafficking in, babies who are born as a result of rape.

F. Forced transfer of populations

95. The following are just some of the accounts which the Special Rapporteur has received mainly from witnesses' testimonies, regarding the forced transfer of populations. These are forced transfers which those involved were compelled to "accept" owing to the climate of fear.

96. Since the Special Rapporteur detailed events in Kozarac in his third report, information has become available describing how women, children and old people from the villages in the area were detained in camps such as Trnopolje and then forcibly transferred towards government lines in cattle trucks in June 1992. The first convoy which left Trnopolje consisted of five cattle trucks filled with 1,800 people. During the two- to three- day journeys there was reportedly no ventilation and nothing to eat or drink. Many old people and babies are reported to have suffocated. It is reported

that Serb forces systematically asked for ransoms, asking each truck to put together a certain amount of money while threatening that the children would be killed. At Doboj they were marched in groups along a mined road before crossing the river Bosna by an old suspension bridge. One woman fell from the bridge with her two children and was carried away by the water which was in full flood. Another threw herself from the bridge when a Serb soldier reportedly ordered her to throw her baby into the water. Finally, the group had to walk 15 to 20 kilometres and cross the confrontation line in great peril in order to reach Government-held territory.

97. Before the conflict 62 per cent of the 11,000 inhabitants of Gacko, in the south-east of Bosnia and Herzegovina, were Serbs and 35 per cent Muslims. In June 1992, when Serb forces took the town, local authorities issued certificates purporting to allow unhindered passage to Macedonia. A convoy of 100 cars was organized by those wishing to leave. Five or six kilometres outside the town, Serb forces were waiting. The men were reportedly dragged out of their cars and severely beaten about the head with iron rifle butts, jumped on by the soldiers, forced to beat each other and set on fire with petrol. Women and children were watching from the cars. The convoy was robbed and their cars confiscated. Women were reportedly detained in a nearby hotel for 20 days where their money and valuables were stolen. Some of the women were reportedly taken to the bedrooms and raped.

98. Muslim witnesses from the region of Zvornik in eastern Bosnia and Herzegovina report that their registration as residents was cancelled at the local police station after the region was taken by Serb forces. One witness reported that the words "deregistered from Zvornik, departing for Subotica" were written on his identity card at the police station. Subotica is a border-crossing point between Serbia and Hungary. The Muslims from this witness' village were reportedly given an ultimatum to leave, accompanied by the burning of several houses and the firing of shots into the air as warnings.

99. In June 1992 deportees from Kozluk and Zvornik, towns which had a Muslim majority, gave the following account of their forced deportation to Hungarian border guards. The towns were sealed by Serb forces. Muslim families were told they had six hours to pack their belongings and go to a certain gathering point. In the case of Zvornik, it was a farmyard. At these gathering points, the names of the deportees were put on a list, and everyone was individually ordered to sign this list. They were informed that by their signature they "voluntarily" gave up all their belongings. The deportees were then ordered, some at gunpoint, to board buses and trucks and later trains until they arrived at Palic (Vojvodina) where they were put up at the local camp site. Although the deportees apparently did not so request, they were provided with Yugoslav passports after photographers came to the camp site for this purpose. For some deportees, the issuing authority of their Yugoslav passport was "MUP (Ministry of Internal Affairs) of the Republic of Serbia, Secretariat in Subotica". Deportees reported that between 26 June and 1 July 1992 there were about 1,200 persons from Kozluk and another 1,800 from Zvornik at the Palic campsite. After being taken to the border, these persons were admitted to Hungary as refugees.

100. A large number of Muslim and Croat men, women and children were released from the Serb-run detention camp at the Mlakve football stadium in Bosanski Novi on 22 July 1992. They had reportedly been subjected to regular beatings there. On release, they were taken to Croatia in a convoy and some ex-detainees reported that they were forced to sign a declaration stating that they were leaving the town voluntarily.

101. Some 3,500 Serbs reportedly lived in the mainly Muslim town of Kladanj, in central Bosnia and Herzegovina, before the present conflict. On 22 January 1993, an ECMM team visited the Mayor of the town who said that all but 100 had left the town, mostly voluntarily, while others had left "under pressure or even violence from Serb extremists".

G. Attacks on non-military targets

102. In this conflict, civilian population centres have frequently been the object of sieges in violation of international humanitarian law.

103. Hospitals in towns such as Goradze, Srebrenica and Sarajevo, which have suffered for months under siege, are reported to be under constant shelling and artillery and rocket fire. A team of European Community monitors who visited Goradze on 20 January 1993 has reported that there are about 70,000 people living there, of whom about 35,000 are displaced persons. The town has had no electricity or water since May 1992 and many people living in cellars or in the remains of burnt houses. Telephone lines are cut and all roads are closed. The only communications possible are through amateur radio operators. The use of the "Red Cross" symbol is now widely regarded by medical and aid workers as a disadvantage as it seems to attract attacks instead of helping to protect these humanitarian and medical activities.

104. A medical doctor from Sarajevo has emphasized that 15 per cent of the wounded he treats are children. Furthermore, his testimony describes the absurd situation whereby those in the hospital, who have already been injured by shooting and shelling are shot at and shelled again. He refers to this as "the wounding of the wounded".

105. The frequent and deliberate destruction of houses cannot be justified as an action against "military targets". In some cases, the homes of those who have fled ethnic cleansing have been destroyed to prevent them from returning, while others have been destroyed to force residents to flee. The weight of evidence is against Serb forces for the majority of these acts with reliable reports of such destruction being carried out in all areas under Serb control from Kozarac in the west to Jajce in the centre and Bratunac in the east. All parties to the present conflict have been responsible for the ethnically selective destruction of houses. For example, Serb houses were reportedly burnt in the village of Bradina by government/Croat forces in July 1992 as were Muslim houses in Prozor by Croat forces in October 1992.

106. Although the conflict in Bosnia and Herzegovina is not regarded as a religious one, it has been characterized by the systematic destruction and profanation of mosques, Catholic churches and other places of worship, as well as other sites of cultural heritage. This has been reported to be the case particularly in areas currently or previously under the control of Serb

forces. The destruction by Serb forces of the Muslim cultural heritage museum of Trebinje in November 1992 and of its mosque on 26 January 1993 may be cited here to represent very many other examples. However, it has been reported that some Orthodox churches have been destroyed in areas of central Bosnia and Herzegovina which were, or are, under the control of government and/or Croat forces.

107. Another method of indiscriminately attacking civilians which has been used in this conflict is through threatened environmental disasters due to military action. Examples include the reported mining of the hydroelectric power station at Bijelo Polje in Mostar. The consequences of destruction would be catastrophic for civilians over a wide area. In addition, the large chemical plant in Tuzla has been shelled many times by Serb forces, threatening the lives of the civilian population for miles around as well as an environmental disaster.

108. Humanitarian convoys have been and still are being attacked, harassed and prevented from reaching those in need. In that regard, the Special Rapporteur recalls that at various times during the conflict it has been necessary for agencies such as the ICRC and UNHCR to suspend provisionally all or part of their operations in order not to endanger the lives of their delegates. UNPROFOR personnel have also at times been prevented from carrying out their mandate. The latest tragic incident occurred on 2 February 1993, when one person died and another was seriously injured in an attack on a UNHCR convoy near Mostar.

109. The killing and wounding of journalists has reached unprecedented levels during the conflicts in the former Yugoslavia. The independence and safety of members of the press should be guaranteed by all parties to the conflict. The Special Rapporteur appreciates the role which the media are playing in informing and mobilizing international public opinion regarding human rights abuses in this conflict.

H. Humanitarian crisis

110. In December 1991, 100,000 refugees from the conflict in Croatia had fled to Bosnia and Herzegovina. After the outbreak of fighting in Bosnia and Herzegovina around March/April 1992, the number of refugees and internally displaced increased to 300,000. It was in the second half of 1992 that the situation reached truly crisis proportions and by December, there were over 810,000 refugees and internally displaced men, women and children in Bosnia and Herzegovina. The policy of ethnic cleansing, including forced transfers of populations, was being pursued to devastating effect.

111. Large numbers of people are still moving from areas of intense ethnic cleansing, such as the Banja Luka region, towards central Bosnia, despite the perilous crossing of the confrontation line which this involves. This has long been a recognizable pattern but it is not possible to say whether it is the result of the closing of Croatia's borders, leaving those seeking refuge no option but to go in this direction, or whether these people are being deliberately pushed towards the confrontation line by ethnic Serb forces.

112. UNHCR is in constant negotiation with the Croatian Government to allow the admission of those who seek refuge. By way of exception the Government has admitted particular groups. However, Croatia already has 700,000 refugees on its territory and it is clear that more international aid for these refugees is needed as well as more international burden-sharing in the acceptance of refugees.

113. In October 1992, the release of detainees (described above) had led to impossible overcrowding at the Croatian transit camp at Karlovac. However, negotiations with the Swiss Government have borne fruit allowing, as a special temporary measure, a transit camp to be set up on Swiss territory. This relieves some of the pressure on the Karlovac camp which now houses some 1,600 persons. However, this agreement applies only to ex-detainees who are assured of asylum in another country.

114. Humanitarian organizations are providing aid under very difficult conditions. The problem of access is particularly acute. Some places have been inaccessible to aid convoys owing to snow or bad roads; others have been made inaccessible by the refusal of the parties to the conflict to allow convoys to pass.

115. There is a constant threat of epidemics in many cities due to the destruction of their infrastructure.

116. It is especially worrying that some places in eastern Bosnia have been inaccessible to aid convoys, human rights monitors and journalists since the beginning of the conflict in March or April of 1992. It may be feared that grave human rights violations have taken place.

117. Furthermore, the humanitarian nature of aid convoys is being respected less and less and all parties to the conflict are creating obstacles to the delivery of humanitarian aid to those in need.

III. CROATIA

118. The Special Rapporteur presented in his report to the General Assembly at its forty-seventh session (A/47/666) the main points of non-respect of fundamental rights in Croatia. He expressed his concern, in particular, about the discrimination against minorities who have been refused citizenship and are subjected to verbal and physical abuses. The strict control by the Government over radio and television and the situation of refugees are other areas of concern mentioned by the Special Rapporteur in this report.

119. During his third mission to the territory of the former Yugoslavia, the Special Rapporteur travelled once more to Croatia. Members of his delegation met with officials of the Government in order to gather information and to follow up on the development of the situation of human rights in that country.

120. Furthermore, the Special Rapporteur received considerable material from non-governmental organizations concerning violations of human rights and war crimes committed by both belligerents during the war between Croatia and Serbia. These cases are being passed on to the Commission of Experts established in accordance with Security Council resolution 780 (1992).

121. The EC Monitoring Mission (ECMM) reported to the Special Rapporteur that in the town of Dubrovnik, a number of Serbian houses have been set on fire, damaged or destroyed. Furthermore, Serbian civilians have been evicted from their homes so that Croats can move in. In this respect, according to the ECMM, "at best the evidence indicates that the army condones such action by its troops. At worst the army itself is acting in a manner incompatible with democratic principles and common justice". Moreover, the ECMM provided the Special Rapporteur with a list of Yugoslav Army soldiers taken as prisoners of war who have allegedly been ill-treated and tortured by the Croatian Army.

122. Representatives of the Serbian minority explained to the delegation that the main issue of concern to them was still the procedure for obtaining Croatian citizenship. They claimed that the time-limit prescribed by the Constitution was not respected and that applicants had to wait for months.

123. The Special Rapporteur received copies of documents issued by the Ministry of the Interior of Croatia refusing citizenship to Serbs living in Croatia. A number of persons were refused Croatian citizenship by virtue of article 26, paragraph 1, of the Law on Croatian Citizenship adopted by the Croatian Parliament on 26 June 1991 and published in the Croatian Narodne novine, Nos. 28/91 and 53/91 [article 26, paragraph 1: "The Ministry of the Interior shall reject any application for the acquisition or loss of Croatian citizenship if the required conditions have not been fulfilled, unless otherwise provided for by the terms of the present Law"]. The Croatian authorities did not give the reasons for these refusals, referring to paragraph 3 of the same article ["the decision to reject the application for acquisition [of Croatian citizenship] does not necessarily have to state the reasons for such rejection"]. In some cases the Croatian authorities stated that the person did not comply with the general conditions for acquiring Croatian citizenship as listed in article 8 of the Law on Citizenship, which reads as follows:

"Art. 8: Croatian citizenship may be acquired through naturalization by any foreign national who has signed a declaration of acquisition requesting the status of Croatian citizen and who fulfils the following conditions:

1. He must be at least 18 years of age and be capable of leading an active life;
2. He must have lost his original citizenship or produce a document proving that he will cease to possess his original citizenship if he acquires Croatian citizenship;
3. He must prove that he has been legally resident in the Republic of Croatia for at least five consecutive years prior to the date of signature of the declaration of acquisition;
4. He must know the Croatian language and the Latin alphabet;
5. He must, through his conduct, demonstrate that he respects public order and the customs observed in the Republic of Croatia and that he adopts Croatian culture.

The applicant will be considered to fulfil the conditions prescribed in the first clause of paragraph 2 of the present article if he is stateless or if the Law on citizenship of the country of which he is a national provides that he will lose his original citizenship as soon as he acquires some other citizenship through naturalization.

If the country of origin does not allow the applicant to lose his nationality or, for this purpose, prescribes conditions which he is unable to fulfil, it will suffice for the applicant who has signed the declaration of acquisition to declare that he will repudiate his original citizenship as soon as he acquires Croatian citizenship."

124. According to the documents received, the precise conditions that were not fulfilled were not cited and the decision refers to the above-mentioned article 26, paragraph 3, of the Law on Citizenship. In some cases it is stated that the person, although complying with the conditions of the Law, will not be granted Croatian citizenship because this does not correspond to the interests of the Republic of Croatia. The Croatian authorities referred in those cases to article 26, paragraph 2, of the Law on Citizenship ["The Ministry of the Interior may reject any application for acquisition or loss of Croatian citizenship even though the prescribed conditions are fulfilled, if it considers that there are reasons of national interest requiring that the application for acquisition or loss of citizenship be rejected."] The precise reasons are not given, again with reference to article 26, paragraph 3.

125. The Special Rapporteur also received documents concerning the implications of refusal of Croatian citizenship, notably that such persons are not entitled to social allowances.

126. Officials of the Ministry of the Interior explained that, until 8 October 1991, every resident of Croatia, regardless of his or her

nationality, could have obtained Croatian citizenship upon rejecting the republican citizenship (under the Socialist Federal system all citizens of the Federal Yugoslavia also had a republican citizenship).

127. Croatian officials further pointed out that due to lack of facilities, the time-limit envisaged by the law could not be respected and applicants had to wait a longer time for the regularization of their status; however, until June 1993, all applicants would not be restricted in exercising their civil, economic and social rights. Those who allege to be victims of discrimination had the right to petition the courts. According to the official records of the Ministry, of 194,000 applications filed, almost 30,000 remain pending. Nevertheless, the Serbian community claim to be victims of discrimination and accuse Croats of having an attitude of rejection and dislike.

128. Since the Ministry of the Interior is in charge of security throughout the country, the police also falls under its control. With regard to dismissal on the basis of ethnic origin, a representative of the Ministry asserted to the mission that almost 15 per cent of the police force are Serbs. No dismissals on those grounds had taken place. He also explained that the secret police had been abolished.

129. The members of the Special Rapporteur's delegation also met with representatives of the Ministry of Justice who described the current judicial system. Death sentences had been abolished. Since the outbreak of war, six Military Courts have been established to deal with military offences, abuses of civilians by the military, terrorism practised by civilians, sabotage, deaths in prison, etc. It is compulsory for three civil judges to be present at every trial. Each defendant has the right and the obligation to be represented by an attorney. An attorney is nominated by the court whenever the defendant cannot afford one. With regard to the harassment of minorities, according to Ministry officials 800 Croats have been charged with nationalistic propaganda and incitement to hatred, terrorism and armed assault against civilians while 40 officers of the Croatian Army were charged with war crimes.

130. The civil judiciary system consists of 99 District Courts which handle minor crimes (up to 10 years of imprisonment) and 14 Regional Courts which handle more important crimes and sit as appeal courts to the lower courts. There is one Supreme Court. Judges are elected by a Commission of Parliament upon the recommendations of the Ministry of Justice. According to the new Constitution, judges are elected for a life term.

131. In the last two years the rate of criminality has risen, due mainly to the state of war and the difficult economic situation which encourages people to commit theft and similar crimes.

132. The economic situation has worsened over the last few years due to several factors. With the exception of Slovenia, Croatia has lost the Yugoslav market for its exports, as well as its former Eastern European and Middle East markets. Slavonia, the richest agricultural region, is not under the State's control. Tourism, one of the most profitable industries, has disappeared over the last three years. Educated people leave the country while instability, due to war, discourages foreigners from investing in

Croatia. The present average salary is equivalent to 80 DEM (one fourth of the average salary of a few years ago). Inflation is very high and rising constantly. There are 261,000 registered unemployed who receive either a minimum salary or welfare assistance.

133. Although the law grants independence and autonomy to the mass media, many journalists, conditioned by the old system, practise self-censorship. For example, one reporter said that certain questions would not be addressed to a member of the Government at a press conference so that further invitations to other press conferences could be expected. It has also been reported that some journalists have been dismissed because of their political opinions. The Special Rapporteur has been informed of the case of five Croatian women intellectuals who were among the first people to denounce soldiers of all sides, including Croatians, for rape. Consequently, they were vilified in a Zagreb weekly magazine. This example, among others, confirms that the Croatian media frequently incite extreme nationalist sentiments.

134. Printing and distribution are in the hands of the VJESNIK printing house, now called TISAK. The chief editors of all dailies and periodicals are appointed by the Board of Directors, which is nominated by the Government.

135. The Radio and Television Council is appointed by Parliament and is in charge of approving the programmes as well as the internal policy of each station. Both radio and television are State-owned and supervised by the same General Director who is, at present, the Vice-President of the ruling Croatian Democratic Union. The Government thus exercises full control over the mass media, in particular radio and television. Journalists believe that the independence and freedom of the press were more respected during the period between 1989 and 1990.

136. The Special Rapporteur visited the Reznik Refugee Centre outside Zagreb. A number of refugees had arrived five days before from Prijedor, Bosnia and Herzegovina. The Centre, a former industrial complex which has been empty for the last 15 years, is accommodating some 3,000 refugees. Once a month they receive food and clothing from UNHCR. The Croatian Red Cross and the Austrian Red Cross take care of their needs together with other humanitarian organizations like Caritas. Aid from individuals is also received from abroad. The entry of refugees into Croatia has been restricted by the Government to those holding a letter from a third country guaranteeing their settlement. Croatian Red Cross records show 700,000 registered refugees and displaced persons, constituting 17 per cent of the Croatian population; 80 per cent of them live with Croatian families. Host families receive material aid from the Croatian Red Cross to enable them support their guests. The refugees (estimated at 540,000) are mostly Muslims from Bosnia and Herzegovina, while the displaced persons (estimated at 260,000) are Croats from UNPAs.

137. The conclusion to be drawn on the basis of the information gathered recently is that the human rights situation in Croatia has not changed significantly since the Special Rapporteur's last report. A considerable number of Serbs are still waiting to obtain citizenship. Various cases of harassment of Serbs have been reported. Freedom of expression in the media

has not been fully realized. The economic situation is difficult and the influx of refugees, most of whom are living with Croatian host families, constitutes a considerable burden for the society.

A. United Nations Protected Areas (UNPAs)

138. As the Special Rapporteur explained in his report to the General Assembly at its forty-seventh session (A/47/666), UNPAs are regions within the territory of Croatia. UNPAs have been established in western Slavonia (Sector West), eastern Slavonia (Sector East), and Krajina (Sectors North and South). In most of the areas within UNPAs Serbs exercise de facto rule. The tasks of UNPROFOR and UNCIVPOL stationed in these areas are mainly geared towards demilitarizing the population, demining the region and facilitating the return of refugees. The difficulties they are experiencing in this regard have not diminished since the Special Rapporteur presented his report to the General Assembly. On the contrary, the renewed outbreak of hostilities has created additional obstacles for the fulfilment of UNPROFOR's mandate.

B. UNPA Sector South

139. Manifestations of ethnic cleansing as described in the previous report continue in this sector which is part of the so-called "Republic of Krajina". The de facto authorities practise discrimination and there is no independent political system.

140. Reliable sources have informed the Special Rapporteur of a number of recent incidents in this sector as follows:

(a) On 18 November 1992, in the village of Rastevic, two old Croatian women were threatened with a knife by a masked man;

(b) On 20 November 1992, in Gornje (near Zeminik), two Serbs were found dead. Both bore head wounds. Footprints leading to and from the Croatian front line were found;

(c) On 22 November 1992, in Skrbnja, five members of the Serbian militia were shot dead. Due to this incident, the existing tension increased, and UNPROFOR has to ensure the security of the Croats living in the area;

(d) On 2 December 1992, in Sopok near Benkovac, four Croats were shot dead;

(e) On 5 December 1992, in Goles near Benkovac, a Serb was found shot dead;

(f) On 6 December 1992, in Murvica, one Serb was killed and three others wounded;

(g) On 8 December 1992, in Perusic Gorinja, a Croat was badly wounded in his house.

C. UNPA Sector East

141. The main concern expressed by the Special Rapporteur in his previous report (A/47/666), was the policy of ethnic cleansing practised by militias and local Serbian authorities. The non-Serbs who had not yet left were victims of constant harassment. Catholic churches were destroyed and Serbian refugees were lodged in the houses of those who had left.

142. The Special Rapporteur is also concerned with the unresolved problem of missing persons who disappeared during or immediately after the battle of Vukovar. The ICRC has been seized of those cases and the Special Rapporteur hopes that all authorities and forces concerned will cooperate with the ICRC in its attempts to determine the fate of the missing persons.

143. The Special Rapporteur on extrajudicial, summary or arbitrary executions visited the sector from 15 to 20 December 1992. According to his findings, the de facto authorities of the self-proclaimed Serbian Republic of Krajina (RSK) are vigorously pursuing a policy of ethnic cleansing. The local militia has not been disarmed. On the contrary, a territorial defence force is being re-established. Members of the militia openly carry long weapons and have repeatedly stopped UNPROFOR personnel. The local population is subjected to harassment and intimidation and told not to report to UNPROFOR. In the southern part of the sector, fighting is still going on along the confrontation line. The local police do not cooperate when UNPROFOR passes to them allegations of violations of human rights. A renewed escalation of ethnically motivated violence is feared.

D. UNPAs' Sectors North and West

144. The Special Rapporteur has not received recent information concerning Sector North.

145. With regard to Sector West, the Special Rapporteur on extrajudicial, summary or arbitrary executions has observed that UNPROFOR has excellent working relationships with both Croatian and Serbian authorities. The local police, monitored by CIVPOL, has become a really professional police force, eager to carry out its tasks properly and fully cooperating with UNPROFOR.

IV. FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)

146. In his third report (A/47/666-S/24809) the Special Rapporteur, commenting on the human rights situation in Serbia, stated that "there is a considerable discrepancy between legal rules and norms and the actual implementation of such standards ... The absence of a democratically approved constitutional order and a firm commitment to the Constitution on the part of some political authorities, together with a lack of effective procedures and mechanisms for the protection of the human rights and freedoms recognized in the Constitution, are two factors which contribute to this situation" (paras.89-90). It would seem that these observations are still valid.

147. The local, regional, republic and federal elections that were held on 20 December 1992 were intended to provide democratic legitimacy. The election was observed by international experts, who were assisted by representatives of the CSCE Office for Democratic Institutions and Human Rights. The observers made the following conclusions:

- "- The electoral process through 21 December 1992 has been seriously flawed.
- "- The pre-election campaign was tainted by shameless propaganda in the state-run media, especially television, that exclusively supported the governing party and either ignored or distorted the message of the opposition.
- "- The governing party effectively shortened the opposition's pre-election campaign period by bureaucratic delaying tactics.
- "- Voter registration problems were widespread on election day. Observers have estimated that 5 per cent or more of prospective voters were not allowed to participate. A disproportionate amount of these would likely have supported the opposition (considering that many were young people - often first time voters - or those who joined in the boycott of the 31 May elections) ...
- "- Other election-day problems noted by some observers included intimidation of voters and low standards for secrecy at polling places.
- "- In general, election campaign and election-day problems have not been as severe in Montenegro as they have been in Serbia."

148. The CSCE mission pointed out that "there seems to be sufficient evidence in support of a conclusion that election irregularities have been widespread, enough to invalidate an election in any traditional democracy. At the same time, there are reasons to believe that there has been a groundswell of support for [President] Milosevic, the Socialist (ex-Communist) Party and the Radical Nationalist Party".

149. Independent observers report that instability and tensions in various regions of the Federal Republic of Yugoslavia are caused by a lack of respect

for the rule of law by the law enforcement organs, in particular the police. There are also reports that large numbers of weapons are in the possession of private persons.

150. The situation with respect to the mass media has not improved. The authorities still exercise firm control over television and radio. It has recently been reported that purges are being undertaken in all the media. In addition, universities, theatres and other cultural institutions are being purged of so-called "ideological opponents" under different pretexts. There are warnings from some independent intellectuals that Fascist-like ideologies are enjoying broader and broader social support.

151. The Special Rapporteur is convinced that human rights problems in the Federal Republic of Yugoslavia should not be limited to the situation of minorities or inter-ethnic relations. The influence of the military conflicts in Bosnia and Herzegovina and in Croatia is obvious. There is growing fear among the population in response to increasingly difficult living conditions and aggressive propaganda.

152. It will be recalled that the human rights situation in the Federal Republic of Yugoslavia (Serbia and Montenegro) was examined by the Human Rights Committee at its 1202nd meeting, held on 4 November 1992. On that occasion, the Committee noted the existence of links between Serbia and Serbian nationalists responsible for massive violations of human rights in Croatian territories controlled by Serbian forces and in Bosnia and Herzegovina. This means that the Federal Government cannot be exempt from responsibility for ethnic cleansing conducted in those territories.

A. Kosovo

153. In his report to the General Assembly at its forty-seventh session (A/47/666), the Special Rapporteur expressed his concern about the situation of human rights in Kosovo following a brief visit to Prishtina. The main issues raised concern the mass dismissal of Albanians from the public sector, police brutality, the lack of freedom of the media and problems concerning education. The situation of human rights has been constantly worsening since Kosovo lost its status as an autonomous province in July 1990. The Albanian population has been enduring various forms of discrimination as a result of new laws adopted by the Republic of Serbia and the economic situation has deteriorated to the extent that even the subsistence of many Albanian families is threatened.

154. Since his visit, the Special Rapporteur has continued to receive information from international monitors, in particular the CSCE mission, concerning the human rights situation in Kosovo.

Legal aspects

155. The Special Rapporteur has received a list of laws reportedly discriminating against Albanians. The following paragraphs describe some of these laws.

156. Reportedly, a number of laws, programmes and decrees adopted by the authorities of Serbia contributed to the dismissal of Albanians and the appointment of Serbs and Montenegrins in their places. To this effect the Albanians cited:

(a) The Programme for the establishment of peace, liberty, equality, democracy and prosperity in the autonomous province of Kosovo (Official Gazette of Serbia 15/90 of 30 March 1990), paragraph 3 of which envisages assistance to Serbs and Montenegrins who want to move to Kosovo. Paragraph 9 of the programme implies the dismissal of Albanians from the police force, which was carried out at the time of the abolishment of the Secretariat (i.e. Ministry) of the Interior of Kosovo on 16 April 1990. The places of the dismissed Albanian policemen were taken by Serbs and Montenegrins;

(b) The Law on police institutions (Official Gazette of Serbia 44/91 of 25 July 1991) was used as the legal basis for taking policemen from all over former Yugoslavia to replace the dismissed Albanians;

(c) The Law on the creation of a fund to finance the return of Serbs and Montenegrins to Kosovo (Official Gazette of Serbia 35/90 of 14 July 1990); and

(d) The Programme for the development of the Autonomous Province of Kosovo and Metohia, aiming at the return of Serbs and Montenegrins to Kosovo and Metohia, for 1992 (Official Gazette of Serbia 54/92 of 8 August 1992) provides for assistance to Serbs for building houses, setting up private firms and enterprises, and creating cultural establishments, schools, communications and infrastructure;

(e) The Law on labour relations in special circumstances (Official Gazette of Serbia 40/90 of 26 July 1990) provides for the right of the directors of enterprises to impose on the workers disciplinary measures envisaged by the laws. Given the fact that in a large number of cases directors are Serbs, Albanians complain that this law leads to arbitrary dismissals of Albanians. The introduction of special measures in many enterprises and social institutions led to the discontinuation of their activities and many Albanians lost their jobs as a consequence;

(f) The Law on the conditions, ways and means for distributing agricultural land to citizens who would like to live and work on the territory of the Autonomous Province of Kosovo and Metohia (Official Gazette of Serbia 43/91 of 20 July 1991) envisages making credit available to Serbs who want to move to Kosovo;

(g) The Law on the health service (Official Gazette of Serbia 17/92 of 31 March 1992) allegedly led to the dismissal of many Albanians working in the health sector;

(h) The Law on public information (Official Gazette of Serbia 19/91 of 29 March 1991) led to the dismissal of many journalists and other staff of the Albanian nationality from newspapers, radio and television in Prishtina;

(i) The Law abolishing the Kosovo Law on the educational service (Official Gazette of Serbia 75/91 of 17 December 1991) is said to be the reason that many Albanian teachers lost their jobs.

157. Other discriminatory legal acts against the Albanians in Kosovo concerning education, cultural institutions and the use of the Albanian language were reported as follows:

(a) The laws abolishing those adopted earlier by the legislature of the Socialist Autonomous Province of Kosovo (Law on higher education, Law on university education, Law on the Pedagogical Academy, Law on primary education, the Law on secondary education (Official Gazette of Serbia 45/90 of 7 August 1990) and the law abolishing the Law on the Educational Council of the Socialist Autonomous Province of Kosovo (Official Gazette of Serbia 75/91 of 17 December 1991) destroyed the established system of education for the Albanians in Kosovo on all levels;

(b) The Law establishing the publishing house "Panorama" (Official Gazette of Serbia 80/92 of 6 November 1992) and the above-cited law on public information (Official Gazette of Serbia 19/91 from 29 March 1991) contributed to the enforcement of state control over the mass media in Kosovo. The new agency incorporates the newspaper Rilindja which has been published in Albanian for more than 50 years;

(c) The Law on the official use of the language and the alphabet (Official Gazette of Serbia 45/91 of 27 July 1991) gives priority to the official use of the Serbian language in public institutions;

(d) The Law abolishing the Kosovo Law on the Institute of the History of Kosovo (Official Gazette of Serbia 49/92 of 21 July 1992) hampers the - development of knowledge about the national history and culture of the Albanians in Kosovo. To acquire such knowledge Kosovars must address themselves to the respective Serbian institutions;

(e) The Law on the Serbian Academy of Sciences (Official Gazette of Serbia 49/92 of 21 July 1992) served as a basis for the Serbian Academy of Sciences to take over the property of the Academy of Sciences of Kosovo;

(f) The Law on the universities (Official Gazette of Serbia 54/92 of 8 August 1992) envisages in its article 10 that education should be given in Serbo-Croatian. It can be given in the languages of the minorities if the board of the corresponding university or faculty agrees on this. The Albanians claim that this discriminates against them because the boards of the universities are nominated by the Serbian authorities.

158. Albanians see discrimination in the sphere of population policies:

(a) Paragraph 91 of the Programme for the establishment of peace, liberty, equality, democracy and prosperity in the Autonomous Province of Kosovo (Official Gazette of Serbia 15/90 of 30 March 1990) envisages measures for the decrease of the birth rate in Kosovo, which is among the highest in Europe;

(b) The law on public care for children (Official Gazette of Serbia 49/92 of 21 July 1992) provides for families with more than three children (and these are typically Albanian families) to receive from the State much lower allowances for the younger children. Albanians regard these provisions as discriminatory as Serbs usually have small families and thus all their children receive allowances.

159. A Declaration on human rights and the rights of persons belonging to national minorities was adopted by the Serbian authorities and published in the Official Gazette of Serbia 89/92 of 7 December 1992. The Albanians, however, consider that this declaration is in total contradiction with the real facts of violations of minority and human rights in Kosovo.

Police brutality

160. Several reports indicate that, before and after the elections of 20 December 1992, the police adopted a more severe and aggressive attitude towards the Albanian population. It has been reported that searches without warrants of the houses of Albanians have been carried out on a regular basis, and that at least 70 people, including five Serbs, were arrested. According to a recent report by the CSCE mission "the President of the Assembly of the Muslim Community of Serbia, Kosovo, Sandzak and Vojvodina as well as other Muslim personalities have been arrested". According to official sources some of those arrested have been released.

161. Police action has gone beyond arrest and imprisonment and cases of death as a result of shooting or brutality by the police have been reported. During the first two weeks of December 1992, four incidents were reported from Prishtina and three other small towns during which four Albanians were said to have been killed, and two others and a policeman wounded. It has been asserted that the armed forces also participated in the recent incidents. In two clashes with the Albanian community, the armed forces have allegedly killed two people. Furthermore, the following incidents have also been reported:

(a) On 3 December 1992, in the market of Prishtina, a 19-year-old Albanian was shot dead by the police and his older brother wounded in both legs, presumably while selling goods on the black market;

(b) On 18 December 1992, in Dakovica, a young man was beaten to death;

(c) On 19 December 1992, a 32-year-old Albanian from Brovina died in the hospital in Prishtina as a result of police brutality and beatings;

(d) On 24 December 1992, the police arrested a group of Albanians in Prishtina outside the Great Mosque, allegedly without giving any reason for the arrest;

(e) On 25 December 1992, in two villages between Prishtina and Pec, police abuse, maltreatment of the inhabitants and destruction of their food supply have been alleged. According to the information received, police

brutality and harassment has increased in the town of Pec and the surrounding area with the pretext of seizing and collecting arms held illegally by civilians.

162. According to the Albanians the police have adopted a variety of repressive measures in Kosovo with the aim of provoking the Albanian population.

The situation of the mass media

163. With regard to freedom of press, the Special Rapporteur has been informed of a new Press Law adopted by the Serbian Parliament at the beginning of November 1992 to be applied in Kosovo. The federal authorities of Yugoslavia did not approve the law and declared it unconstitutional. This law has established a State-owned publishing house, Panorama, in charge of printing, publishing and distributing all newspapers, periodicals, graphics and books in the three languages, Serbian, Albanian and Turkish. Allegedly, the main objective of Panorama is to absorb all the assets and staff of the existing Albanian Publishing House run by Albanians, as well as the Serbian daily and Turkish weekly. The Government of Serbia is the only authority empowered to nominate and dismiss the members of the Administrative Council, Supervisory Board and the General Manager as well as to approve all the internal regulations of Panorama. Independent and private publications have not been banned by the law but, due to the high cost of printing and distribution, it is highly improbable that independent enterprises can survive. Panorama is considered by Albanian journalists, who until recently have still been able to express the Albanian point of view, as a means of censorship.

164. Since the visit by the Special Rapporteur to Prishtina all Albanian staff of the local radio and television stations have been removed from their posts. The surviving 15-minute daily television programme in Albanian is allegedly produced and presented by Serbian journalists who speak Albanian.

Dismissals

165. The Special Rapporteur was recently informed by the CSCE mission that in accordance with a law adopted by the Serbian Parliament nine regional medical departments and the hospital of Dakovica Medical Centre were closed and integrated into the Pec Medical Centre. The authorities claimed that this decision was taken on the basis of the difficult economical situation, while Albanian physicians asserted that the reason for this law was political. The Dakovica Medical Centre was among the rare organizations where the overwhelming majority of staff was still Albanian, and thus was the preferred place of treatment by the entire Albanian community of the province.

166. With regard to the judiciary, the Special Rapporteur has been informed that since his visit to Kosovo, all remaining Albanian judges or magistrates have been dismissed. Under such conditions the right to a fair trial and the impartiality of the judiciary can hardly be guaranteed with regard to the Albanian population of Kosovo.

Economic situation

167. With regard to the economic situation in Kosovo the Special Rapporteur has been informed that the regression is such that even Serbian refugees are unwilling to move there. Albanians work mostly in the private sector, mainly in small grocery stores, which allows the owners to meet their basic needs. A large number of Albanians, mainly dismissed civil servants, live in extremely poor conditions. The rate of inflation is very high and rising continuously. The few Albanians who have the opportunity to do so leave Kosovo.

168. A charitable organization, the Financial Council, financed by voluntary donations mostly from Albanians living in Western countries, has been set up by the Albanians of Kosovo. Welfare cases are taken care of by the Financial Council and about 80,000 families registered by the organization are receiving material help.

Education system

169. The Special Rapporteur was informed that the problems outlined in his previous report concerning the education system have not yet been solved. Albanian high schools and the university are closed. Some 70 per cent of the primary schools are operating following Albanian-language curricula; however, Albanian teachers do not receive any salary since they refuse to teach according to the Serbian programme and are helped by the above-mentioned Financial Council.

Elections

170. As regards the elections of 20 December 1992, the CSCE reported that "in Kosovo Albanians generally did abstain, although there are reports that some - maybe between 5 to 10 per cent - did nevertheless take part. The Mission in Prishtina has reported the presence of armed police inside some polling stations and confused and disorganized arrangements for the completion of ballots". The CSCE Mission observed that "the electoral law did not provide for envelopes in which the voters should insert the ballot papers, before throwing them into the ballot boxes The lack of visually protected sites (with curtains) where the voters would secretly make their choice violated the secrecy of voting, as voters openly were making their choice and even cooperated with each other". According to the CSCE report, "the outcome of the 20 December 1992 elections has caused concern among Albanians in Kosovo The presence of Arkan, an alleged war criminal, in the Serbian Assembly is viewed with great concern". Therefore, according to the CSCE, "on the Serbian side the rhetoric has grown harsher after the hard-liner won the elections and more moderate forces no longer are represented among the elected legislators from Kosovo", which could in the long term entail more deprivation of rights for the Albanians.

Conclusion

171. The conclusion to be drawn on the basis of the recent information gathered is that the human rights situation in Kosovo has not improved. On the contrary, the police have intensified their repression of the Albanian population since 1990. The Albanians continue to be deprived of their basic

rights, their education system has been largely destroyed, they are victims of dismissal for political reasons and they face a very difficult economic situation. However, it must be stressed that until now they have resisted peacefully.

B. Sandzak

172. In his report to the General Assembly at its forty-seventh session (A/47/666), the Special Rapporteur described the situation of Muslims, many of whom have been victims of terrorist acts carried out by Serbian paramilitaries and extremists with the aim of intimidating them and forcing them to abandon the area. The cities of Pljevlja, Prijepole, Priboj and Bjelo Polje have been identified as places where Muslims have been harassed on a large scale by means of verbal and physical threats. Some cases of abduction have also been reported. Houses have been set on fire or destroyed by bombs. Consequently, a large number of Muslims moved out of the region, while at the same time refugees from Bosnia and Herzegovina arrived.

173. The Special Rapporteur would like to stress that the communication he had received concerning the destruction of mosques (see A/47/666, para. 116) contained exaggerated information; and in reality, the mosques were only damaged.

174. It appears from the recent information communicated in particular by the CSCE mission to Sandzak that the region bordering Bosnia and Herzegovina is the most unstable and critical zone of Sandzak.

175. The above-mentioned cities have again been mentioned in connection with recent acts of intimidation and harassment against Muslims. In Pljevlja, some 240 paramilitaries, the so-called White Eagles, were said to have carried out criminal acts, with the connivance of the federal army, against Muslims and their belongings. They have allegedly been responsible for the following incidents:

(a) On 30 December 1992, a 21-year-old Muslim was killed. Insecurity and fear has forced a large number of Muslims to leave the district;

(b) On 1 January 1993, a bomb was thrown into a house, causing damage;

(c) On 6 January 1993 (Orthodox Christmas), the minaret of the Huseinpeca mosque in the centre of the town was damaged as a result of shooting by uniformed men.

176. As regards Priboj, the situation has been reported as grave, in particular in the surrounding villages. Buses are allegedly reserved for Serbs only and Muslims have to walk, sometimes for more than four hours, in order to reach the town. Several persons of Muslim origin have reportedly been abducted while walking to the city. Allegations concerning the burning of houses during the month of January 1993 in the villages of Voskovina and Sjeverin, both in the district of Priboj, have also been reported.

177. In Novi Pazar, no terrorist acts have been reported in spite of a continuing climate of tension. The three tanks of the federal army that have

been stationed on the hills not far from the centre of Novi Pazar since 3 October 1992 were removed by the end of November 1992. The Muslim population expressed relief when the tanks were removed.

178. The Special Rapporteur has also been informed that Muslims' houses in Sandzak are frequently searched without warrant and their goods confiscated by the paramilitary forces which claim to act on behalf of the police. It has been noted by the CSCE mission that "as long as the federal Government is too weak to keep the republican police apparatus from being a tool of the Serbian political power structure, a relatively high degree of lawlessness and fear will prevail in the region".

179. With regard to the living conditions, the lack of fuel for heating and problems of transportation of goods, in particular food and medicine, to Sandzak are considered major problems for the entire population. The state of sanitation and hygiene is giving rise to major concern. Under such conditions the influx of Bosnian Muslim refugees can be considered to be a considerable burden for the local population, with whom they are lodged. An obvious consequence of this is increased tension between the Serbian and Muslim populations of the region.

180. As regards the elections of 20 December 1992, the CSCE mission stated at a first stage "... that the elections are welcomed by both ethnic groups, the Muslims and the Serbs". Later, the CSCE mission reported that "subsequent to the summit of Islamic countries in Jeddah, the Party of Democratic Action reversed its earlier decision to participate in the upcoming election ... Ostensibly, this pulling out of the electoral process was occasioned by the failure of the federal and republican authorities to comply with any demands of the Party of Democratic Action".

181. According to the information gathered, the human rights problems in Sandzak have become worse. The Muslim community is increasingly under pressure and the influx of refugees from Bosnia and Herzegovina has further aggravated the already existing tension. The economic situation is declining and life in all its aspects is becoming more and more difficult for the entire population of Sandzak. Against this background the high degree of "lawlessness", as reported by the CSCE mission, constitutes a considerable threat to the stability of the region.

C. Vojvodina

182. The Special Rapporteur, in his report to the General Assembly at its forty-seventh session (A/47/666), described in some detail the situation of Hungarians, who constitute the biggest minority among the population of Vojvodina, as well as that of Croats and other minorities since the province lost its autonomous status in 1990. Verbal and physical threats and other acts of intimidation, including setting houses on fire and destroying cultural and religious monuments, have been practised by the Serbs. A considerable number of Hungarians and Croats have left the province, mainly because of the climate of insecurity prevailing since the loss of autonomy and subsequent reinforcement of Serbian rule. Young men who refused to serve in the Serbian army have also fled. The fighting in other parts of former Yugoslavia has led to a considerable influx of Serbian refugees which, together with the

departure of Hungarians and Croats, has changed the ethnic structure of the province and has aggravated the tensions between the different communities.

183. During the last few months, information similar to that reflected in the previous report, especially concerning cases of intimidation in the region of Srem/Backa, has been received by the Special Rapporteur. It has been reported that in Srem, many people, mainly Croats, have left the villages of Hitkovci, Kijevci and Novi Slankamen as a result of threats and the bombing of houses. In the villages of Beska and Golubinci, the whole Croat population has left.

184. It has been reported that minorities have been harassed by having shots fired at them and by threatening telephone calls and letters, and that some have been physically threatened and their houses bombed. It is alleged that the police have acquiesced in some of the incidents which have been attributed to individuals.

185. The drafting of young men of all origins still constitutes one of the concerns of the non-Serbian population who do not wish to become involved in hostilities against other national groups. Summons for military service and mobilization are no longer by official letter, since that procedure allowed sufficient time for young men who wanted to avoid military service to leave the region. Men are now taken by the police from their places of work to serve in the army.

186. According to official sources, school programmes in ethnic languages are provided on the condition that there are at least 15 students. If such is not the case, the language is taught as a foreign language. The Serbian language is now obligatory for all students, while Hungarian is no longer required for Serbian students.

187. Under a new press law, the independence of the only Hungarian daily has been curtailed. According to the minorities, radio and television programming in their languages is limited to translations of Serbian news broadcasts. Official paper supplies are no longer provided on a regular basis to the ethnic press and they consider that the financial aid given by the authorities is inadequate.

188. The Special Rapporteur received many reports concerning the declining economic situation, the constantly rising inflation and the difficulties experienced by the local population in obtaining basic goods and medical care.

189. During the election campaign for the elections of 20 December 1992, the leaders of the Hungarian and Croatian parties were allegedly harassed and intimidated. Both groups took an active part in the elections and invited the population to participate. As a result, the Hungarian political party is represented in the House of Citizens of the Federal Assembly, in the Assembly of the Republic of Serbia and in the Provincial Assembly of Vojvodina; it obtained 55 per cent of the seats in the City Assembly of Subotica. The Croatian political party did not succeed in being represented at the federal level, but is represented in the Provincial Assembly and other local assemblies. Croats and Hungarians together obtained two thirds of the seats

in the City Assembly of Subotica. According to the CSCE mission, "in Serb-dominated areas in the southern part of the province, the Socialist Party and the Serbian Radical Party carried the day".

190. The continuing pressure exerted upon the non-Serbian part of the population together with the growing number of Serbian refugees exacerbate the tensions between the various communities. The harassment of minorities continues, as does the compulsory drafting of men into the army. The control of the Serbian authorities over the education system and the mass media has been tightened and, due to the economic crisis, living conditions in general are deteriorating. As pointed out by the CSCE mission, "one might say that a considerable part of the Serb population in Vojvodina is inclined toward nationalist ideas as a reaction against the relatively strong force of minorities". These factors demonstrate the uncertainty of the situation, which cannot be considered as conducive to the full enjoyment of human rights.

V. SLOVENIA

A. Introductory remarks

191. The Special Rapporteur during his third mission to the former Yugoslavia visited the Republic of Slovenia. He met with the President of the Republic, government representatives, politicians, representatives of Italian, Hungarian and German minorities, the Archbishop of Ljubljana, a representative of the Protestant community and a representative of the Serbian Orthodox church. He had discussions with members of the Council of Human Rights and Fundamental Freedoms, representatives of the media and UNHCR delegates.

192. The Republic of Slovenia has some 2 million inhabitants. The population is predominantly Slovene. According to official statistics dating from 1991, there are about 53,000 Croats, 47,000 Serbs and 26,000 Muslims who are permanently resident in the country. There are also small indigenous Italian and Hungarian minorities.

B. Legal and institutional framework of human rights protection

193. Slovenia adopted its Declaration of Independence on 25 June 1991. The declaration emphasizes, inter alia, the strict adherence of Slovenia to the Charter of the United Nations, the Helsinki Final Act and other documents adopted within the framework of the CSCE. The new Constitution of the Republic of Slovenia was proclaimed at a joint session of the three chambers of parliament on 23 December 1992. The Constitution, in part II, sets out human rights and fundamental freedoms. Article 14 guarantees "equal human rights and basic liberties" to each individual. Provisions concerning non-discrimination can be found in article 16 and in other specific contexts - electoral rights, right to work, etc. Advocacy of discrimination and incitement to racial and other similar forms of hatred are strictly prohibited (art. 63). According to article 61, "all persons shall have the right freely to express affiliation to his nationality or national community ...". Article 62 guarantees to all persons "the right to use their own language and script in the realization of his/her rights and duties and in procedures before state and other bodies which perform public service ...". The Constitution confirms, in article 64, the rights of Italian and Hungarian minorities. These rights include the use of the communities' national symbols, the right to foster relations with Italian and Hungarian communities outside Slovenia and with Italy and Hungary, and the right to education in their own languages.

194. The basic instrument of protection of human rights contained in the Constitution is judicial protection. The Constitutional Court is given jurisdiction over matters relating to breaches of the Constitution involving individual acts infringing human rights and fundamental freedoms. The Constitution also contains the necessary safeguards for the independence of the judiciary.

195. The Constitution provides, in article 159, for the appointment of the "Protector of the rights of citizens" (an ombudsman).

196. In summary, the Constitution provides for all necessary forms of human rights protection. The actual functioning of the necessary institutions remains to be determined.

197. During the last few years the Council of Human Rights and Fundamental Freedoms has played an important role in the protection of human rights. The Council was established by statute on 16 April 1990. The Council is an independent body. It has both a general supervisory role and the function of dealing with individual complaints. In many respects its functions are comparable to those of an ombudsman. The Council has access to all information, and governmental agencies must provide every assistance demanded by the Council and respond to its recommendations. The Council appears to be very effective in its protection of human rights.

198. A committee of lawyers has been established by the Ministry of the Interior to examine complaints against the police. In a number of cases disciplinary or criminal proceedings have followed.

199. Citizenship of the Republic of Slovenia is regulated by the Citizenship Act of June 1991. The law stipulates, *inter alia*, that citizens of another republic who resided in Slovenia on the day of the plebiscite on independence shall be granted citizenship upon application. The implementation of relevant provisions of the above-mentioned law raises no reservation. The vast majority of residents in Slovenia automatically became citizens of the republic.

200. The Special Rapporteur has been informed that there have been about 170,000 applications for citizenship. More than 160,000 have been already dealt with, while 10,000 are still pending. A total of 167,922 persons who are not of Slovene nationality obtained citizenship last year, including 79,897 from Bosnia and Herzegovina. In addition, 19,000 citizens of Bosnia and Herzegovina living in Slovenia have permanent or resident status. Relatively few applications - about 2,000 - were rejected.

201. The Special Rapporteur is of the opinion that the Republic of Slovenia has managed to solve the citizenship issue without creating a feeling of discrimination or insecurity among its inhabitants.

C. Elections in Slovenia

202. On 10 September 1992 the Slovene parliament approved the Electoral Law. According to its provisions each citizen of Slovenia who has attained the age of 18 and who is not suffering from a mental disorder has the rights to vote and to be elected to office.

203. An ad hoc committee appointed by the Bureau of Parliamentary Assembly of the Council of Europe to observe the presidential and parliamentary elections in Slovenia, held on 6 December 1992, concluded unanimously that: "the elections had been free and fair. They had been held in a calm and politically mature atmosphere. No excessive propaganda could be seen on the streets. Procedure at the polling stations was properly conducted and the officials in charge seemed to work professionally and efficiently. The procedure was the same in the capital and the countryside. All the parties

had access to the media". Also, a CSCE mission sent by the CSCE Office for Democratic Institutions and Human Rights in Warsaw confirmed the free and fair character of the election.

D. The refugee problem

204. More than 70,000 refugees from Bosnia and Herzegovina came to Slovenia. More than half of them are children, around 40 per cent are women, and the remainder are for the most part older men.

205. About 15,000 temporary refugees are accommodated in 58 collection centres throughout Slovenia, the majority of these being former army barracks which are administered by the Office for Immigration and Refugees and operate with the assistance of the Red Cross and of various voluntary groups. The remainder, approximately 56,000 refugees, are staying for the moment with friends and relatives, who frequently have social problems of their own or are unemployed. Some 51,000 refugees are registered with the Red Cross of Slovenia; all others are unregistered.

206. Only those who have been registered enjoy "temporary refugee status". It is necessary to mention that this concept has no legal basis and is not defined in international instruments. All refugees who entered Slovenia before 10 August 1992 obtained temporary refugee status. Slovenia then closed its borders to refugees other than those with papers guaranteeing their acceptance by a third country, who are allowed to transit; those "sponsored", e.g. for the purpose of family reunion; or those in "special need". However, representatives of UNHCR have informed the Special Rapporteur that family members are still denied admission into the country.

207. Under the provisions of the law on foreigners, those who enter illegally may be expelled within a period of 48 hours. Such decisions are taken by the Ministry of the Interior on the advice of the Office for Immigration and Refugees. The number of refugees being turned back was between 70 and 150 a day in November and as many as 200 a day in October. The Special Rapporteur raised this problem during discussions with the Minister of the Interior. He has been informed that the country's reception capacity is exhausted. In certain areas, e.g. in parts of northern Slovenia which has a large population of migrant workers originating from Bosnia and Herzegovina, refugees who have come to live with relatives or friends may make up as much as 10 per cent of the population. Resentment is already building up on account of the additional burden resulting from their presence.

208. The Special Rapporteur has been informed that according to the Government's estimates there were about 17,500 school-age refugee children (7-16 years old) from Bosnia and Herzegovina in Slovenia. The children are attending regular Slovene schools and a three-hour special afternoon programme is provided in their mother tongue. In addition to funds from government sources, this special education programme is being funded by the International Islamic Relief Organization, the Soros Foundation, UNICEF and UNHCR.

209. Refugees are not permitted to seek employment other than that connected with the functioning of the refugee centres. Their freedom of movement inside the country is also restricted.

E. Freedom of speech and the press

210. The Constitution provides for freedom of thought, speech, public association, the press and other forms of public communication and expression.

211. The print and electronic media are only partly privatized. Public ownership still dominates. There are five major dailies and numerous weeklies. One television channel is privately owned and operated. In cooperation with the Council of Europe draft new legislation on the media has been prepared; however, it has not yet been passed. The control of the Government, in particular in regard to television, seems to be strong. It has been reported that a television journalist, in spite of the protests by the journalists' trade union, has been suspended for one month because of his comments on a statement by a Slovene politician.

212. Newspapers tend to be affiliated with political parties. During his meeting with representatives of the mass media the Special Rapporteur was informed that self-censorship still remains a problem for many journalists.

F. Conclusions

213. The Commission on Human Rights, in its resolution 1992/S-1/1 of 14 August 1992, requested the Special Rapporteur "to investigate first-hand the human rights situation in the territory of the former Yugoslavia ...". The denomination "former Yugoslavia" covers, among others, Slovenia. It should be recalled that the CSCE Human Rights Rapporteur Mission which visited Slovenia in January 1992 stated that "despite certain shortcomings, the situation of human rights and protection of minorities in Slovenia may be considered rather satisfactory". The follow-up mission stated in its report, issued in May 1992: "It is the impression of the Mission that authorities in Slovenia are genuinely committed to the rule of law, democracy, and human rights. Slovenia is able fully to implement the CSCE principles and commitments in these fields".

214. The Parliamentary Assembly of the Council of Europe entrusted Messrs. F. Matcher and B. Hall to report on the legislation of the Republic of Slovenia. In their report, dated 31 August 1992, they stated: "our conclusion is that Slovenian legislation is, or will shortly be, compatible with the Council of Europe's basic legal standards, and in some respects appears to give even more protection to the individual than those standards require".

215. The Special Rapporteur shares the views expressed above. However, it is obvious that Slovenia is still in a process of transition to a democratic society, which influences the implementation of various human rights. Certain important problems have not yet been satisfactorily resolved including restoration of property rights, pluralism in the media, etc.

216. Based on information received during his mission and obtained from various international and domestic sources, the Special Rapporteur would like to express his opinion that in the context of the human rights situation in the former Yugoslavia, the situation in the Republic of Slovenia does not at present give rise to major concern.

VI. MACEDONIA

A. Introductory remarks

217. Unlike other former Yugoslav republics, Macedonia has managed to avoid a military conflict since its Government authorities reached an accord for the peaceful withdrawal of the Yugoslav national army from the territory. The peaceful method of building a democratic society creates favourable conditions for the protection of human rights in the country. Nevertheless, one should be aware that the situation in Macedonia is far from stable. Macedonia, with some 2 million inhabitants, is struggling for international recognition. Its economic and social life has been deeply affected by the military conflict in Bosnia and Herzegovina and by the sanctions imposed against Yugoslavia (Serbia and Montenegro). These sanctions influenced negatively the traditional market for its products since economic links were broken. Since more than 40 per cent of the Macedonian population belong to ethnic groups other than that of the majority Slavs, relations between them play a decisive role in the overall human rights situation.

218. The Special Rapporteur during his mission in Macedonia put special emphasis on the situation of the different national communities and on the problem of freedom of the press. He held discussions with the President of the Republic and other representatives of Macedonian authorities, members of parliament belonging to different political parties, including opposition parties, representatives of all nationalities, independent intellectuals and representatives of the mass media. He met with members of the CSCE Spillover Monitoring Mission and UNHCR delegates. The Special Rapporteur also visited a refugee centre near Skopje.

B. Constitutional regulations

219. The Republic of Macedonia is a parliamentary democracy. The Assembly of the Republic of Macedonia was elected in free elections held in November 1990. The legal framework for the protection of human rights has been established by the Constitution, adopted on 17 November 1991. The Constitution embodies the democratic structures and the guarantees for human rights which are generally in operation in Europe. The Constitution contains a number of special provisions aimed at the protection of national minorities. 1/ The most important rules are expressed in article 48, which guarantees the following rights:

1. Citizens belonging to all nationalities have the right to free expression, cultivation and development of their national identity and national attributes.

2. The ethnic, cultural, linguistic and religious identity of all nationalities is protected.

3. Citizens belonging to nationalities have the right to set up cultural and artistic institutions and educational and other associations in order to enable them to express, cultivate and develop their national identities.

4. They also have the right to be educated in their own language at both primary and secondary levels.

220. In schools where instruction is given in the language of one of the other nationalities, the Macedonian language must also be taught.

221. In the context of article 48 it is noteworthy that representatives of the Albanian community complained that the use of national flags and symbols is not mentioned.

222. Important provisions are contained in article 45 according to which any citizen may set up a private school at any educational level except primary. Article 19 (4) provides that religious communities are also entitled to establish schools.

223. As far as language and script are concerned, article 7 (2) provides that in communities where the majority of the inhabitants belong to another nationality, the language and script of that nationality must be used for official purposes, alongside the Macedonian language and the Cyrillic alphabet. Article 7 (3) makes the same provisions for communities where a substantial number of inhabitants belong to a given nationality. These constitutional rules have yet to be defined in precise terms by ordinary legislation; consequently, they are not yet applied. Article 9 (1) of the Constitution prohibits any discrimination on the grounds of race, colour, national and social origin, or political or religious convictions.

224. Certain controversies are associated with the following part of the preamble: "Macedonia is established as a national state of the Macedonian people, in which full equality as citizens and permanent coexistence with the Macedonian people is provided for Albanians, Turks, Vlachs, Romanies, and other nationalities living in the Republic of Macedonia". Albanians are not satisfied with their constitutional status as a "nationality". In their opinion they should enjoy the same constitutional status as Macedonians of Slavic origin since they regard themselves as a constituent nation within multi-ethnic Macedonia. 1/

225. Also, representatives of the Serbian and Muslim nationalities point out that the Constitution does not recognize them as national minorities. The reason is that in the former Yugoslavia both nationalities were so-called constituent nations of the former State and therefore not considered as minorities; however, that situation no longer exists.

226. The Constitution, by article 78, establishes a Council for Inter-Ethnic Relations as an advisory parliamentary body. It is composed of the President of the Assembly and two members each from the ranks of the Macedonians, Albanians, Turks, Vlachs and Romanies, as well as two members from the ranks of the other nationalities in Macedonia. This composition has been criticized by Serbs and Muslims, who demand equality with other nationalities.

227. The Constitution also provides far-reaching guarantees concerning personal freedoms. According to article 12, persons who are detained must be arraigned in court within 24 hours from the moment of detention. The maximum duration of detention pending trial has been set at 90 days. The accused must

be informed of his/her legal rights and the reason for the arrest and detention. The accused is entitled to contact a lawyer at the time of arrest and to have a lawyer present during police and court proceedings. According to article 13, a person unlawfully detained, apprehended or convicted has a right to legal redress and other rights defined by law.

228. According to article 98, Macedonia's courts are autonomous and independent. The Constitution, in article 104, establishes the Republican Judicial Council composed of seven members. An implementing law for that Council was passed in late 1992. All judges will be selected by the Council and confirmed by parliament. The Special Rapporteur has been informed that the election of new judges would be accomplished by 1 April 1993.

229. The Constitutional Court, according to article 110, among others, "protects the freedoms and rights of individuals ...". So far, however, the Court has not yet been called upon to exercise this function.

230. Among various difficult problems arising as a result of the disintegration of the former federal Yugoslav State, the question of citizenship is one of the more controversial ones. On 27 October 1992 the Macedonian Assembly adopted a citizenship law. All persons who in accordance with the old regulations were citizens of the Republic of Macedonia are automatically considered citizens of the Republic of Macedonia under the new law. In the context of the former Yugoslavia the following provisions of article 26 (3) are very important: "Citizens of other republics of the former Socialist Federal Republic of Yugoslavia and citizens of the former Socialist Federal Republic of Yugoslavia who have reported a place of residence in the territory of the Republic of Macedonia may acquire citizenship of the Republic of Macedonia if, within a year after this Act has entered into force, they submit a request, and provided that they have a permanent source of income, are of legal age and before the submission of the request they have been legally resident in the territory of the Republic of Macedonia for at least 15 years". It has been argued that this law precludes recent refugees from other former Yugoslav republics, as well as people from elsewhere, from becoming citizens easily. For that reason ethnic Albanian deputies did not participate in the parliamentary vote on that law. However, it is difficult to argue that these solutions violate any recognized international standards.

231. According to article 2 (1) a citizen of Macedonia may also hold citizenship of another State.

C. Situation of nationalities

232. It is obvious that legal provisions, however important, are not sufficient to solve all existing human rights problems. Albanian political leaders have been voicing demands for greater representation in local government and access to the country's school systems, media, public sector jobs, etc. They have also issued a demand for autonomy or the "federalization" of Macedonia. The CSCE mission pointed out that these requests "reflect the minority's increasing frustration over, first, the lack of tangible changes in the social status, employment rights, and financial plight of ethnic Albanians throughout the Former Yugoslav Republic of Macedonia, and, second, its inability to obtain passage of PDP-NDP (Party of

Democratic Prosperity - National Democratic Party) draft legislation in the Parliament". Macedonian citizens of Albanian origin are undoubtedly suffering different forms of discrimination. Their presence in the organs of the state administration is very often symbolic. The unemployment rate is much higher among Albanians than among Macedonians. Even in the factories located in predominantly Albanian areas the percentage of employed Macedonian Slavs is higher. The case of the "Jughorm" enterprise in Tetovo has been brought to the attention of the Special Rapporteur in that context.

233. It should be recalled that in spite of a gradual broadening of minority rights ensured by the former federal Yugoslav State, the Albanians in Macedonia never achieved representation that was proportional to their numbers in any sector. At present they have 23 seats out of 120 in the national legislature. The present Government, in which representatives of Albanians hold 5 ministerial posts out of 23, is undertaking steps aimed at changing this situation.

234. The Special Rapporteur during his talks with government officials was informed that certain steps have been taken to increase the number of Albanians in the public service. The very small number of them in the police forces and in the administration of justice raises special concern. Nevertheless, the percentage of members of different nationalities in the police has risen from 2.5 per cent to 6 per cent. In order to facilitate this increase enrolment quotas have been set in the Skopje Faculty of Security (15 per cent) and in the Police High School (15-17 per cent).

235. Of great importance is the realization of the right to education. Albanian-language schools exist at the primary level; however, Albanians believe there is an insufficient number of them at the secondary level. As a result only 15 to 20 per cent of Albanians can continue their education in their mother tongue at the post-primary level. The Special Rapporteur has been informed that the Government favours broadening Albanian-language educational opportunities, resources permitting. Authorities are also undertaking efforts aimed at increasing the number of Albanian and national minority students at the university. A quota system (10 per cent) has been introduced. Nevertheless, the long-held grievance that there is no Albanian-language university has been intensified in the light of the closing of the Albanian university in Prishtina.

236. The educational problems with which the Republic of Macedonia has been confronted are not limited to one national group. Others - Turks, Muslims, Serbs - are complaining about the present situation in that field. The Special Rapporteur has been informed about a recent incident in Zupa, near Debar, concerning school instruction in the Turkish language.

237. According to the report of the CSCE Spillover Monitoring Mission: "the mission will continue to follow this matter but with awareness that it may, in the final analysis, prove to be mainly a local dispute with a local solution".

238. A very serious and violent clash between some Albanians and the police occurred in Skopje on 6 November 1992. The Special Rapporteur received detailed information about that incident from the CSCE Monitoring Mission in Skopje. It is to be recalled that as a result of that riot four persons

(reportedly, three ethnic Albanians and one Macedonian Slav) had died and approximately 30 persons (half of whom were policemen) were injured. The CSCE Mission made the following conclusions based on the reliable information:

"The Interior Ministry - or at least local policemen in the Bit Bazaar - is at fault for choosing to crack down on small-time illegal traders in the market at a time when the city was already fully charged with ethnic tension;

"The policemen who beat the Albanian teenager in front of the local hospital used excessive force in attempting to arrest a young cigarette dealer whose work, and that of his colleagues, had been tacitly permitted in the Bazaar up until that point ...;

"The police are likely at fault for firing guns into the air to dispel the protestors when tear gas alone almost certainly would have sufficed ...;

"Correspondingly, the Albanian protestors are likely at fault for first turning their guns on the other side;

"Although the protest was undoubtedly not as orchestrated and planned as some government and VMRO-DPMNE (International Macedonian Revolutionary Organization - Democratic Party of Macedonian National Unity) party officials claim, radical elements within the Albanian community are at fault for stirring up a protest which they should have known could easily get out of hand in a time of extreme ethnic tensions in the capital and, particularly, in the Bit Bazaar and Sevar;

"Former Yugoslav Republic of Macedonian nationalists' claim that Serbia or Serbian pawns were somehow involved in organizing the protest and subsequent clashes is virtually implausible; however, Interior Minister Frckovski's statement (at a 7 November press conference) that large numbers of participants in the riot were not from Macedonia and have no relation with Macedonia whatsoever - here, we take him to be referring to Kosovo Albanians - is indeed possible if not probable; and

"Stories in the Former Yugoslav Republic of Macedonian press reporting on the wide availability of illegal arms in the Charshia and, specifically the Bit Bazaar, are almost certainly correct, as is the widespread belief in the region that ethnic Albanians in Skopje possess light weaponry; although Mission members found that very few Albanians were actually engaged in gunfire with the police, the extent to which ethnic Albanians in the Sevar are armed remains unknown."

239. A series of incidents occurred in a village in Kuceviste where a disturbance, featuring Serbian nationalist slogans and rock throwing, occurred on New Year's Eve and continued on New Year's Day. The Special Rapporteur has been informed that there is no evidence that anyone was killed and only one policeman was injured. Smaller incidents and clashes were reported to have occurred in the Skopsko Crna Gora area after the Serbian elections of 20 December 1992.

240. The incidents described above show very clearly that interethnic relations in the Republic of Macedonia are of very delicate nature and are far from being stable.

D. Mass media

241. The Constitution, in article 16, guarantees freedom of speech, public address, public information and the establishment of institutions for public information. The same article forbids censorship. The Special Rapporteur is of the opinion that these freedoms are generally respected. The Prime Minister informed him that the Government intends to abolish the Ministry of Information. Foreign observers point out, however, that certain elements of governmental control over the media are observable. The homogenous character of the media coverage of the Bit Bazaar riots supports such arguments.

242. There are four daily newspapers in Skopje and a number of weekly publications. There are also Albanian and Turkish newspapers published three times weekly. Macedonian Radio-Television (MRT) is State-owned. It transmits programmes in the Macedonian, Rom, Turkish, Albanian and Vlach languages. There are currently three television and four radio stations controlled by MRT. The Special Rapporteur has been informed that there are plans to expand TV and radio programmes in Albanian, Turkish, Vlachs and Rom and to create programmes in Serbian.

243. There are several small private radio and television broadcasters throughout Macedonia.

244. Albanians are not satisfied with the existing situation in that regard. They are in favour of one television channel being broadcast in Albanian. The Serbian minority complains about the lack of TV and radio programmes in their language. Also, other minorities are not fully satisfied with the existing state of affairs. It seems, however, that the unsatisfactory situation with respect to the media, in particular the electronic media, is caused by a lack of adequate resources rather than deliberate government policy. Macedonians are also complaining about the quality of the programmes and sometimes are refusing to pay subscriptions.

245. Full pluralism of the media in Macedonia has not yet been achieved. Nevertheless, it is worthwhile noting that, unlike in other former Yugoslav republics, the Macedonian media have never incited national hatred or were in any other way engaged in an infamous "media war" which had and still has dramatic consequences in other regions.

E. The refugee problem

246. As of 16 November 1992 there were 31,452 officially registered refugees in Macedonia from Bosnia and Herzegovina (28,704), Croatia (2,508) and Albania (240). These figures indicate all the registered refugees. However, as many of them, both registered and unregistered, have left Macedonia for Western countries, UNHCR assistance is presently being distributed - through the Macedonian Red Cross and its local branches - to about 21,000 persons. The Macedonian Government officially closed its border to new refugees in early July 1992, referring to the country's harsh economic situation as well as to

the agreement with the Government of Bosnia and Herzegovina not to allow men between 18 and 60 years of age to enter Macedonia. However, the Macedonian authorities took a rather flexible approach and allowed most women and children to enter and to receive assistance. Although men, in particular, have problems registering as refugees, UNHCR was able to undertake several successful interventions with respect to family reunification. Once the refugees leave Macedonia, they are not allowed to re-enter. Rejected asylum seekers have either been sent to Western Europe or transported under police escort to the Serbian border. The Macedonian Government has issued travel documents allowing the refugees to exit Macedonia but without the right to re-enter.

247. Initially all the refugees were staying with host families, but more than 14 per cent of the refugees are now accommodated in collection centres. They enjoy the same right to health care as Macedonian citizens. However, there is a lack of medicines and proper medical equipment in the entire country. Many of the children who arrived during the spring semester continued their education in Macedonian schools. However, after the summer break the admission of refugees to such schools has been problematic, partly due to reluctance on the part of the Government and partly due to the lack of resources for schoolbooks, paper, etc. In some of the collection centres basic education is provided on a voluntary basis.

F. Conclusions

248. An arbitration commission established by the European Community, the so-called Badinter Commission, has considered Macedonia's request for international recognition. The Commission has based its consideration, among other things, on the country's acceptance of the Charter of the United Nations and the International Covenants on Human Rights, as well as the CSCE agreements and provisions guaranteeing the rights of ethnic minorities. On 14 January 1992 the Badinter Commission stated that Macedonia had fulfilled all the EC conditions.

249. In order to improve the economic situation international assistance is required; this cannot be obtained unless the Republic of Macedonia is accepted as a member of the United Nations.

250. According to its Constitution, the Republic of Macedonia does not have any territorial claims on neighbouring countries.

251. It is to be recalled that according to the report presented by the CSCE human rights mission conducted in December 1991, the human rights situation, apart from the relationship between the Albanian and Macedonian community, was rather satisfactory. The next CSCE mission, conducted in May 1992, stated that this situation had improved still further.

252. The Republic of Macedonia has adopted a positive attitude regarding international monitoring of the human rights situation in Macedonia. The permanent presence of the CSCE Spillover Monitoring Mission is of great importance. The mission plays a very significant preventive role. At present it is composed of eight members from seven countries. The announced enlargement of the Mission by three EC observers is welcomed.

253. The Special Rapporteur endorses the deployment of a UNPROFOR contingent in Macedonia. The presence of UNPROFOR should help to maintain border security and is perceived as a preventive measure.

254. The Special Rapporteur during his mission to the Republic of Macedonia managed to obtain first-hand information allowing him to express his conviction that the Government of the Republic of Macedonia is pursuing a policy aimed at the realization of internationally recognized human rights standards. Full implementation of these standards has not yet been achieved, due to various factors. The further improvement of the human rights situation in Macedonia will not be possible without international assistance. On the contrary, lack of international recognition may contribute to the disintegration of the State and may cause inter-ethnic disturbances which may lead to a military conflict with far-reaching consequences for the whole region.

255. For that reason the Special Rapporteur strongly believes that the admission of the Republic of Macedonia to the United Nations will contribute to the protection of human rights in that country. It will enable that country, inter alia, to ratify international human rights instruments and to take full advantage of existing universal and regional human rights protection mechanisms.

VII. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

256. Ethnic cleansing violates fundamental principles of international human rights and humanitarian law. Reference should be made to the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and international humanitarian law, including the Geneva Conventions of 12 August 1949 for the protection of war victims and the Additional Protocols thereto.

257. With particular regard to Bosnia and Herzegovina, practices associated with ethnic cleansing are in violation of the specific commitments undertaken by all parties to the conflict. On 22 May 1992, the parties signed an agreement in Geneva reaffirming their obligation to respect fundamental principles of international humanitarian law. On 27 August 1992, in London, the parties signed a Programme of Action on Humanitarian Issues (see annex III). This Programme of Action has remained a dead letter.

258. The leaders of all parties generally exercise effective control over their civilian and military structures and cannot thus dissociate themselves from atrocities committed by their forces.

259. Evidence of war crimes during the conflicts in both Croatia and in Bosnia and Herzegovina is mounting. Numerous cases of summary executions and death threats, disappearances, torture and ill-treatment of detainees and destruction of property including religious sites, have been documented.

260. Rape of women, including minors, has been widespread in both conflicts. There are victims among all ethnic groups and there are rapists among the armed forces of all parties to the conflicts. In addition, rape has been deliberately used as an instrument of ethnic cleansing and most of the rapes documented have been committed by Serb forces against Muslim women in Bosnia and Herzegovina. The Special Rapporteur is not aware of any attempts by any of those in positions of power, either military or political, to stop the rapes (see annex II).

261. The political and military leaders of the Bosnian Serbs bear the primary responsibility for the ethnic cleansing policy carried out there in total disregard of their obligations. However, with the prolongation of the conflict more and more atrocities are being committed by the other parties.

262. To date, international action and an international presence have clearly failed to prevent ethnic cleansing from taking place. Official figures for Bosnia and Herzegovina show that the number of refugees and displaced persons in the second half of 1992 was much greater than in the early stages of the conflict there. However, the deployment of UNPROFOR as well as

representatives of the ICRC, UNHCR and envoys of charitable organizations has partly alleviated the consequences of the military conflicts in the former Yugoslavia. The Special Rapporteur wishes to express his appreciation of the courage and devotion of the officers and soldiers of UNPROFOR, UNHCR personnel, ICRC delegates and the many other organizations which provide humanitarian relief.

263. In Bosnia and Herzegovina, thousands of persons, mainly civilians, are still imprisoned in spite of commitments to free them made by leaders of all parties to the conflict. There is strong reason to believe that no party has fully notified the ICRC of its detention camps and detainees. The practice whereby people are confined to live in designated villages renders those villages de facto detention centres where people are kept as potential hostages or "bargaining chips" in exchanges of prisoners.

264. Dramatic conditions exist in besieged cities and regions. Convoys attempting to deliver humanitarian aid are attacked again and again.

265. The hostilities in Bosnia and Herzegovina as well as in Croatia are increasingly influencing the human rights situation in the whole region. There is a danger that military conflict will spread to other territories, in particular to Kosovo.

266. The influence of ultranationalistic ideologies is growing in Serbia and in other countries of the former Yugoslavia. Indoctrination and misinformation continue to encourage national and religious hatred.

267. Coordination of human rights activities must be enhanced. The Special Rapporteur acknowledges with appreciation the work undertaken by international and local actors in the field but he must emphasize that the present level of coordination leaves a great deal to be desired. Efficient monitoring and investigation of the human rights situation are far from being achieved.

268. In his first report, presented at the end of August (E/CN.4/1992/S-1/9), the Special Rapporteur recommended "the appointment of staff in the territory of the former Yugoslavia". That recommendation has been supported by the subsequent resolutions of the Commission on Human Rights and the General Assembly. Nevertheless, it has not been implemented. The effective fulfilment of the Special Rapporteur's mandate requires that all sectors of the United Nations Secretariat extend their full cooperation and assistance to him. At present, the material and human resources available to the Centre for Human Rights for this task are inadequate, both in Geneva and in the field.

B. Recommendations

269. The following are the recommendations of the Special Rapporteur:

1. Almost all the recommendations formulated in the Special Rapporteur's three previous reports are still relevant and have yet to be implemented. The Special Rapporteur reiterates the following key recommendations:

(a) All detainees should immediately be released into conditions of safety. Those accused of war crimes should have a fair trial with the presence of impartial international monitors;

(b) Security zones should be created in Bosnia and Herzegovina;

(c) Blockades of cities and regions should be ended immediately and humanitarian relief corridors opened;

(d) All victims of rape, whether or not they are refugees, should have access to the necessary medical and psychological care. Such assistance should be provided within the framework of programmes to rehabilitate women and children traumatized by war. Regarding the social reintegration of child victims of the war, United Nations bodies, non-governmental organizations and local communities should combine their efforts in support of the family;

(e) UNPROFOR should have the right to intervene in cases of human rights violations. They should also be mandated to investigate complaints concerning such violations and closely cooperate with the Special Rapporteur in this regard. The necessary increase in their civilian staff and resources should be arranged to provide for this extension of their mandate;

(f) The Special Rapporteur supports the negotiations being undertaken by UNHCR with the Government of Croatia and recommends that a formula be found that would allow refugees to cross the border for at least temporary protection or in transit to third States. The right to seek asylum must be guaranteed. The Special Rapporteur emphasizes that more international aid to refugees is essential as well as more generous burden-sharing by the international community in the acceptance of refugees;

(g) In most parts of the former Yugoslavia, there is a need for support and assistance to be provided to democratically oriented groups. The information blockade which prevails in the region should be broken. Support should be given to initiatives taken by independent groups, both within and outside the former Yugoslavia, which aim to provide objective information.

2. The credibility of the parties to the conflicts should be measured by their proven commitment to respecting human rights. In the light of the present situation in Bosnia and Herzegovina, such a test requires the following:

(a) All necessary measures should be taken immediately to release all detainees, establish security zones in Bosnia and Herzegovina as well as lift blockades and open humanitarian relief corridors;

(b) Human rights concerns must be given priority in the peace process. All negotiations must take full account of the compliance of the parties with their previous human rights commitments.

3. All victims of ethnic cleansing should be guaranteed an effective right of return. In order for this to be a feasible prospect for those driven from their homes by terror or forcibly displaced, certain preconditions must be fulfilled: effective international monitoring to verify compliance with

international human rights obligations is indispensable; property must either be restored to its owners or adequate compensation paid, and forced transfers of property must be recognized as null and void; furthermore, economic and social aid from the international community is essential to assist the reconstruction of destroyed villages and towns. In this context, the creation of an international voluntary fund should be considered.

4. The creation of an international war crimes tribunal should be further investigated. The Special Rapporteur insists, once again, on individual responsibility for human rights and humanitarian law violations.

5. Coordination of human rights activities must be improved.

6. The necessary means for the Special Rapporteur to carry out his mandate effectively must be provided by the United Nations. In this regard, the Centre for Human Rights must be given all required resources.

Note

1/ According to the Constitution of the Federal Republic of Yugoslavia of 1974, there were in Yugoslavia five "constituent nations": Serbs, Croats, Muslims, Slovenes and Macedonians. All others were considered as national minorities and referred to as "nationalities".

Annex I

SUMMARY OF THE REPORT OF THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL,
SUMMARY OR ARBITRARY EXECUTIONS ON HIS MISSION TO INVESTIGATE
ALLEGATIONS OF MASS GRAVES FROM
15 TO 20 DECEMBER 1992

1. At the request of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, Mr. Bacre Waly Ndiaye, the Special Rapporteur on extrajudicial, summary or arbitrary executions, visited Croatia from 15 to 20 December 1992 to carry out preliminary investigations into allegations received indicating that victims of war crimes may be buried in various mass graves in the former Yugoslavia, particularly Croatia. In the initial investigation and assessment of the sites visited during his mission, the Special Rapporteur was assisted by a member of the team of forensic experts examining the site at Ovcara on behalf of the Commission of Experts established pursuant to Security Council Resolution 780 (1992).

2. An agreement was reached between the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia and the Chairman of the Commission of Experts established pursuant to Security Council resolution 780 (1992) to the effect that cases where there is prima facie evidence of a mass grave containing the remains of victims of war crimes would be forwarded to the latter for in-depth investigations.

3. The reports received concerned allegations of mass graves situated in Croatia, the majority within United Nations Protected Areas (UNPAs) in Sectors East and West. Given the sensitivity of the issue and the possible repercussions of investigations into allegations of mass graves for the safety and work of UNPROFOR personnel in the areas concerned, Mr. Ndiaye sought, and received, comprehensive briefings by UNPROFOR about the situation prevailing in both UNPAs. While UNPROFOR in Sector West reported that working relationships with both Croatian and Serbian authorities in the Sector were good, the situation in Sector East was described as very difficult. The hostile attitude of the local authorities of the self-proclaimed "Serbian Republic of Krajina" (RSK) towards UNPROFOR was reported to be the main problem. The security situation in the Sector was portrayed as precarious.

4. During his visit to three different sites in Sector East a few days later (see below), Mr. Ndiaye personally experienced the above-described hostility, when his team was stopped twice by RSK militia. On the first occasion, the militia contented themselves with explaining to the accompanying CIVPOL officers that authorization from the local police station had to be requested before visiting the site. In the second incident, five members of the militia approached the team near the alleged mass grave. Two of them carried loaded AK-47 machine guns. They shouted at the CIVPOL members, slapping away in a gesture of contempt the UNPROFOR badges presented to them. The reverse side of the badge bears the statement that UNPROFOR personnel are entitled to freedom of movement. The militia calmed down only when the team decided to leave the site.

5. In carrying out his investigation, Mr. Ndiaye proceeded first to study all the information regarding mass graves contained in UNPROFOR files to

complement the allegations that had been received. As a second step, he decided which sites might warrant further investigation, namely an on-site visit to determine their exact location and to find, with the help of a forensic expert, possible traces (e.g. signs on the ground, bones, teeth, pieces of clothing, personal objects, etc.). For the purpose of his mission, Mr. Ndiaye defined "mass graves" as locations where three or more victims of extrajudicial, summary or arbitrary executions were buried, not having died in combat or armed confrontations.

6. After studying the files, Mr. Ndiaye decided not to undertake on-site visits to three locations, where the allegations made were not sufficiently substantiated. He identified four other places which could not be visited during his mission but which could be looked into at a later date. Two of these possible mass graves are situated in UNPA Sector East, one in UNPA Sector West and one in Croatia, in close vicinity to UNPA Sector East. With regard to the site in Sector West, Mr. Ndiaye was informed that the local authorities had already initiated an investigation. It was requested that these files be forwarded to the Special Rapporteur.

7. Four sites were actually visited by Mr. Ndiaye and one forensic expert. The findings at the sites largely corresponded to the allegations and were consistent with possible mass graves. In one case, however, the information gathered in the field as well as the testimony of two witnesses which Mr. Ndiaye was able to obtain seemed to exclude the possibility that those buried there had been victims of war crimes. The unstable security situation may prevent a more thorough investigation of two other sites; the safety of possible witnesses, of forensic experts working at the site, of security guards as well as of the site itself cannot be guaranteed under the present circumstances.

8. The fourth location said to be a mass grave was qualified by the forensic expert as "highly suspicious". He recommended a preliminary forensic investigation of the site and that the site be secured to protect evidence and to prevent, for example, the removal of such bodies as might be present. In keeping with the agreement regarding the investigation of possible mass graves, Mr. Ndiaye considered recommending that the dossier concerning this fourth site be passed on to the Commission of Experts established pursuant to Security Council resolution 780 (1992). He felt, however, that before doing so, a number of practical, legal and political considerations needed to be addressed.

9. As concerns the practical aspects, Mr. Ndiaye outlined a number of minimum conditions that must prevail before further investigations into alleged mass graves are undertaken. The exploration and excavation of sites as well as the exhumation and examination of bodies requires specialists working on a full-time basis for a considerable period of time. Facilities are needed for the examination and conservation of human remains as well as office space, accommodation, transport, etc. Funds for the remuneration of the experts and to cover all other costs must be made available. Mass graves containing victims of war crimes must be regarded as the scene of a crime and therefore treated as such. From the very first visit to a grave until the end of the investigation, the site must be protected so as to preserve the evidence. The personal security of the specialists working at the site must

be guaranteed. A number of the sites suspected to be mass graves are located in areas that are considered war zones, while those guilty of war crimes may still be present. These factors may generate serious security problems for those involved in the investigation.

10. A number of legal questions related to the investigation of mass graves for the purpose of obtaining evidence in war crimes proceedings would also have to be solved in advance. These include the following: Which body should conduct proceedings against persons accused of war crimes in the former Yugoslavia? Should it be national courts or an international "war crimes tribunal"? Which would be the legal grounds for its jurisdiction? Who should be the judges in such proceedings and by whom should they be appointed? What rules of procedure should be followed, and on what legal grounds should they be based? How should decisions taken by such bodies be implemented? To what extent would national laws regulating the excavation of mass graves and exhumation of remains have to be taken into account? What is the appropriate attitude towards local authorities not recognized by the United Nations but in de facto control of the areas in which mass graves are located and towards their "legislation"?

11. Of paramount importance is the need for impartiality. War crimes have been and continue to be committed by all sides. All war crimes should be investigated regardless of the identity of the alleged author or of the victims. A political decision must also be taken with regard to the extent of collaboration of the Governments in such investigations. Another question of principle concerns the mandate of UNPROFOR with regard to allegations of mass graves in particular, and war crimes in general. At present, UNPROFOR is mandated only to monitor investigations undertaken by the local authorities.

12. In his report, Mr. Ndiaye emphasized the particularly sensitive nature of the problem of mass graves and suggested a "code of conduct" that should apply to all persons involved in the investigation of this issue. This code should, in particular, provide guidelines for contacts with the press and other media to avoid the counterproductive effects of unwanted publicity.

13. Mr. Ndiaye stressed the seriousness of the reports of mass graves holding victims of war crimes. He underlined the importance of identifying the victims; this would end a long period of uncertainty for relatives of many disappeared persons. However, international action against the authors of such war crimes can only constitute an effective deterrent if it is legally well founded, politically feasible and practically possible. He suggested that, although such proceedings are important, in the present circumstances all efforts and resources should be concentrated on trying to halt the massacres in Bosnia and Herzegovina and to protect lives threatened in other regions of the former Yugoslavia such as Kosovo.

14. Once the war has come to an end, the circumstances for the investigation of mass graves will, in all probability, be much more favourable. Forensic experts will still be able to obtain evidence from the remains of those buried in these graves in many years' time. Mr. Ndiaye concluded his report with some practical suggestions which may facilitate such investigations of mass

graves related to possible war crimes in the future. These include systematic gathering of information, ideally through human rights monitors in the field. In parallel to their work, all testimony collected by UNPROFOR should be recorded in the form of a procès verbal, that is, a precise transcription. All witnesses should be registered and up-to-date information kept as to their whereabouts, so that they may be contacted if, at a later date, judicial proceedings are initiated. If necessary, these witnesses would have to be protected. All information regarding alleged war crimes should be collected and kept on record for possible use in any further trials.

Annex II

REPORT OF THE TEAM OF EXPERTS ON THEIR MISSION TO INVESTIGATE ALLEGATIONS OF RAPE IN THE TERRITORY OF THE FORMER YUGOSLAVIA FROM 12 TO 23 JANUARY 1991

I. INTRODUCTION

1. Pursuant to Commission on Human Rights resolutions 1992/S-1/1 and 1992/S-2/1, the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia requested a team of medical experts to investigate reports concerning the widespread occurrence of rape and, in particular, allegations received that rape was being used in a "systematic" way, especially in Bosnia and Herzegovina.

2. The team was composed of the following four experts: Dr. Greta Forster (genito-urinary specialist, United Kingdom), Dr. Perran Möröy (obstetrician/gynaecologist, Turkey), Dr. Elizabeth Murphy (psychiatrist, United States of America) and Dr. Shana Swiss (women's health and human rights, United States of America). Mrs. Chafika Meslem, Director of the United Nations Division for the Advancement of Women, accompanied the team during the mission which was carried out from 12 to 23 January 1993. The team spent four days in Croatia (Zagreb and surrounding areas, including Karlovac). Half of the team then went to the Federal Republic of Yugoslavia (Belgrade and surrounding areas, including Loznica) and the other half spent two more days in Zagreb and four days in Bosnia and Herzegovina (Sarajevo and Zenica). The report was finalized over a three-day period in Geneva.

3. The purpose of the mission was to investigate allegations of the widespread use of rape, that is, non-consenting sexual relations with another person obtained through physical force, threat or intimidation, 1/ in the territory of the former Yugoslavia.

II. INFORMATION/EVIDENCE OBTAINED

4. In carrying out the mandate entrusted to them, the team of experts applied a variety of methods to obtain evidence, as detailed below.

A. General information

5. General information regarding the subject was obtained in meetings with representatives of the Governments concerned, international organizations with representation in the locations that were visited, non-governmental organizations concerned with women's issues, local women's groups, religious leaders of Muslim communities, and other sources including UNPROFOR officials, relatives of detained or disappeared persons as well as relatives of victims of rape.

6. According to some of these sources, rape has been used since the beginning of the conflict on a large scale, as a means of implementing the strategy of ethnic cleansing and to increase inter-ethnic hatred. Paramilitary groups are said to be responsible in most cases. The victims are said to be mainly Muslim but also Serb and Croat women. Most reports relate

to the months of May and June 1992. Attempts made to locate specific places where women were allegedly detained and raped have proved unsuccessful to date. Information provided was often too imprecise. In several cases, alleged rape camps were found to be empty when visited by ICRC delegates.

B. Statistical data

7. Statistical data including rates of birth, abortions, sexually transmitted diseases (STD) including HIV infection, as well as the numbers of pregnancies reportedly due to rape were requested from the hospitals visited in Zagreb, Sarajevo, Zenica and Belgrade.

8. A number of pregnancies resulting from rape were documented among women who received abortions or pre-natal care at several hospitals. The women were known to be victims of rape through disclosure to their physician or, after denial of abortion, through the appeals procedure before ethics committees. Some were so distressed that they received a psychiatric consultation during which they admitted to having been raped.

1. Known pregnancies resulting from rape in 1992

9. Through interviews with physicians and a review of medical records from six major medical centres in Zagreb, Sarajevo, Zenica and Belgrade, the team of experts was able to identify 119 pregnancies resulting from rape during 1992.

Croatia

10. In one major hospital in Zagreb, 28 pregnant women refugees from Bosnia and Herzegovina (6 from Prijedor, one of them 15-years-old) personally stated that they had been raped; 25 of them were admitted to the hospital for early abortions. 2/ One late abortion was performed. Two victims delivered babies. In the second hospital visited by the team of experts in Zagreb, there were seven known pregnancies resulting from rape. Two women delivered babies; four are expected to give birth in early 1993, one had had an abortion (term unknown).

Bosnia and Herzegovina

11. In Zagreb, medical information was obtained regarding a hospital in Tuzla, where, in 1992, 45 pregnancies were known to have resulted from rape. In 41 cases, abortions were performed up to 20 weeks of pregnancy. Four women were more than 20 weeks pregnant due to rape and did not receive abortions.

12. In the largest gynaecological clinic in Sarajevo, the number of known pregnancies due to rape in 1992 was 15; 14 of these were terminated through late abortions, while one resulted in delivery.

13. At the gynaecology clinic in Zenica, 19 pregnancies were known to be the result of rapes; 16 women, all between 17 and 22 years old, were seen at the clinic in October and November 1992. All were more than 20 weeks pregnant as a result of rape and could not receive abortions. Abortions were performed on three other women who had been raped in front of their parents and had come to

Zenica in early pregnancy. Most of these women came from villages occupied by ethnic Serbs such as Vogosca, Hanpijesak, Foca, Rogatica, Banja Luka and Kotor Varos.

Federal Republic of Yugoslavia

14. At one specialist maternity hospital in Belgrade, there were five recorded cases of pregnancy due to rape. Medical records were obtained regarding these cases, which included three late terminations of pregnancy and two deliveries (see details below).

2. General abortion and delivery data

Croatia

15. According to data obtained in one of the two major hospitals visited in Zagreb, 6,521 infants were delivered and 4,615 abortions performed in 1992. In the second hospital, 4,039 infants were delivered and 4,100 abortions performed in 1992 (as compared to 3,103 deliveries and 3,000 abortions in 1991). In both hospitals, the total number of abortions and deliveries increased in 1992. However, the ratio of abortions to deliveries remained approximately the same as in 1991, according to the physicians in charge of both hospitals' gynaecology departments.

Bosnia and Herzegovina

16. In 1992, the number of abortions performed at the clinic visited by the team of experts in Sarajevo had doubled in September, October and November (400-500/month) compared to pre-war rates (approximately 200/month). 3/ At the same time, the number of patient visits decreased by half. This means that there were effectively four times the number of abortions in those months compared to pre-war rates. Doctors noted an increase in late terminations of pregnancy beginning in September 1992.

17. Spontaneous abortions (miscarriages) also increased in Sarajevo. This was thought to be due both to lack of availability of food as well as to psychological trauma. 4/

18. Abortions were performed at three health centres and several emergency centres in Sarajevo. However, some of these centres have been destroyed, along with all of their medical records.

19. In the clinic visited in Zenica, 1,489 early abortions were performed in 1991, 2,106 in 1992. There were 632 abortions performed in the first half of 1992 and more than twice as many abortions in the second half of the year, 1,474, with 712 abortions performed in December 1992.

20. In Zenica, there were 4,300 deliveries in 1991. In 1992, there were 3,900 deliveries. In the former Yugoslavia women historically deliver in hospitals, and Zenica is a referral hospital for a large area in Bosnia and Herzegovina that includes 2.5 million people, from Doboje and Knjic to Bugojno

and Kupres. Zenica, which had a population of approximately 145,000 people according to the 1991 census, has received an influx of 230,000 refugees since the war began.

Federal Republic of Yugoslavia

21. Despite a decline in live births, numbers of early and late abortions remained relatively stable from 1984 to 1992 at one of two specialist maternity hospitals in Belgrade. The ratio of abortions to deliveries ranged between 0.5 and 0.7 between 1984 and 1992. A total of 4,200 early, and 438 late abortions were performed at this hospital in 1992. During the same year, 238 applications for late abortions were received by the Appeals Commission for the entire city.

C. Analysis of statistical data and medical records

1. Under-reporting

22. Rape is among the most under-reported crimes in peacetime throughout the world. Because of the stigma attached to rape, shame and secrecy often silence the victims. According to many physicians and psychologists whom the team of experts met in the former Yugoslavia, even in peacetime women rarely disclosed that they had been raped, whether Croatian, Muslim or Serbian. This was so even though early abortions were readily available and accessible. This clinical observation is supported by the very low rate of charges brought for rape or attempted rape in the former Yugoslavia. 5/

23. Rape continues to be under-reported during wartime. Women who are raped by soldiers see it as useless to press charges or demand justice. "There is no one to complain to," one woman who had been raped by a soldier told a member of the team of experts. Soldiers who have licence to rape because of their military association is a form of institutionalized violence that leaves victims with little recourse. Rape by soldiers is increasingly used as a weapon of war against women and girls.

24. Many women will not talk about their experience of rape for fear of reprisals. Many women interviewed by the team of experts personally knew, or knew the names of, the men who had raped them. Some were reluctant to tell the experts the names of the perpetrators because of fear for their own and their family's safety.

2. Data collection

25. Clinical care of victims takes precedence over data collection in times of war. The team encountered difficulties in its ability to collect data. These include limitations on the number of hospitals that could be visited, unanticipated inaccessibility of certain locations for security reasons, destruction of data during conflict, and the need for collecting data from individual hospitals rather than any central reporting agency.

3. Evaluation of findings

26. The team of experts collected data on pregnancy rates, birth rates, abortion rates, STD including HIV infection as well as the number of pregnancies reportedly due to rape. The experts were looking for data that might indicate large-scale sexual abuse of women.

27. In Zagreb and Belgrade, cities not directly involved in the hostilities but which have accepted large refugee populations, the ratio of abortions to deliveries has remained relatively stable since the conflict began compared with other areas directly affected. In the city of Zenica, for example, the number of all pregnancies ending in abortion increased in December 1992. In Sarajevo, abortions doubled while the number of patient visits decreased by half in the last four months of 1992. While this increase could reflect a rise in pregnancies due to rape, it could also reflect a more general response to economic and social instability created by war.

28. Through interviews with physicians and a review of medical records from six major medical centres serving large refugee and Bosnian populations, the team of experts was able to identify 119 pregnancies resulting from rape during 1992. The vast majority of these were specifically identified by the physicians or the victims as being the result of rape by paramilitary soldiers. The women were known to have been victims of rape through their disclosure to their physicians or in justifying a request for a second trimester abortion. For some women, the history of rape was elicited during psychiatric consultation for severe distress.

29. Virtually all interviewed physicians and health workers felt that the reporting of rape resulting in pregnancy would be far lower than its actual occurrence due to the profound emotional pain and stigma associated with rape. Indeed, it had become express policy for some medical personnel not to inquire of women requesting abortions whether they had been raped. The 119 cases documented to have been associated with rape, therefore, should be viewed as the minimum number of pregnancies due to rape in the populations served by the hospitals visited.

30. It is not possible to know precisely the actual number of rapes or the number of pregnancies due to rape that have occurred. However, estimates can be made based on the 119 documented cases of pregnancy resulting from rape. Medical studies suggest that of every 100 incidents of rape, one will result in pregnancy. 6/ This suggests that the 119 documented cases were likely to have been the result of approximately 12,000 incidents of rape. Since it is clear that women experienced multiple and/or repeated rape, this figure should not be construed as a direct indication of the number of women who were raped in the populations using the medical facilities visited by the team of experts but may only serve as a guide to the general scale of the problem. 7/

31. Nevertheless, because the under-reporting of rape is so profound and the source of documented cases was only six hospitals, the 119 documented cases suggest that the incidence of rape in the conflict in the former Yugoslavia has been widespread.

D. Testimonies

1. First-hand testimonies

32. Interviews were conducted with victims of and eye-witnesses to rape. These interviews took place in hospitals and refugee camps in and around Zagreb, Sarajevo, Zenica, Belgrade and Loznica. Interviewees were selected through contacts with relevant physicians and by random sampling in refugee camps.

33. Though the interviews with victims and eye-witnesses provided essential information, the team of experts decided to present these testimonies in summarized form to preserve confidentiality and protect the safety of the women interviewed, as well as that of their families. Complete documentation concerning the interviews conducted by the experts is in the possession of the United Nations Centre for Human Rights.

Testimonies obtained by the team of experts in the Federal Republic of Yugoslavia

34. Of 35 ethnic Serb refugees (11 males, 24 females) from Bosnia and Herzegovina as well as Croatia who were interviewed by the team in different locations in the Federal Republic of Yugoslavia, five women reported multiple rapes. In five other cases, the experts strongly suspected that the women had been raped. The following are extracts from some of the testimonies received.

35. One Serb woman reported that after the conflict had reached her village, all ex-neighbours wore uniforms of the Croatian army. She reported being taken, together with other women and children, to Novi Grad (north-east Bosnia and Herzegovina) where they were confined to private houses and many of the women were raped. She told the experts that she knew a lot of them. "Some helped, but some did things that could not be forgotten. I had to pay for everything with myself."

36. One elderly Serb woman, who the experts suspected was raped herself, reported witnessing the repeated rape of numerous women in a detention camp controlled by Muslim forces. Guards would come at night to the room where women and girls were sleeping and select them using a flashlight. She told the experts that she would "prefer to jump into the river Drina than to go through it again." Two other Serb women reported abuses of close female relatives who were detained and subjected to threats of rape, but did not admit to being raped themselves.

37. Two men who were detained witnessed women being raped repeatedly. In one Croat-run military detention centre near Split, women of all ages were kept in a separate building, apart from the male prisoners. They were taken out at night and raped.

38. Most of the rapes reported by ethnic Serb refugees occurred in Bosnia and Herzegovina, while others took place in Croatia. A number of these rapes reportedly took place in detention camps, where ethnic Serb women reported having been held and repeatedly raped by Croat or Muslim forces. Those said to be the perpetrators were Croat soldiers and police as well as ethnic Croat

and Muslim forces. Eight of those who had either experienced or witnessed rape had been interviewed by one or more journalists and missions investigating human rights violations. One woman who had given numerous interviews complained that she had not yet received a gynaecological examination, despite having symptoms, since being raped. She expressed anger and felt manipulated and used.

Testimonies obtained by the team of experts in Croatia and in Bosnia and Herzegovina

39. A total of 16 women were interviewed in Croatia and Bosnia and Herzegovina. Three of them were ethnic Croats and 13 of them were Muslims. Physicians helped locate many of these women, which may explain why there was a large number of women who had become pregnant as a result of rape among those interviewed by the experts.

40. Six Muslim and two ethnic Croat women reported having been raped. One 43-year-old Muslim woman reported being repeatedly raped in her apartment in a Serb-occupied area for seven months until she managed to escape. The perpetrators, who came to the apartment regularly two or three times a week, were two ethnic Serbian neighbours in paramilitary uniforms. Another Muslim woman reported how some of the ethnic Serbs in her village rounded up the Muslims and took them to a primary school where she was detained with 12 other women and about 400 men. "The soldiers would come every evening around midnight, drunk and dirty. This went on for about two months. Some of them were my neighbours, and some of them I did not know, from Serbia. There was a room with five or six men in it. They would all rape one woman and then take her away and bring in another woman. All 13 of us were taken there; the youngest girl was ten years old."

41. One ethnic Croat woman was detained in a Serb-controlled camp with 34 other women and a large number of men. She reported that all 34 women in the camp were raped: "There were so many killings, torture. Death became very familiar. All of the women were begging to be killed, to be shot, not to be tortured ...". Another ethnic Croat woman was detained in a "special house" where she was raped by several men every night for approximately two months. Every night she could hear screams and cries of other women. She reported that, while raping her, the men were shouting: "you will have a Serbian child". She also reported being told that, if she were pregnant, she would be "forced to stay there until six months of pregnancy".

42. Two other women reported having witnessed rapes: one ethnic Croat woman reported being detained for two months in a camp where she witnessed three Muslim women being repeatedly beaten and tortured. One older Muslim woman reported that two 12-year-old girls had been raped.

43. All of the above-described rapes of Croatian and Muslim women occurred in Bosnia and Herzegovina between May and December 1992, near Prijedor, Banja Luka, Kljuc, Mahale and Sarajevo. In all cases, the perpetrators were said to be local ethnic Serb paramilitary or paramilitary from Serbia. Two women personally knew the men who raped them. Five were pregnant as a result of rape. Two had given birth to children. One child has been adopted and the other has been rejected by the mother and is being kept in the hospital.

Three women have had abortions. Two of the women had been interviewed by journalists investigating human rights violations. One of these, because of coming forward in public, was verbally attacked by another refugee woman. "Maybe it would have been better if I hadn't spoken about it," she told the team of experts.

2. Other testimonies and reports

44. In addition to direct interviews, the team of experts carefully examined testimonies of victims and/or witnesses of rape obtained by physicians, government representatives and independent agencies. Information regarding a number of clinical cases was also obtained through the study of medical records in these hospitals.

45. The experts reviewed five medical records, obtained at a major maternity hospital in Belgrade. These medical cases, which included, where appropriate, birth records or official approvals for abortions, concerned five Serb refugee women from Bosnia and Herzegovina, between 20 and 38 years of age, pregnant as a result of multiple rape over periods of three weeks to five and a half months by Muslim and Croat irregular soldiers. Four of the five women had been denied abortions elsewhere on one or more occasions. Three obtained late abortions at 20 to 23 weeks' gestation. All women exhibited psychological trauma and three required psychiatric interventions. Given allegations that HIV-antibody positive men were deliberately raping Serb women, all five women were tested but proved HIV-antibody negative. The five women were not available for interviews with the experts. Three had moved from the area. Two had made themselves inaccessible, due to a desire for anonymity after extensive interviews and media exposure.

46. The team also received three reports prepared by governmental agencies of the Federal Republic of Yugoslavia, which documented multiple rapes carried out by Croat and Muslim soldiers against Serbian women, formerly resident in Bosnia and Herzegovina and Croatia, during the conflict. For the purpose of this mission, the only governmental reports used were those substantiated by evidence collected by the team of experts.

47. The team of experts received more than 30 reports prepared by governmental and non-governmental organizations in Croatia and Bosnia and Herzegovina. All of these reports documented victims of or eye-witnesses' accounts of rapes or multiple rapes of Croat and Muslim women. The team also reviewed 16 interviews conducted by physicians with victims of and eye-witnesses to rape in Croatia and Bosnia and Herzegovina. While the team relied primarily on the information that was gathered from interviews with victims and eye-witnesses and from interviews with physicians and medical data collected, the experts found these reports useful in understanding the scope of the problem.

48. From a review of the information contained in the documents and testimonies received, as well as from meetings held by the team of experts with some of these physicians, several patterns became apparent. Although the team interviewed a small number of women, the information acquired from these personal interviews was consistent with some of the information found in these additional testimonies and reports.

(a) Rape has been used as one method to terrorize civilian populations in villages and forcing ethnic groups to leave. One example of this was described by a physician who interviewed several women from the region of Vukovar (Croatia). There, Serb paramilitary units would enter a village. Several women would be raped in the presence of others so that word spread throughout the village and a climate of fear was created. Several days later, Yugoslav Popular Army (JNA) officers would arrive at the village offering permission to the non-Serb population to leave the village. Those male villagers who had wanted to stay then decided to leave with their women and children in order to protect them from being raped;

(b) In one pattern that was reported in several Serb-controlled areas, particularly in Bosnia and Herzegovina, local Serb forces in conjunction with Serb forces from outside the area would occupy a village and restrict the movement of the local population. Often, men were deported or fled. Women were then often raped in their own homes or taken from their homes to another location and raped, often by neighbours or people known to them. Reports of similar abuses were obtained from a Serb refugee who came from north-eastern Bosnia and Herzegovina, regarding a number of villages occupied by Croat forces, particularly in the region of Novi Grad;

(c) Although the team of experts heard stories about individuals, Croats, Muslims and Serbs, who risked their own safety to try and help their threatened neighbours, they heard of no attempts made by anyone in a position of authority to try and stop the raping of women and girls. In fact, some of those in power actively participated in it. One example for this was given by a Muslim woman living in a Serb-occupied town. She reported being taken by an ethnic Serb policeman to a private home where she was presented with the words: "Here she is, Commander. I brought her!" She recognized the "Commander" as one of the strongest political figures in the region before the war. He told her to go into his office, which was his bedroom, where he raped her. Serb women also reported that women were raped by Croat and Muslim policemen and men in positions of authority;

(d) Rape was also commonplace in detention camps on all sides. There, women were kept together in rooms in a separate part of the camp. Women were taken individually to other rooms, where they would be repeatedly raped.

III. OBSERVATIONS, CONCLUSIONS, RECOMMENDATIONS

A. Observations

49. Rape is an abuse of power and control in which the rapist seeks to humiliate, shame, embarrass, degrade and terrify the victim. The primary objective is to exercise power and control over another person.

50. Rape of females has encompassed the entire age spectrum, from children to elderly women, in all areas of the conflict.

51. Many women are reluctant to speak about their experiences for a variety of reasons: because of severe traumatization, feelings of shame, lack of

trust, fear of awakening bad memories. Fear of reprisals against themselves and their families, some of whom may still be in the areas affected by the conflict, also makes victims unwilling to speak.

52. Repeated interviewing of victims by a number of missions and some media representatives has further decreased their readiness to testify. Some of the women met by the team of experts felt exploited by the media and the many missions "studying" rape in the former Yugoslavia. Furthermore, health care providers were concerned about the effects on women of repeatedly recounting their experiences without adequate psychological and social support systems in place.

53. Some governmental and non-governmental organizations in the former Yugoslavia are exploiting the issue of rape for their own political aims.

54. Women are not being provided with the necessary gynaecological and STD screening that should be part of their overall care following rape. In some circumstances, this is due to lack of reporting of the abuse, sometimes caused by inability to disclose the experience of rape to others. However, the geographical locations of some refugee centres limit access to appropriate health care, as do economic and logistic constraints.

55. Establishing health services that are designed specifically for rape victims will lead to further stigmatization. Therefore, programmes should be created for all women and children who have been traumatized by war. These considerations should be taken into account by the international community when awarding aid for specific programmes.

56. The experts were informed that 65-70 per cent of refugees in Croatia are in private homes, while 96 per cent of refugees in Belgrade are in private homes. Economic aid for those housing refugees in their own homes is needed.

57. The team of experts has observed that children have been and are continuing to be exposed to war trauma directly, as well as through the media and through listening to parents' and other adults' graphic discussions of traumatic events, including rape, in their presence.

58. Women's experience of rape can be intensified by cultural and religious views which often blame the victim. Modifying societal beliefs through community education may be helpful in ensuring that victims of rape can participate fully in family and community life.

B. Conclusions

59. Rape of women including minors has occurred on a large scale. While the team of experts has found victims among all ethnic groups involved in the conflict, the majority of the rapes that they have documented had been committed by Serb forces against Muslim women from Bosnia and Herzegovina.

60. The team of experts is not aware of any attempts by those in positions of power, either military or political, to stop the rapes.

61. There is clear evidence that Croat, Muslim and Serb women have been detained for extended periods of time and repeatedly raped.
62. In Bosnia and Herzegovina and in Croatia, rape has been used as an instrument of ethnic cleansing.
63. In these circumstances, rape is a war crime according to the Geneva Conventions of 1949 and the Additional Protocols of 1977 and should be treated as such by the international community.
64. While the media have been helpful in bringing the issue of rape to international attention, some women have been revictimized through repeated interviewing without consideration of the psychological consequences or social support being available to them.
65. More than half a dozen missions to investigate human rights violations against women have visited the former Yugoslavia within the past two months. Lack of coordination has led to duplication of effort and has contributed to "mission fatigue" among victims, care-givers and personnel involved in delivery of services and assistance to refugees.
66. Wide-ranging estimates of numbers of rape victims have recently been publicized. The team of experts was not able to discern a reliable method for the calculation of these figures. While the data collected by this mission support the finding that rape has occurred on a large scale, the team feels that it is not in a position to make an estimate of the total number of rape victims in this conflict.

C. Recommendations

67. Refugee and displaced women, regardless of whether they report having been raped, should be offered basic primary health care including gynaecological and STD screening. Psychological and social rehabilitation must occur at the community level with the input of those who have been traumatized. It should focus on outcomes and not exposures, i.e. on the current problems at hand rather than on the traumatic events that have occurred, including rape. The team of experts would like to recommend non-stigmatizing programmes that focus on healing social damage rather than on rapes. Supporting women's self-help groups within existing community structures may be helpful in this regard. The specific needs of children must also be taken into consideration.
68. For the smaller number of individuals who have serious psychological sequelae, psychiatric services should be available.
69. Training on the effects of chronic violence and trauma should be available to health workers and other relevant service providers.
70. The team of experts wishes to emphasize the importance of international human rights monitoring in the field to collect and analyse first-hand information without delays and to coordinate collection and documentation of data concerning human rights violations in the former Yugoslavia. They should also strengthen and assist local human rights groups to systematize and

coordinate data collection of all human rights abuses including rape. It should be noted that the presence of female human rights monitors would be essential to obtain first-hand evidence with regard to rape. These monitors should receive special training on interviewing women who have been victims of rape. Their work should be coordinated with those providing assistance to women and children.

71. All places where detainees are subjected to human rights violations should be closed and the release of those detained carefully monitored so as to ensure their safety.

72. Those responsible for human rights abuses should be held accountable. In the present situation there is no recourse to justice for victims of human rights violations inside the country. An international tribunal should be established to bring to justice the perpetrators of all war crimes and crimes against humanity, including rape. Those who committed rape, those who ordered it, or those in positions of authority who failed to prevent it should be brought to justice.

73. Victims of rape should be accorded refugee status if the terms of article 1 of the Convention relating to the Status of Refugees are satisfied, namely that a person, "... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country ...".

74. All other pertinent international human rights instruments should also be taken into account, in particular the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the international standards relating to the treatment of detainees, the Convention on the Elimination of All Forms of Discrimination against Women as well as the draft declaration on violence against women.

75. Rape in this conflict is occurring in the context of complete disregard for the rights of the individual human being. It is only one of a number of unspeakable abuses, cruelties, degradations and losses being visited upon the civilian population in the course of the conflict in the former Yugoslavia. If peace negotiations fail atrocities will continue. The team of experts strongly appeals to those in power to make every effort to stop these violations by all means available to them.

Notes

1/ A.N. Groth, A.W. Burgess, "Rape: A Sexual Deviation" American Journal of Orthopsychiatry (1977:47:400-6).

2/ The working definition of "early abortion" used by the experts for this mission was an abortion carried out up to 12 weeks of pregnancy; "late abortion" was an abortion carried out between 12 and 20 weeks of pregnancy.

3/ These figures reflect information provided by two physicians. Due to difficult working conditions in Sarajevo, the team was not able to examine medical records.

4/ According to one physician, average weight loss in Sarajevo has been 10 kilograms since May 1992.

5/ In 1981, there were 857 charges brought against men between 20 and 69 years old for rape or attempted rape in the Socialist Federal Republic of Yugoslavia (SFRJ), 1,337 charges per 10,000 male inhabitants. In 1988, there were 1,001 criminal charges of rape or attempted rape per 10,000 male inhabitants between 20 and 69 years old, 423 of which resulted in convictions. (Police reports of rape or attempted rape are from the Federal Agency of Statistics, SFRJ.)

6/ W. Cates and C.A. Blackmore, Sexual Assault and Sexually Transmitted Diseases. In: K.K. Holmes et al., (eds) Sexually-transmitted Diseases. (New York: McGraw Hill Book Company, 1984) pp. 119-125.

7/ If the documented cases of pregnancy due to rape represent one quarter of the actual number of rape-associated pregnancies in the populations served by the visited hospitals, and if each pregnant women experienced an average of 20 incidents of rape, then the 119 documented cases would reflect the experience of almost 2,400 women. A figure of 25 per cent was considered to be conservative as reported rape from other European countries reveals rates less than 25 per cent (M. Hough and P. Mayhew. The British Crime Study, Home Office Research Study No. 76 (London: Her Majesty's Stationery Office, 1983)).

Annex III

THE LONDON INTERNATIONAL CONFERENCE: PROGRAMME OF ACTION ON
HUMANITARIAN ISSUES AGREED BETWEEN THE CO-CHAIRMEN TO THE
CONFERENCE AND THE PARTIES TO THE CONFLICT

Recognising that an effective humanitarian response with the full collaboration of the parties to the conflict would greatly contribute to efforts to find an overall political solution and bring an end to hostilities. The Co-Chairmen of the Conference, the United Nations High Commissioner for Refugees and the parties to the conflict in Bosnia have agreed the following Programme of Action:

1. The parties to the conflict commit themselves to full collaboration in ensuring the delivery of humanitarian relief by road throughout Bosnia-Hercegovina.
2. In order to enhance the development of the system of land convoys to deliver humanitarian assistance on the basis of negotiated safe passage. The following specific steps will be undertaken:
 - a. Priority will be given to repairing the road and railway between Ploce, Mostar and Sarajevo.
 - b. The parties to the conflict will no later than 3 September identify to UNHCR representatives at Sarajevo (or at Belgrade, Split or Zagreb as appropriate) designated representatives of the local authorities (at the military police and political level) at all relevant locations with whom the practical arrangements for the expansion of the forthcoming relief missions and road convoys for the benefit for all victims in need will be made.
 - c. UN and UNHCR representatives will meet regularly with designated representatives of the parties to make arrangements for forthcoming relief missions and road convoys from Croatia and from Serbia and from Montenegro to Sarajevo and also to Banja Luka, Bihac, Bileca, Duboj, Foca, Gorazde, Mostar, Tuzla, Vitec, and Vlasenica. This pattern will be extended to all areas within Bosnia-Hercegovina where humanitarian assistance is required.
 - d. It was recognised that in addressing the acute problem of the unlawful detention of civilians and the deplorable conditions in which they were held. The primary objective to secure their release and return to their homes. If not immediately feasible, they identified the following possible options in the light of the wishes of those detained and in keeping with the provisions set out at para 3 below:
 - repatriation to areas under the control of their respective ethnic authorities;
 - choosing to stay temporarily in the area of detention;

- relocation in areas away from the conflict under international supervision;
- temporary refuge in third countries.

e. The international humanitarian agencies will explore urgently with the parties all possible ways to secure the safe release of those detained.

f. In the meantime, the parties undertook to ensure that arrangements are made to ensure that those in detention are cared for and protected, until such time as their safe release is feasible, and accepted that the international community will monitor the situation closely to ensure that the security and well being of those held in detention is assured. To this end, they undertook to give free access to representatives of the international community including the UN, ICRC, EC and CSCE.

g. In light of the need for the immediate evacuation of critical medical cases under ICRC supervision, the parties agreed to arrange security guarantees to permit the use of Banja Luka airport for this purpose. The evacuation would take place with the shortest delay. The parties undertook to identify the names of local commanders/authorities who would make the arrangements with the ICRC delegate. In close coordination with the United Nations, and who would be individually responsible for the safe passage and security of those to be evacuated.

3. In carrying out the Programme of Action, the parties to the conflict undertook to abide by the following provisions:

i) all parties to the conflict are bound to comply with their obligations under International Humanitarian Law and in particular the Geneva Conventions of 1949 and the Additional Protocols thereto, and that persons who commit or order the commission of grave breaches are individually responsible.

ii) all the parties to the conflict have the responsibility to exercise full authority over undisciplined elements within their areas so as to avoid anarchy, breaches of international humanitarian law and human rights abuse.

iii) that refugees and displaced persons should be allowed to return voluntarily and safely to their places of origin.

iv) all practices involving forcible displacement, all forms of harassment, humiliation or intimidation. Confiscation and destruction of property and all acts involved in the practice of ethnic cleansing are abhorrent and should cease forthwith.

v) there should be unconditional and unilateral release under international supervision of all civilians currently detained.

vi) that the parties to the conflict are responsible for the provision of security and protection for those currently detained until they can be freed under international supervision.

vii) that all such action should be in accordance with the agreement with the parties reached in Geneva on 22 May under auspices of the ICRC.

viii) that the provision of humanitarian assistance should be carried out impartially and on a non-political basis for the benefit of all those affected by the conflict.

The representatives of the Co-Chairmen also noted the following points made by the parties:

- a. that humanitarian assistance should be carried out impartially to the benefit of all those in need.
- b. that no party can be expected to give guarantees of security on behalf of the other parties to the conflict.
- c. that in granting safe access to the international humanitarian organizations there would be a clear understanding that no party would gain military advantage.

Identical copies of this document were signed in London on 27 August 1992 by:

Alija Izetbegovic
President, Presidency of the
Republic of Bosnia and Herzegovina

Radovan Karadzic

Mate Boban

Distr.
GENERAL

E/CN.4/1994/47
17 November 1993

Original: ENGLISH

Commission on Human Rights
Fiftieth session
Item 12 of the provisional agenda

SITUATION OF HUMAN RIGHTS IN THE TERRITORY OF THE FORMER YUGOSLAVIA

Fifth periodic report on the situation of human rights in the
territory of the former Yugoslavia submitted by
Mr. Tadeusz Mazowiecki, Special Rapporteur of the
Commission on Human Rights, pursuant to paragraph 32 of
Commission resolution 1993/7 of 23 February 1993

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
Introduction	1 - 9	3
I. BOSNIA AND HERZEGOVINA	10 - 98	4
A. Introductory remarks	10 - 11	4
B. "Ethnic cleansing"	12 - 19	4
C. Rape	20 - 28	5
D. Human Rights violations by forces under the control of the Government of Bosnia and Herzegovina	29 - 46	6
E. Human rights violations by Bosnian Croat forces	47 - 69	8
F. Human rights violations by Bosnian Serb forces	70 - 98	11
II. CROATIA	99 - 164	14
A. Introductory remarks	99	14
B. Arbitrary executions and ethnic cleansing by the Croatian armed forces in the Medak pocket and other areas	100 - 107	14
C. Other violations of the right to life	108	15
D. Arbitrary detention and the right to a fair trial	109 - 114	15
E. Citizenship	115 - 123	16
F. Illegal evictions	124 - 130	18
G. The destruction of property	131 - 132	19
H. The situation of the media	133 - 135	19

CONTENTS (cont')

	<u>Paragraphs</u>	<u>Page</u>
I. The situation of the Muslim minority and refugees	136 - 143	19
J. The situation in the United Nations Protected Areas	144 - 160	21
K. Shelling of civilian areas by the parties to the conflict	161 - 164	23
III. THE FEDERAL REPUBLIC OF YUGOSLAVIA	165 - 226	23
A. Introduction	165	23
B. Serbia	166 - 187	24
C. The situation in Kosovo	188 - 205	27
D. Sandzak	206 - 212	30
E. Vojvodina	213 - 215	31
F. Montenegro	216 - 226	32
IV. CONCLUDING OBSERVATIONS	227 - 244	33

Introduction

1. At its forty-ninth session on 23 February 1993, the Commission on Human Rights adopted resolution 1993/7, in which it extended the mandate of the Special Rapporteur for one year, requested that he continue to submit periodic reports as the situation warranted on the implementation of the resolution and all other relevant resolutions of the Commission concerning the former Yugoslavia.
2. Also in resolution 1993/7, the Commission requested the Secretary-General, inter alia, to assist the Special Rapporteur in his mandate by providing for the appointment of field staff in the territory of the former Yugoslavia to furnish first-hand, timely reports on the observance or violations of human rights in their area of assignment.
3. The Special Rapporteur requested the Governments of the Federal Republic of Yugoslavia, Croatia and Macedonia for their consent to the establishment of field offices in each State. Affirmative replies were received from Croatia, and Macedonia. Regrettably, the Federal Republic of Yugoslavia refused permission. In March 1993 a field office was established in Zagreb and it is hoped to open an office in Skopje before the end of 1993. When local circumstances permit it is envisaged that permission will be sought to open a field office in Bosnia and Herzegovina. The Zagreb office, currently staffed with five professional officers and one secretary/translator, deals with Croatia and Bosnia and Herzegovina. A major part of the cost of the establishment of the field programme has been met from voluntary sources and the Special Rapporteur expresses his thanks to the donors.
4. In the absence of a field office in the Federal Republic of Yugoslavia the Special Rapporteur was able to engage in fact-finding there following the consent of the Government to a mission by two staff members of the Centre for Human Rights. This took place from 13 to 26 October 1993.
5. Since the extension of his mandate and following many field trips undertaken by his staff and a mission which he himself undertook to Zagreb and Sarajevo in August 1993, the Special Rapporteur has issued four periodic reports (E/CN.4/1994/3 on 5 May 1993, E/CN.4/1994/4 on 19 May 1993, E/CN.4/6 on 26 August 1993 and E/CN.4/1994/8 on 6 September 1993). The first two of these reports draw attention to specific situations of "ethnic cleansing" and other violations of fundamental human rights in eastern and central Bosnia. The latter reports convey the Special Rapporteur's grave concern regarding the human rights situation in the towns of Sarajevo and Mostar.
6. On a number of occasions, following investigation by the field staff, the Special Rapporteur has intervened with the authorities in the States of the former Yugoslavia in order to draw their attention to particular instances or allegations of human rights abuses. In each case he has urged that the situation be investigated and, where necessary, be remedied without delay.
7. The Special Rapporteur has also continued his cooperation with other agencies and bodies concerned with the protection of human rights and with humanitarian affairs in the former Yugoslavia such as the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC) as well as the Commission of Experts established pursuant to Security Council Resolution 780 (1992), and submits to them any relevant information.
8. The present report provides a wide ranging assessment of the human rights situation in Croatia, Bosnia and Herzegovina and the Federal Republic of Yugoslavia. It draws attention to the widespread abuse of the fundamental rights of residents of these States.
9. The Special Rapporteur expresses his thanks to the various bodies which have assisted him in carrying out his mandate, including the United Nations Protection Force, the office of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, the European Community

Monitoring Mission, missions of the Conference on Security and Cooperation in Europe, and other intergovernmental and non-governmental organizations.

I. BOSNIA AND HERZEGOVINA

A. Introductory remarks

10. The Special Rapporteur is concerned by the continuation of "ethnic cleansing" in all its forms. He draws particular attention to mass expulsions of peoples, military attacks on civilians, abuse of women and assaults on "safe areas". Attacks on aid convoys as well as attempts to impose tasks also give cause for serious concern. There have been direct attacks, resulting in the death of aid workers and the temporary suspension of delivery. At the time of writing of the report all convoys have been suspended.

11. These violations are the subject of this chapter, which is based on information gathered from a variety of reliable sources, and on-site investigations made by the Special Rapporteur's field staff in eastern Bosnia, western Herzegovina and central Bosnia, and in Sarajevo by the Special Rapporteur himself and the field staff assisting him. Bosnian Serb authorities have not yet permitted an investigation of the human rights situation in the territories under their control.

B. "Ethnic cleansing"

12. The dynamic of destruction set in motion by "ethnic cleansing" has affected almost every area of Bosnia and Herzegovina.^{1/} Much of the country is under arms and the population is increasingly polarized. The war has exhausted stocks of food and timber and seriously damaged supplies of water, energy and medicines. The onset of a second winter in such conditions threatens the lives of many thousands of civilians, especially those who have lost their homes. Food, fuel, clothing, construction materials and medicine are in urgent need.

13. Over 2.1 million people have been displaced from their homes since the war in Bosnia and Herzegovina began - nearly 50 per cent of the population recorded in the census of 1991. Some 800,000 of them are estimated to have sought refuge outside Bosnia and Herzegovina; the rest are seeking refuge inside the country. Tens of thousands have gone to the "safe areas", such as Gorazde, Zepa, Srebrenica, Tuzla, Bihac and Sarajevo.

14. The purpose of the "safe areas" was to provide people with the food and medicines they needed in places where their security was guaranteed. Relentless military action by Bosnian Serb forces, however, has turned them into areas under siege. In Sarajevo on 9 and 10 November 1993 mortar attacks killed 12 people. In the incident on 9 November two shells hit a school building in the densely populated district of Alipasno Polje, killing three children and their teacher and wounding 40 other people, most of them children. Gorazde, Bihac and Zepa have also been shelled. In Srebrenica and Tuzla in particular, supplies of food, water and fuel have been the prime objects of attack. In September 1993 fighting broke out in the Bihac "safe area" between the army and separatists who announced the formation of an "Autonomous Province of Western Bosnia".

15. Sometimes the parties to the conflict instigate or use movements of large numbers of peoples in order to achieve "ethnic cleansing". The movement of large numbers of displaced persons inside the country has been used by some parties as a pretext for further "ethnic cleansing".

16. In other areas the arrival of displaced people en masse has changed the composition of populations and sometimes heightened tension which the war had already created between local Muslim, Croat and Serb civilians.

17. Food shortages and other hardships have put added strains on the relationship between local civilians and refugees. Some local residents resent what they see as "preferential" treatment given to displaced people by aid

agencies and this has sparked conflict in Tuzla, Travnik and other major receiving centres for refugees.

18. By October 1993 the vast majority of Muslims and Croats had been driven out of Banja Luka and Doboj in the north of the country and measures to expel them from the north-east were intensifying. In the west, most non-Croats were expelled en masse from the lower Neretva valley after the alliance between Bosnian Croat forces and the Government collapsed in April 1993. Fighting has continued in central and north-east Bosnia since the Special Rapporteur's last report.

19. The process of "ethnic cleansing" taking place in parts of Bosnia and Herzegovina is inextricably linked with violations of fundamental human rights. Summary executions and arbitrary arrests and detention have continued unabated on a wide scale and rapes have been reported.

C. Rape^{2/}

20. The Special Rapporteur continues to be disturbed by reports of rape and other sexual abuses. Pursuant to Commission on Human Rights resolution 1993/8 of 23 February 1993, the Special Rapporteur reports as follows.

21. At least 100 women were reported to have been raped by Bosnian Croat (HVO) soldiers between April and October 1993. This is probably an incomplete figure, because limited access to Mostar and the dispersal of refugees from western Herzegovina made it difficult to obtain information. No HVO soldier is known to have been punished for this crime.

22. Evictions from Mostar are said to have been accompanied by gratuitous sexual abuse, including rape. Typically, Muslim women have been strip-searched by male HVO soldiers before being forced across the confrontation line. On 29 September 1993 two Muslim women were allegedly raped by HVO soldiers after being strip-searched at a former tuberculosis clinic in Mostar called "the Dispensary".

23. A Muslim woman is reported to have been raped by uniformed HVO soldiers who broke into her home in Mostar in mid-July 1993, after she and her Croat husband had hidden Muslim neighbours in their apartment and helped them to escape from the city. Two Muslim women who escaped from the village of Stupni Do on 23 October 1993, alleged that they had been raped by HVO soldiers who massacred other villagers.

24. There were continuing reports from many places that women had been raped by Bosnian Serb civil and military police, as well as soldiers, but the difficulty of gaining access to Serb-held territories prevented the collection of comprehensive information.

25. On 8 May 1993 three men in military police uniform were reported to have broken into a Muslim home in Doboj and put guns to the mouths of a seven-year-old boy and his father, while one of them raped the mother at gunpoint in the next room. He is alleged to have said that because she was a Muslim he had come "to cool her down". Similar rapes have been reported from Bijeljina, Liskovac and Brcko.

26. In Trebinje on 20 July 1993 three soldiers are said to have entered the home of one of the few remaining Muslim families, forced them at gunpoint to strip naked and tied the wife's hands behind her back. They then raped her. She remained in hospital with broken ribs, a damaged lung and other internal injuries until 27 August 1993, when the family was evacuated from Trebinje.

27. Since February 1993 it is alleged that in areas of fighting Bosnian Muslim paramilitaries have raped Bosnian Croat women, apparently on the grounds of their ethnic origin. Reports of this have come from Mostar and Bugojno. It is not yet possible to estimate the full scale of sexual abuse which may have taken place, however, because access to conflict zones is limited and the refugee population has dispersed.

28. Young women have been detained for the purpose of sexual abuse by Bosnian Serb Army soldiers. In July 1993 it was reported that around 30 Muslim women were being detained for these purposes in BSA barracks in Nerici. Another 100 women aged between 15 and 17 were said to be detained in this way in the "Westphalia" coffee house near Stolina, a coffee house near Skijana and a private house in Grcica until August 1993. Recent reports suggest that detention at the "Westphalia" coffee house may have stopped.

D. Human rights violations by forces under the control
of the Government of Bosnia and Herzegovina

Summary executions

29. Massacres of civilians were reported to the Special Rapporteur, allegedly committed by soldiers acting for the Government. The reports referred to killings in the villages of Trusine on 17 April 1993; Miletici on 24 April 1993; Maljine on 8 June 1993; Doljani on 27 and 28 June 1993; Bistrica in August 1993; Kriz and Uzdol on 14 September 1993; and Kopijari on 21 October 1993. The overall number of victims was conservatively estimated to be 120, but an exact total was not possible to verify.

30. All the victims were Bosnian Croats and none was reported to have offered armed resistance. In many cases there is evidence that the killings were accompanied by protracted cruelty and mutilation of corpses. Eye witnesses to the atrocities at Maljine, Doljani and Kopijari claimed that foreign irregular soldiers - so-called "Mojahedin" - affiliated to the 7th Brigade of the Army of Bosnia and Herzegovina were responsible.

31. On 16 September 1993 the Army issued a condemnation of the killings in Kriz and Uzdol and promised to punish the individuals responsible. The Special Rapporteur wrote to President Izetbegovic on 15 October 1993, welcoming this undertaking and asking for the other killings to be included in the investigation. He also asked to be told precisely what procedures were in force to subordinate irregular troops to the Army command structure and what measures were used to enforce discipline. On 22 October 1993 President Izetbegovic sent a letter in which he condemned the killings and gave assurances that an investigation had been instigated.

32. The Special Rapporteur also received allegations of individual murders inspired by ethnic revenge. One concerned Radislav and Marina Komjenac, two elderly civilians - said to be Bosnian Serbs - who were taken from their homes in Sarajevo and summarily executed on 26 June 1993. The killings appear to have been in retaliation for a mortar attack which killed seven Muslim civilians in the old town. Government militia were alleged to be responsible. The Special Rapporteur wrote to the Government on 14 August 1993 expressing concern about the report and asking what steps had been taken to punish the perpetrators.

33. In a reply dated 23 September 1993 the acting Prime Minister, Mr. Hadzo Efendic, denied there was any ethnic motivation in the killing of the couple - whom he said were of Serb and Croat origin - and said that an investigation of the crime was underway. The Special Rapporteur will follow this case and others which have been brought to his attention.

34. The Special Rapporteur found a report in the Croatian newspaper Vjesnik on 9 August 1993 that 35 Bosnian Croats had been hanged by government forces outside a Roman Catholic Church in Zenica to be untrue.

Arbitrary arrests and detention and violations of the rights of detainees

35. Under an agreement brokered by the International Committee of the Red Cross (ICRC), the Government released 309 Bosnian Croats from Konjic detention centre on 19 October 1993. At the end of October 1993 it was holding around 1,100 detainees in 24 registered detention centres, and an unknown number of others elsewhere. The largest registered detention centres were in Tarcin and Pazarić, on the road west from Sarajevo, and in Zenica, central Bosnia.

36. Only a small proportion of the registered detainees were believed to be prisoners-of-war. The others were civilians of Bosnian Serb or Bosnian Croat origin, detained in order to provide a pool of prisoners to exchange for Bosnian Muslims held as prisoners-of-war, or for use on the front-line as forced labour, or to protect the army's advance as "human shields". During the Special Rapporteur's mission to Sarajevo in August 1993 the Minister of the Interior admitted that civilians had been arrested, but claimed they had all signed statements volunteering to be exchanged for other detainees. The Special Rapporteur stressed at the meeting that statements made in such circumstances could not be regarded as voluntary.

37. Testimony from Banovici in north-east Bosnia illustrates how civilian detainees have been used as "human shields". Between 12 and 30 May 1993 around 80 Bosnian Serbs and Bosnian Croats were arrested or drafted into the army and immediately taken to Podobala village, where they were divided into detachments and forced to dig shelters on the confrontation line between government and Bosnian Serb forces. As the shelters were dug, the government forces advanced.

38. There is no right to conscientious objection under the law of Bosnia and Herzegovina, and individuals who refused the draft in Banovici were arrested and also sent to the front-line. On 7 June 1993 five of them were injured during shelling. Detainees have also been reported killed doing forced labour on confrontation lines at Gornij Vakuf, Hrasnici, Bugojno and Travnik, among other places.

39. On 14 August 1993 the Special Rapporteur wrote to the Government to express his abhorrence of this practice. He urged the authorities to ensure that everyone under arrest had effective recourse to a court and that independent agencies be immediately informed of their case and given access to them.

40. There were allegations that some Bosnian Croat prisoners-of-war in government detention centres in Mostar and Konjic had been forced to give blood. These allegations, however, did not receive independent confirmation.

41. To date international agencies have been granted only very limited access to the "music school" detention centre at Zenica. A Bosnian Croat who was held there between April and September 1993, together with 46 others, all unregistered, alleges that he was kept without food for the first week, held in a cellar with no light for 45 days and beaten during interrogation on the legs and kidneys with telephone cables, batons and shovel handles.

Restrictions on freedom of movement

42. In August 1993 the city War Presidency announced that Croats were forbidden to leave Bugojno, a town contested by government and Bosnian Croat troops. Only 2,500 Croats remain in Bugojno since government troops defeated Bosnian Croat forces there in July 1993. Since then ethnic tension has been high. Apart from the rape incidents already noted, 16 other serious crimes against the Croat minority are under investigation. Looting and harassment of Croat civilians is reported to be commonplace, especially in the villages near Bugojno.

43. In Zenica, the authorities formally announced in September 1993 that its 23,000 Croats were forbidden to leave the city, although in practice they had been prevented from doing so since June 1993. Periodically the authorities have organized exchanges of local Croats for Muslims from the Vitez pocket and Vares. Croats have been issued false identity documents with Muslim names and driven out of the city in coaches with a military police escort. The average cost for each person is said to be DM 250, paid to city officials, military police and private entrepreneurs running the exchanges. In known cases Croat men of fighting age have been prevented from leaving with their families.

44. In Sarajevo, which is under siege by Bosnian Serb forces, most Serbs who have applied for permission to leave have been refused by the government Secretariat for Evacuations. Around 700 sick and elderly Serbs who were given permission to leave in December 1992 were allowed to go only on

8 November 1993. Fifty-nine of them are said to have died while waiting for the opportunity to leave.

Military attacks on civilians

45. Civilians in the western part of Mostar have been subjected to attack from government-held positions in the east.

Other violations of human rights and humanitarian law

46. In central Bosnia, Roman Catholic sources have alleged that church buildings in 66 parishes have been deliberately damaged or destroyed by either Government or Serb soldiers.

E. Human rights violations by Bosnian Croat forces

Summary executions

47. On 18 April 1993, at least 89 Muslim civilians in the village of Ahmici in central Bosnia were summarily executed, allegedly by HVO soldiers. The village contained no legitimate military target and there was reported to be no organized resistance to the attack. The Special Rapporteur issued a report on this atrocity in May 1993, based on an investigation carried out by his field staff.^{2/}

48. In western Herzegovina the Special Rapporteur is investigating reports that nine Muslim civilians - five men and four women - were taken from their homes in Mokronoge by HVO soldiers on 9 August 1993 and shot dead at close range with machine guns.

49. On 23 August 1993 HVO soldiers opened fire on two families of Muslim civilians they were forcing across the Mostar bridge, killing one man in front of his wife.

50. The bodies of at least 15 Muslim civilians have been recovered in the village of Stupni Do in central Bosnia, where they were massacred on 23 October 1993, reportedly by HVO troops. They had either been shot at close range or burned to death and included a group of women, found still clutching each other's arms. HVO representatives denied that a massacre had taken place, and for three days prevented international observers from visiting the village.

Mass deportations and violations of human rights by means of administrative measures in western Herzegovina

51. The Neretva valley south of Mostar has traditionally been predominantly populated by Croats. By April 1993 an estimated 16,000 Muslims had come to Mostar from other parts of Bosnia and Herzegovina and at least 12,000 to other towns in the area.

52. On 15 April 1993 the Mostar city authorities adopted Statute No. 266/93, which severely restricted the provision of humanitarian relief to displaced people. An estimated 10,000 Muslims were disqualified from assistance and those living in abandoned flats were given a deadline by HVO forces to leave by 9 May 1993. In some cases the deadline was enforced with arson and threats of death.

53. The eviction of Muslim residents in Mostar began in June 1993. On 14 and 15 June 1993 alone several thousand Muslims living in west Mostar were rounded up and their personal papers - including leases for their apartments - were burned in the street. They were then forced across the bridge, under a hail of gunfire from HVO soldiers, to the eastern part of the city, which is under Government control. They were told they were being evicted to make room for Croats coming from Travnik. Forced evictions and transfers of the Muslim population in Mostar were still being reported in October 1993.

54. Deportations of Muslims from other parts of western Herzegovina began on 13 July 1993, when around 500 civilians were collected up from villages between Stolac and Capljina and forced to walk across the confrontation line with government forces between Buna and Blagaj. HVO soldiers threatened to shoot any who returned. By late August 1993, 20,000 Muslims had been forced across the line.

55. Before the expulsions took place, Croat authorities had used administrative powers to harass Muslim residents and progressively curtail their rights. These measures included widespread job dismissals from late 1992; house searches by civilian and military police in April 1993; the house arrest of Muslim men in Stolac in April 1993; the disconnection of telephones in Capljina and the requisitioning of cars by HVO soldiers on 4 July 1993. Similar activities occurred at the same time at Tomislavgrad and Livno.

56. On 13 June 1993 the Croat mayor of Capljina broadcast a radio statement saying that the lives and security of local Muslims could "no longer be guaranteed." After that normal life for them reportedly became impossible: it was dangerous for Muslims to appear in the street and they could obtain food only with the help of Croat neighbours, friends or spouses. Muslim families became targets of night-time looting by masked thugs, their property was damaged and the Capljina police provided little protection. Similar attacks were reported in the village of Gradska from mid-August 1993. The homes of Muslim families were routinely looted by night and by day military police prevented them from reporting these incidents to United Nations Civilian Police patrols.

Arbitrary arrests and detention and violations of the rights of detainees

57. The systematic arrest of Muslim men began in May 1993 and reached a peak at the end of July 1993 when an estimated 15,000 were in detention. During this period male Serbs and Roma (gypsies) living in western Herzegovina were also detained. Six hundred Muslims were freed on 19 October 1993 under the agreement brokered by ICRC. At the end of October 1993 HVO was holding 4,200 detainees in eight registered detention centres, one of the largest being Rodoc heliport outside Mostar.

58. Most arrestees were civilian men of fighting age, although some young boys and men over 60 were also detained. Around 6,300 Muslims were arrested in Mostar on 30 June 1993; 5,500 in Capljina between May and July 1993; 1,350 in Stolac in July 1993; and 92 in Gradska in August 1993.

59. It appeared that the arrests were part of a deliberate policy to rid western Herzegovina of non-Croats. Muslim former detainees from Capljina, arrested without a warrant in late June 1993, were forced to sign a statement saying that they would "voluntarily" leave Capljina on their release.

60. On 17 July 1993 detainees in Rodoc heliport who had letters guaranteeing their entry to third countries were told to sign papers from the HVO Office for Displaced Persons and Refugees in Mostar saying that they wanted to leave Bosnia and Herzegovina. Even detainees without letters of guarantee were told that they should leave, on the false promise that when they arrived in the Republic of Croatia they would be resettled in a third country. Within a matter of hours, during which detainees had to see their families and pack their belongings, several hundred detainees were deported to the Republic of Croatia.

61. It was alleged that Croatian border police who stopped one convoy on 18 July 1993, took note of the number of detainees and their identity documents, if any. However, another convoy was apparently allowed to cross the border near Vrgorac unhindered. Detainees in a third convoy were allegedly transferred to Croatian vehicles at the border and given a Croatian police escort to Gasinci. These alleged incidents would indicate that authorities in the Republic of Croatia were actively involved in this deportation.

62. Muslim and Serb civilians were also detained so that they could be exchanged for Bosnian Croats held as prisoners-of-war. Detainees with a high

"exchange value", because they had relatives in the Army of Bosnia and Herzegovina, were reportedly not deported to the Republic of Croatia. Detainees were used to do forced labour in dangerous conditions, such as digging trenches and filling sand bags near confrontation zones. A number were reported killed doing this work.

63. When international agencies obtained access to HVO detention centres they found conditions of appalling brutality and degradation. Broken ribs, broken fingers, bruising and heart dysfunction were common among detainees as a result of beatings they had received from guards. A more detailed picture of conditions in these centres was given in the Special Rapporteur's report on Mostar.^{4/}

64. The release of all detainees was said to be one of the aims of the Commission on Human Rights and Humanitarian Issues established within the administration of the so-called "Croatian Republic of Herzeg-Bosnia" in September 1993. Ostensibly through its good offices the detention centre at Dretelj was partly closed down at the beginning of October and a number of prisoners were released. By that time, however, the homes of most detainees from western Herzegovina had been occupied by Bosnian Croats.

Military attacks on civilians

65. The largely Muslim population held in eastern Mostar has been shelled from Bosnian Croat positions in the west of the city since August 1993, up to 400 times in one day. Also, international observers have confirmed that Bosnian Croat snipers in Mostar and western Herzegovina used against civilians especially deadly 12.7 calibre rifles with an effective range of up to one km. and equipped for night firing. On 18 April a truck loaded with explosives and driven by a Muslim driver, whose family was reportedly kept hostage, was exploded in the centre of Stari Vitez, a Muslim enclave within the Lasva valley HVO pocket. The explosion killed five civilians.

66. The mainly muslim town of Maglaj has been up to 90 per cent destroyed by Croat and Serb artillery and both forces have prevented the town from receiving deliveries of humanitarian aid for four months. Civilians have been killed when attempting to retrieve aid dropped from the air.

67. There have been direct attacks on aid workers. At least eight Muslim drivers were shot dead by Bosnian Croat soldiers or their supporters near Novi Travnik on 11 and 12 June 1993. On 14 August a UNHCR driver was killed by an HVO sniper in Stari Vitez while driving a clearly marked armoured vehicle.

Other violations of Human rights and humanitarian law

68. In early July 1993 Bosnian Croat forces imposed exorbitant taxes on foreign aid convoys. In September 1993 the Commission on Human Rights and Humanitarian Issues promised to help reopen a relief route inland through western Herzegovina. No improvement in the situation has been noted since then however and, as of 25 October 1993 400 tons of international aid remained blocked at Metkovic by Bosnian Croat authorities. Bosnian Croat forces have imposed such narrow definitions on "relief" that many essential items, such as shoes, clothing, engineering parts and emergency construction materials for winter, have not been allowed through to central Bosnia.

69. The drive to eliminate ethnic diversity has in some areas been accompanied by efforts to obliterate all traces of minority culture. In Stolac in western Herzegovina, for instance, when major expulsions of non-Croats began on 1 August 1993, four mosques were reportedly blown up. A famous 16th century mosque was destroyed in Croat-held Pocitelj on 23 August 1993, after the last Muslims had been deported from the village. On 9 November 1993 the historical Ottoman bridge in Mostar was destroyed by military action. It had been registered with UNESCO as a monument of major cultural importance and was also the only means by which water could be obtained by people in the eastern part of the town.

F. Human rights violations by Bosnian Serb forces

Expulsions and restrictions on freedom of movement

70. The expulsion of non-Serbs from Serb-held territories is in some areas nearly complete. Only 1,000 Muslims remain in Dobojski, for instance, out of the 43,000 recorded in the 1991 census. In Bosanski Novi only 800 remain of the 15,000 Muslims registered there in April 1993. All non-Serbs have been expelled from villages such as Bukovica, Mala Vukovica, Tombak and Zajir.

71. Control over the movement of non-Serbs is exercised by "Commissions for Exchange", assisted in some documented cases by local Red Cross officials. Non-Serbs wishing to leave must apply to be "exchanged" for Serbs outside the area, or to be reunited with family members in other countries.

72. Non-Serbs who have a male relative in detention, or who are themselves "under a working obligation" to the authorities, may not apply to leave.

73. Since March 1993 the procedure for leaving has been regulated by instructions issued in Pale the administrative centre of the so called "Republic of Srpska". These prevent non-Serbs from leaving by car, or taking valuables with them and require them to pay for a bus seat and to renounce their citizenship. They must also pay a tax to each municipality they cross in transit.

74. The "tax" appear to have fluctuated from area to area. In June 1993, for instance, a bus seat cost non-Serbs DM 40 in Dobojski and between DM 200-300 in Bijeljina. Transit taxes have ranged from DM 30 per municipality to DM 60 in Bijeljina. The average cost of surrendering a passport was DM 10. These sums have been paid to officials of the Commissions for Exchange and, in some identifiable cases, to representatives of the local Red Cross. Some individuals have been forced to leave behind close relatives, because they could not afford the cost of leaving.

75. The procedure has typically been applied in an arbitrary and brutal manner. Non-Serbs from Brcko, Bijeljina, Banja Luka and other places have told how commission officials put them on a bus at short notice with a minimum of personal belongings and forced them to surrender their house keys. The military police searched them and confiscated valuable items, sometimes with beatings. They were then driven to points on the confrontation line and forced to walk across minefields to positions held by the Government, for instance at Satorovici and in the Tuzla region. In some cases this was the fate of non-Serbs who believed they were being taken abroad to be reunited with their families. Hundreds of non-Serbs from Bijeljina and Dobojski who had not even applied to leave have also been deported across the confrontation line.

76. Reports implicated authorities of the Federal Republic of Yugoslavia (FRY) in helping to expel some non-Serbs abroad. On 24 August 1993 a group of 17 Muslims was allegedly driven by bus from Bijeljina through FRY territory to the Hungarian border. A group of 33 was then reportedly taken from Bijeljina through FRY territory to the Hungarian border at Backi Breg on 29 August 1993. This report was confirmed in September 1993 by a senior member of the FRY border police. Since then FRY involvement in expulsions from Bijeljina appears to have ceased. The Special Rapporteur does not know if FRY authorities assisted in the expulsions of non-Serbs from other towns.

Summary executions, "disappearances" and other acts of violence against the person

77. Several incidents of summary execution have been of concern to the Special Rapporteur.

78. In Dobojski, for instance, on 22 March 1993, BSA soldiers are said to have killed three Muslims and one Croat in Radnicka Street, shooting them first and then cutting their throats.

79. Since the Special Rapporteur's last report, numerous non-Serbs are known to have "disappeared" from their homes. Commonly their "disappearance" followed confrontations with uniformed men and within days their homes were occupied by Serbs. The corpses of relatively few have been located subsequently. One of these was a Muslim found in Banja Luka morgue on 30 March 1993, with his arms and lower lip cut, three days after he had been taken from his home by uniformed men.

80. Non-Serbs appear to have lost any claim to protection. This was illustrated on 1 August 1993, when civilian police who were called out to protect Muslim families during an attack in Liskovac, Gradiska municipality, only arrived three hours after it was over.

81. The attack lasted 90 minutes; during it, eyewitnesses report, 12 men, some in uniform, broke into a Muslim home, beat the residents and destroyed their belongings. An 80-year-old grandmother who protested was shot through the head, as were two men of the family. The 18-year-old granddaughter was then repeatedly raped. At a neighbouring house the 12 men beat and shot the Muslim owner, beat and raped his 27-year-old wife and shot her mother dead and threw her into the street. They then set fire to two more houses before leaving at 5 am.

82. A military exercise on 19 April 1993 by BSA forces with heavy calibre weapons was the culmination of 13 days of attacks against non-Serbs in the Banja Luka suburb of Vrbanja. These attacks included: the fatal knifing of a Muslim man (6 April 1993); the burning of seven Muslim homes and looting of others (11 April 1993); the shooting dead of two Muslim women bystanders by BSA soldiers returning from the front-line (12 April 1993); the shooting dead of a Muslim civilian by a man in military uniform (12 April 1993); an axe-attack on a Muslim man (14 April 1993); and sniping at several Muslim homes by military personnel (19 April 1993).

Arbitrary arrests and detention and the ill-treatment of detainees

83. By the end of October 1993 Bosnian Serb forces were holding around 500 detainees, including women, in 22 registered detention centres and an unknown number of others elsewhere. The largest number were held in the Batkovici complex.

84. Most detainees were civilians. Some had been arrested when they were on the point of leaving the territory with their families, like some 60 Muslim and Croat men detained as they were about to cross the confrontation line near Bijeljina between 4 and 11 September 1993 and sent to Batkovici detention centre. It appeared they were detained so that they could be exchanged for Bosnian Serbs held elsewhere as prisoners-of-war. Other Muslims, Croats and Roma (gypsies), have been arrested to provide a labour force in conflict zones, or to act as "human shields". In late June 1993, for instance, non-Serb men and women were arrested in their homes and on the street in the Milkovac suburb of Doboje and forced to stand as a "living wall" on the confrontation line at Putnikovo Brdo.

85. Note has already been made in paragraph 28 above of the practice of detaining women for the purpose of sexual abuse by BSA soldiers.

86. The Special Rapporteur continues to be concerned by reports of the mistreatment of detainees in registered detention centres and camps. According to testimonies of people released from Batkovici detention centre, conditions for both men and women were harsh and degrading, with constant beatings, sometimes resulting in deaths.

Violations of human rights by means of administrative measures

87. Using administrative measures alone, Bosnian Serb authorities have stripped non-Serbs of many basic human rights since 1992.

88. The right to paid employment has been made dependent on willingness to be drafted into the BSA. Those who refuse military call-up have been dismissed from their jobs and detained for up to 20 days, during which they have often been forced to work in conflict zones. Since March 1993, under instructions issued from Pale, the families of men refusing the draft have also been dismissed from their work. People without paid work automatically lose the right to housing, health insurance and a pension.

89. The instructions issued in March 1993 have made people dismissed from their jobs liable to perform unpaid labour at so-called Public Service Offices. Individuals performing a "work obligation to the authorities", as this is called, are forbidden to apply to leave the area. According to numerous testimonies, "work obligation" has involved long hours of heavy physical labour, often at confrontation lines digging shelters, or in the fields or cleaning the streets. Forced labourers from Dobojs reported that they were fed only if they were made to do jobs away from their home town. Otherwise they were expected to provide their own food.

90. In Banja Luka, Dobojs and other towns, civilian and military police have subjected people living in non-Serb districts to constant document checks, identifying their ethnic origin and employment status. In many cases they have been instantaneously drafted for forced labour, often without the opportunity even to contact their families first.

91. Since 1992 Muslims and Croats have also been systematically evicted from their homes, ostensibly to make room for Serbs displaced from other areas. Those serving in the BSA were largely excepted. According to testimonies of people who have left the area, since March 1993 the practice has developed of telephones of non-Serbs in Banja Luka being cut off and of their private shops being closed down. Vehicles belonging to non-Serbs in Bijeljina have been requisitioned by the BSA and farming equipment has been confiscated. Ration cards have also been withheld from non-Serbs in Dobojs and Grbavica, preventing them from collecting food relief.

Military attacks on civilians

92. The shelling of Sarajevo, begun by Bosnian Serb forces 18 months ago, escalated in October 1993. As of August 1993, 264 shells had hit the central civilian hospital at Kosevo, which lies within 300 metres of the confrontation line, killing staff and patients alike. As the hospital is clearly visible from Bosnian Serb positions, at least some of those impacts must be considered intentional. On 25 October, a four-month old baby in its pram was seriously wounded by a sniper's bullet fired from a Serb-held position.

93. As has already been noted, Serb and Croatian forces have largely destroyed the town of Maglaj and have both prevented the delivery of humanitarian aid and killed civilians attempting to retrieve air-dropped parcels.

94. In towns and cities, where high buildings have offered them protection and anonymity, snipers have claimed the lives of civilians as they queued for food or water, or waited at military checkpoints.

95. In May 1993 the Special Rapporteur reported on the ambush of Muslim refugees in the Cerska valley by Bosnian Serb forces.^{5/} On 6 July 1993 a group of 76 Muslim civilians fleeing from Srebrenica on foot to Kladanj were reportedly ambushed twice by Bosnian Serb troops. When the 10 survivors reached the village of Turalic, they were discovered by a Bosnian Serb tank patrol. They were then allegedly fired on by the tank.

96. In Maglaj on 1 June 1993, a UNHCR convoy was deliberately shelled from the Serbian positions. Two drivers and one staff member were killed.

Other violations of human rights and humanitarian law

97. Bosnian Serbs have imposed taxes on foreign aid convoys in the same manner as the Bosnian Croat forces.

98. Five out of six mosques in Serb-held Bijeljina and almost all mosques in Banja Luka were reportedly blown up in 1993. Eyewitnesses claimed that the demolition was systematic and the sites were quickly replanted with trees.

II. CROATIA

A. Introductory remarks

99. The present report addresses the main areas of concern of the Special Rapporteur with respect to the situation of human rights in the Republic of Croatia, including the territories under the de facto control of the so-called "Republic of Serbian Krajina". The violations of international human rights standards and humanitarian law have been primarily employed as a means for "ethnic cleansing". An important indication of the scale of this practice is the massive displacement of persons primarily from areas where they constitute a minority. According to UNHCR statistics, as of October 1993 there was a total of 247,000 Croatian and other non-Serbian displaced persons coming from areas under the control of the so-called "Republic of Serbian Krajina" and 254,000 Serbian displaced persons and refugees from the rest of Croatia, an estimated 87,000 of which were situated in the United Nations Protected Areas. The situation of the refugees and displaced persons has created serious humanitarian problems and constitutes a major burden for society.

B. Arbitrary executions and "ethnic cleansing" by Croatian armed forces in the Medak pocket and other areas

100. The Special Rapporteur has received reports of arbitrary executions and "ethnic cleansing" committed by government forces in the villages of Divoselo, Citluk and Pocitelj, situated in the Medak "pocket". This area is situated in a "Pink Zone" in the proximity of UNPA Sector South. According to the 1991 Census, Divoselo, Citluk and Pocitelj had 344, 129 and 307 inhabitants respectively. Reliable sources estimate, however, that as of September 1993 the respective populations had increased to 210, 240 and 534, primarily because of the influx of displaced persons. Although the population of the villages was predominantly Serb, information received in September 1993 indicates that there were a certain number of mixed marriages between Croats and Serbs.

101. According to information gathered by the field staff during an on-site investigation, on 9 September 1993 at 6 a.m., the Croatian armed forces entered the villages of Divoselo, Citluk and Pocitelj in the Medak pocket, where they killed inhabitants and destroyed livestock, dwellings and other property.^{6/}

102. Sixty-seven bodies have been recovered, while another 25 people remain unaccounted for. The examination of several bodies by medical experts indicates that they were shot at close range. Three other victims were killed by rocket missiles. Some of the bodies were mutilated and bear signs of possible torture, including serious burns. It appears that most of the victims were civilians, including a number of elderly persons. Some of the bodies were in uniform but they were identified as inhabitants of the village. The victims also included at least nine women, seven of whom were elderly, but no children (apparently the children had been evacuated before the attack occurred).

103. The field staff obtained testimony from several witnesses to the killings. A Croatian inhabitant of the village claimed that while she was hiding she witnessed members of the Croatian armed forces throw a hand grenade into a house, after which an elderly woman came out with her clothes on fire. The witness stated that the soldiers then allowed the woman to burn to death. Another inhabitant of the village testified that a member of the Croatian armed forces shot an 83-year-old woman at close range.

104. Eleven hamlets in the pocket were either entirely destroyed or sustained heavy damage. They were Sitnik, Drijici, Vuksani, Donje Selo, Uzelci, Raicevici, Rogici, Budici, Licki, Citluk and Krajinovici. Several inhabitants of the affected villages testified that apart from shelling civilian objects, upon entering the villages, the Croatian armed forces continued their systematic destruction with explosives, including grenades and mines.

105. In a letter dated 1 October 1993, the Special Rapporteur pointed out to the Government that these acts were in violation of international law and requested a full investigation, the attribution of individual responsibility and punishment of the perpetrators. In a letter dated 9 October 1993, the Deputy Prime Minister and Minister for Foreign Affairs informed the Special Rapporteur that, on the basis of the Government's preliminary investigations, "the persons killed in the action", including the elderly, "were all killed in combat". It was stated that the Government had established an enquiry into the incident. In a subsequent letter dated 12 October 1993, the Government informed the Special Rapporteur that in order "to achieve [the] maximum degree of impartiality" in the investigation, two officers who had been involved in the incident had been suspended. In this regard, the Special Rapporteur also wishes to mention that the Commission of Experts established pursuant to Security Council resolution 780 (1992) has conducted an investigation of the Medak incident.

106. The Special Rapporteur has received reports that after an attack by Croatian government forces on 6 September 1993 against the village of Mirlovic Polje in the region of UNPA Sector South, seven elderly civilians of Serbian origin were found dead in the nearby hamlet of Donje Selo, four of whom were executed and three of whom were apparently burnt to death.

107. The Special Rapporteur also notes with concern the many reports which he has received indicating the continuing support by the Republic of Croatia for Bosnian Croat forces which have been responsible for "ethnic cleansing" and other grave violations of human rights in the areas under their control in Bosnia and Herzegovina.^{2/}

C. Other violations of the right to life

108. The field staff have received several reports of the killing of Serbs, where it is alleged that the Croatian authorities have failed to conduct a proper investigation or to prosecute those responsible. In one case, for instance, it was reported that on 30 July 1993 an elderly Serb woman was murdered and mutilated in her apartment in the centre of Sisak. The police did not conduct a full investigation and declined to inform the family about the results. Furthermore, the neighbours of the victim were afraid to disclose information about the identity of the perpetrators, especially after the police had approached them.

D. Arbitrary detention and the right to a fair trial

109. The field staff of the Special Rapporteur have learned of cases of arbitrary detention and violation of the right to a fair and public trial by a competent and impartial tribunal.

110. The Special Rapporteur has followed with concern the case of a Serbian employee of the UNOV/UNDP Social Reconstruction Programme, who having previously received clearance from the Croatian police, was arrested while on duty in Pakrac on 1 September 1993, in a United Nations Protected Area. He was detained on a charge of "armed rebellion", without any indication of the specific accusation against him. Furthermore, his lawyer was denied access to any evidence or witnesses against him and was given only 12 hours to file the appeal against the detention order. The authorities also indicated that he would be tried in camera by a military court. In a letter dated 24 September 1993, the Special Rapporteur appealed to the Government to ensure "that at the least all necessary measures be taken to ensure a fair and public trial by a competent and impartial tribunal". In a letter dated 4 October 1993, the Government assured the Special Rapporteur that the investigation and trial would "be conducted in compliance with the laws of the Republic of Croatia" and

on 24 October, released him after granting an "amnesty" for his alleged activities.

111. In another case which the field staff have investigated, a Croatian citizen of Serbian origin was arrested on 12 December 1992 in Zagreb on the charge of having tortured Croatian prisoners-of-war in the Glina camp. The accused was ultimately tried before the District Court of Zagreb where on 18 February 1993 he was sentenced to 12 years imprisonment although no substantial evidence was produced against him. In spite of being convicted as a civilian, he was exchanged under duress as a prisoner-of-war before his appeal could be heard by the Supreme Court.

112. Another case which was investigated by the field staff involved thirteen ethnic Serbs who on 12 December 1992 were charged with "attempting to use force or other illegal means to dismember a part of the territory of the Republic of Croatia or to integrate a part of the territory into another State", pursuant to section 236(b) of the Croatian Criminal Code. It was alleged that they "organized a military cell and a committee which maintained relations with the JNA; that they acquired arms; gathered and transmitted information [to the JNA]; printed leaflets warning the Serbs to be cautious; organized a plan of defence and means of evacuation; and other enemy activities".

113. The trial commenced in Dubrovnik on 23 March 1992 before the Military Court of Split. Of the 13 accused, only one was present. The others had either left Dubrovnik already or had been exchanged as prisoners with the Serbs. The defendant present was acquitted on all charges by the Court. The others were tried in absentia and sentenced to short prison terms.

114. According to one of the defence lawyers, the trial was conducted in accordance with all the relevant procedural rules of Croatian law. Nevertheless, the conviction of the 12 individuals in absentia, as well as the circumstantial nature of the evidence, raises doubts as to the fairness of the procedure. Furthermore, since the alleged acts were said to have been committed between March and July 1991, prior to the entry into force of the legal system of the Republic of Croatia on 8 October 1991, the Criminal Code was applied retroactively.

E. Citizenship

115. Citizenship continues to be an area of concern. Further to his previous consideration of this issue, the Special Rapporteur wishes to draw attention to certain aspects of the Croatian citizenship law because of its human rights implications, as well as the indications therein of similar trends in the citizenship legislation of other States of the former Yugoslavia.^{2/}

116. Given the context of partial State succession in the case of Croatia and other States of the former Yugoslavia, a fundamental issue is the definition of the category of individuals who at the time of succession constitute the initial body of citizens. Article 30 of the Croatian Law on Citizenship uses the term "Croatian citizen", defined as "a person who has acquired this status according to the Laws valid until the taking effect of this Law". This refers to those citizens of the Socialist Federal Republic of Yugoslavia (SFRY) who enjoyed "republican citizenship" of the "Socialist Republic of Croatia" and who renounced it in favour of citizenship in the Republic of Croatia by 8 October 1991.

117. In practice, however, republican citizenship within SFRY was essentially symbolic and had little or no legal effect. Article 249 of the 1974 Constitution of Yugoslavia provided that "Yugoslav citizens shall have a single citizenship" and that "Citizens of a republic shall on the territory of another republic have the same rights and duties as the citizens of that republic". Furthermore, republican citizenship did not necessarily coincide with the republic in which an individual was born or enjoyed permanent residence, even if such individual always had his or her domicile in the republic.

118. Despite the foregoing factors, the Head of the Administrative Committee of the Ministry of Internal Affairs, in a meeting with the field staff of the Special Rapporteur, explained that the Croatian Law on Citizenship was based on a policy of "continuity" between citizenship obtained from the previous Socialist Republic of Croatia (a constituent unit of SFRY) and citizenship of the Republic of Croatia. This policy has had the effect of arbitrarily relegating to the status of aliens all those SFRY citizens who enjoyed lawful residence in the Socialist Republic of Croatia, but who did not enjoy Croatian republican citizenship.

119. An exception to the foregoing rule applies to those who are deemed to be members of the "Croatian people". Article 30 of the Law on Citizenship provides as follows:

"A member of the Croatian people who, by the date on which this law takes effect, is not a Croatian citizen and on the said date has a registered place of residence in the Republic of Croatia, shall be deemed to be a Croatian citizen if he or she issues a written statement that he or she considers himself or herself a Croatian citizen."

120. Furthermore, article 16 of the Law on Citizenship provides that citizenship may be acquired on the basis of the foregoing criteria even for those members of the "Croatian people" who do not have a place of residence in the Republic of Croatia and/or previous SFRY citizenship. By contrast, those who do not belong to the "Croatian people" must satisfy more stringent requirements through naturalization in order to obtain citizenship, even if they have previously enjoyed lawful residence as SFRY citizens in the territory concerned.

121. According to official sources, where it is necessary to determine the ethnic origin of an applicant, the best indication of belonging to the "Croatian people" is a previous declaration of Croatian nationality (i.e. Croatian ethnic origin) in an official SFRY document. In cases where there is no previous declaration of nationality, the Croatian authorities are placed in the position of determining on the basis of other criteria whether an applicant for citizenship is "Croatian". In particular, this raises serious problems in the case of those individuals from mixed marriages who either did not declare their nationality or who declared themselves as "Yugoslav". The spectrum of proof which may be adduced ranges from prima facie evidence (Croatian surname) to investigations into the private life of individuals (religious affiliation, social activities, etc.) in order to determine whether the applicant is a member of the "Croatian people".

122. The Croatian authorities have repeatedly justified the policy of ethnic differentiation in the conferment of citizenship by comparing Croatian legislation with the legislation of other States which they say make similar distinctions on the basis of descent. It is, however, imperative to distinguish between the citizenship law of a State dealing with immigration under ordinary circumstances, where the applicant may have no social attachment to the territory concerned, as opposed to a new State where denial of citizenship on the basis of ethnic or national origin affects those who have previously enjoyed citizenship of the predecessor State and lawful residence on the territory concerned.

123. According to government sources, as of 12 May 1993, 12,708 applicants had been denied citizenship. Of these 7,500 were ethnic Serbs and 5,208 belonged to other groups. Apparently, the statistics offered by the authorities only refer to those applicants who have actually applied for citizenship and been refused. In their investigations, the field staff have come across several cases of procedural obstruction where competent organs and officials have refused even to consider applications, almost always because of the ethnic origin of the applicant. Another cause of concern regarding application for citizenship is that, pending the successful outcome of an application, the applicant, even if he previously enjoyed lawful residence in Croatia as a SFRY citizen, is considered as an alien and denied rights such as social allowances, including medical care, pensions and free education, and employment in the civil service. In practice, since the application procedure may take a

considerable time, many applicants have been forced to leave Croatia because of financial pressures.

F. Illegal evictions

124. The field staff of the Special Rapporteur have received and verified reports of illegal evictions from State-owned apartments in Croatia. Many of the evictions have been carried out by the military police without prior legal proceedings. In some instances violence was employed. Furthermore, the Housing Commission of the Ministry of Defence (hereafter referred to as the "Housing Commission") has often refused to address individual complaints.

125. It also appears that rulings by courts for the reinstatement of tenants have not been observed by the military police. The field staff have received an official notice dated 20 July 1993 in which the registrar of the Municipal Court of Rijeka testifies that "the execution of the court order [to reinstate the unlawfully evicted tenant] was not acted upon because the military police did not obey the writ given by the court" on the grounds that they "have different orders from their superiors".

126. According to information received from representatives of the Housing Commission, since the adoption of the Law on Provisional Use^{2/} legal proceedings for 280 evictions have been initiated; only 165 have been executed and 115 have been postponed. According to the Housing Commission, although 85 per cent of JNA apartment units had been given to Serbians under the former regime, the ethnic composition of those evicted was as follows: 50 per cent Croats; 40 per cent Serbs; and 10 per cent others.

127. In 3,120 instances, proceedings have been initiated against "enemies of the State" pursuant to article 2 of the Croatian Law on the Modification and Supplementation of the Law on Apartment Relations (Narodne Novine, No. 22, 17 April 1992, p. 538; unofficial translation; hereinafter referred to as the "Law on Modification"), which stipulates that article 102(a) is incorporated into the Croatian Law on the Use of Apartments providing that subject to a court decision: "The right of tenure terminates for those who participated or participate in an enemy activity against the Republic of Croatia". In practice, however, Serb tenants suspected of being an "enemy" are often evicted on the basis of summary decisions of the Housing Commission, without any legal proceedings before a competent court. This is despite the stipulation of the Attorney General of the Republic of Croatia that decisions concerning the allocation of apartments for provisional use by the Housing Commission are not executable when those apartments are occupied (letter dated 12 February 1993 addressed to the Chief of the Military Police). Furthermore, article 105 of the Law of Tenancy Relations clearly provides that evictions require proceedings in a court of law.

128. The Special Rapporteur wishes to acknowledge the commendable efforts of local authorities, such as those of the City Council of Pula, which have decided to stop all evictions until the Administrative Court of Croatia delivers a judgement on the lawfulness of each individual case.

129. During a meeting with the Housing Commission in August 1993 the Special Rapporteur expressed his concern about illegal evictions. The authorities acknowledged that illegal evictions had taken place and assured the Special Rapporteur that disciplinary and penal measures had been taken against members of the military police. The Commission stated, however, that many illegal evictions were committed by displaced persons from the UNPAs who "take matters into their own hands" and that, consequently, the authorities "must demonstrate understanding to those whose families have suffered from the Serbs" and especially "when it is well-known that the tenants are active on the enemy side".

130. Apart from illegal evictions, the Special Rapporteur is also concerned with aspects of housing legislation which have adversely affected the rights of tenants, often on a discriminatory basis.

G. The destruction of property

131. According to government sources, numerous buildings belonging to Croatian citizens of Serbian ethnic origin have been damaged or destroyed by explosives, arson or other deliberate means. A total of 7,489 such buildings were damaged or destroyed during 1992 and from January to March 1993 a total of 220.

132. According to government sources, criminal proceedings have been initiated against 126 individuals of Croatian ethnic origin, 13 individuals of Serbian ethnic origin and 8 individuals belonging to other ethnic groups. Nevertheless, on the whole, the authorities have not demonstrated a serious willingness to suppress such acts. This reluctance is exemplified in a statement made by a high-ranking government official to the effect that such destruction is "understandable" in view of the "righteous rage" of the Croatian people against the Serbs.

H. The situation of the media

133. The situation of the media in Croatia is affected in many respects by the prevailing climate of national and religious hatred which is often encouraged through misinformation, censorship and indoctrination. There also appears to be considerable self-censorship and one-sided "sensationalism" among journalists. The Government has considerable influence over the media. The Council for the Protection of the Liberty of the Press envisaged in article 23 of the Law on media of 1992 remains to be established.

134. The wilful dissemination of false information with the intention to disrupt public order is a crime according to Croatian legislation. The Special Rapporteur has received reports that such legal provisions have been applied abusively by the authorities in order to repress dissent. Furthermore, although article 16 of the Law on the Media of 1992 provides that "nobody enjoying immunity from prosecution may be appointed as editor-in-chief" of a media organ, a member of the State legislature belonging to the majority HDZ party was appointed as the editor-in-chief of the newspaper Vjesnik in January 1993, although he was replaced in July 1993. However, the Government has not yet replaced a member of the State legislature belonging to the HDZ party who was appointed as the Director-General of Croatian Radio and Television (HRTV) in 1991, prior to the adoption of the Law on the Media.

135. The only television station operating at the national level (HTV) is under State control. There are four private television stations at the local level and several private radio stations. It remains to be seen whether the draft law on telecommunications proposed by the Government will grant effective private access to national television frequencies. Although there are several private newspapers, the Government exercises considerable control over the press. It appears that the Law concerning the Transformation of Social Property Enterprises of April 1991 has been used by the Government in order to gain control over major newspapers such as Slobodna Dalmacija. The Vjesnik publishing firm and the Tisak distribution firm, both under the control of the State, appear to have a monopoly at the national level. The economic situation and the lack of local capital and foreign investment is also an impediment to the progressive development of an independent media.

I. The situation of the Muslim minority and refugees

136. Since the last report of the Special Rapporteur, the situation of the Muslim minority and refugees in Croatia has become an area of concern. According to the 1991 census, 43,469 persons or 0.9 per cent of the population of Croatia identified themselves as Muslims. The largest concentrations of Muslims were in Zagreb and Rijeka: 13,100 persons or 1.4 per cent of the population and 13,340 persons or 2.3 per cent of the population, respectively. The largest proportion was in Dubrovnik where 2,866 or 4.0 per cent of the population were Muslims. The massive influx of refugees from Bosnia and Herzegovina into Croatia since the war has significantly increased the number of Muslims. At present, of the 276,548 Bosnian refugees in Croatia, an estimated 200,000 are Muslims.

137. Since the intensification of hostilities between Bosnian Croat and Bosnian government forces in April 1993, the Croatian media regularly refers to Muslims as "aggressors". Furthermore, coverage of atrocities committed in the conflict between Bosnian Croats and Bosnian Muslims appears to be selective and one-sided, without a serious concern about the veracity of information. For example, as already noted at para. 34, Vjesnik reported on 9 August 1993 that 35 Croats were hanged in front of the Catholic church in Zenica. The field staff made an on-site investigation in Zenica and found no basis whatsoever for such an allegation. Incidents of discrimination and violence against Muslims in Croatia are also rarely reported in the press.

138. The situation of Muslims is particularly difficult in the Dalmatian coast area where Croats from Herzegovina are in an increasingly influential position. Muslim clerics and others in a position of authority have been repeatedly harassed and threatened by local police and other authorities. It has also been reported that in the cities of Dubrovnik, Split and Zagreb, as well as in other areas, shops and homes belonging to ethnic Muslims have been damaged or destroyed. For the most part, the police do not demonstrate a serious willingness to suppress or punish such acts.

139. There have been reports that many Muslims in Croatia have been denied citizenship although they were either born in Croatia or had lawful residence in Croatia for several years. In the villages of Rajevo Selo and Gunja in the district of Zupanja on the border with Bosnia and Herzegovina, almost 200 Muslims are said to have been denied citizenship. In many cases which have been verified by the field staff, some members of a family have been arbitrarily denied citizenship while others have not. Therefore, a considerable proportion of the Muslim population in this district is affected. Since many of these individuals live in a predominantly rural area, some are not aware of the possibility of resorting to legal proceedings in order to appeal their case.

140. On 29 July 1993 the field staff of the Special Rapporteur received reports that Bosnian refugees in Zagreb, Samobor, Split, Pula, Varazdin and the island of Obonjan were being expelled from Croatia to Bosnia and Herzegovina. In one verified case the civilian police arrested a large number of refugees in Zagreb. The Croatian authorities explained that they were conducting a police operation against "illegal" refugees without documents. However, most of the individuals arrested had been previously registered by the Croatian authorities while others had appropriate UNHCR documents.

141. Fifty-two of the refugees were taken to the border with Bosnia and Herzegovina where they were handed over to the Bosnian Croat (HVO) military police and detained. The detainees were predominantly Muslims, who were told that they would be exchanged for Croat detained by the Bosnian government forces. There were reports of abuse and torture in the detention centre, as well as dangerous labour on the front line.

142. In a letter dated 2 August 1993, the Special Rapporteur expressed his "grave concern" about the expulsions and indicated that it constituted "a serious violation of international human rights standards in general and of the non-refoulement principle in particular". During meetings with the Special Rapporteur in August 1993, high-ranking officials of the Croatian Government gave assurances that such expulsions would not occur again.

143. There continue to be isolated incidents of individual expulsions by the Croatian police, especially in the area adjacent to Herzegovina. Thus, for instance, the field staff have received a report that on 28 August 1993, a Bosnian Muslim was arrested by Croatian police in the city of Trogir. Although all of his documents were in order, he was sent to the border crossing at Kamensko, where he was allegedly handed over to the HVO military police. UNHCR, which has consistently objected to the expulsions, is involved in ongoing efforts with the Government and with the Bosnian Croat authorities to secure the readmission of all expelled refugees to Croatia. As a result of repeated protests by UNHCR, and with the cooperation of the Government, some

refugees have already been readmitted to Croatia upon their release by the Bosnian Croat authorities.

J. The situation in the United Nations Protected Areas

144. In areas under the control of the so-called "Republic of Serbian Krajina", the organized and massive "ethnic cleansing" of Croats and other non-Serbs is largely a fait accompli. Nevertheless, a climate of hostility and abuse against the remaining ethnic minorities exists and they continue to leave the UNPAs.

145. The prevailing lawlessness, as well as economic pressures, encourages acts of violence and harassment by individual criminal elements or small criminal groups who take advantage of the hostility against Croats for personal gain. The Knin authorities have not demonstrated a serious willingness to repress such acts. In particular, members of paramilitary groups, such as the Territorial Defence Forces, appear to enjoy a considerable degree of impunity. As a general rule, the level of violence and harassment against Croats increases during periods of active hostility. They have frequently been the victims of retaliations for actions of the Croatian armed forces.

146. The Special Rapporteur has received several reports concerning intimidation and harassment by the Knin authorities of those Serbs considered as "spies" and "traitors" because of their involvement in reconciliation with Croats.

UNPA Sector South

147. According to information received by the Special Rapporteur, at present there are 1,161 ethnic Croats resident in Sector South and the Pink Zones; 44,000 ethnic Croats inhabited the area in 1991. The largest Croatian community within the Sector is the village of Podlapaca in the area of Korenica. The village of eight hamlets has 116 ethnic Croats. They have been subjected to abuses including killings, looting and the confiscation of farm equipment. It is reported that only eight inhabitants wish to remain in the area. For reasons of security many inhabitants spend the night in the homes of those who live close to the UNPROFOR base. The Knin authorities, however, have reacted to some complaints and have arrested and detained suspects in the murder of four Croats from Podlapaca. They have not as yet however identified suspects, allegedly wearing the uniform of the Territorial Defence Forces, implicated in the murder of Croats on 12 July and 6 September 1993 in Podlapaca.

148. Another area of concern is Drnis and Vrlika where, in particular after the Medak pocket incident, the mainly elderly ethnic Croat population has been subjected to abuse and harassment. In this area, the Knin authorities have either been unable or unwilling to provide adequate protection against such incidents and have denied access to United Nations Civilian Police (UNCIVPOL). Conditions are better in areas such as Bruska within the municipality of Benkovac, where the authorities provide some degree of protection against human rights abuses. There are 18 imprisoned ethnic Croats in Laskovica and 30 in Sonkovic. In the area of Knin and Korenica, several religious sites have been extensively damaged.

149. According to the local Red Cross, as of 29 June 1993 there were a total of 34,636 displaced persons and refugees in Sector South and the "Pink Zones". It is reported that 11,491 were displaced as a result of the hostilities on 22 January 1993. Of the total population of displaced persons and refugees, all are ethnic Serbs with the exception of 136 Croats and 66 others.

UNPA Sector North

150. There have been several reports of harassment and intimidation of the estimated 1,500 to 2,000 Croats remaining in this area, which has a total population of approximately 70,000. During a visit to the area in May 1993, the field staff were informed by reliable sources that there were at least 35 non-Serb detainees at a detention centre in Vojnic. The grounds for detention

are usually "disciplinary measures" and "illegal border crossing". Reports were also received that two persons who had disappeared from the Croatian village of Maja, near Glina, had been found dead.

151. The Special Rapporteur has also received reports of the killing of Serbs. On 23 May 1993, the bodies of three Serb civilians who had apparently been killed in an ambush were discovered near the village of Gora, in the vicinity of Petrinja. They had been shot at close range. On 26 May, during a visit of the field staff to the Sector, another four bodies were discovered in the same area. They were uniformed and appeared to have been killed by bullets in the head while lying face down on the ground. In another incident, on 14 July 1993, 4 civilians were killed and 27 injured when a passenger train hit an anti-tank mine while crossing a bridge west of the town of Glina. Although the specific identity of the perpetrators has not been determined in any of these cases, it is alleged that all of these acts were committed by "Croatian infiltrators" from outside the UNPAs.

152. During a visit to Sector North in August 1993, the Special Rapporteur held meetings with UNPROFOR officials and discussed the issue of repatriation of displaced Croats. It was clear, however, that such repatriation could not be secured in view of the prevailing climate of hostility and militarization. The Special Rapporteur himself was witness to the destruction of a Croatian home during his visit.

UNPA Sector West

153. Approximately 15,000 Croats, as well as 1,300 Serbs who have fled Sector West, are presently registered as displaced persons in the Republic of Croatia. In addition, it is estimated that there are 15,000 Serbian displaced persons who have fled to Sector East. In Sector West itself, there were 12,301 displaced persons as of 30 April 1993, of whom 4,946 were in the areas of Sector West under Croatian control and 7,355 in areas under the control of the Knin authorities.

154. In areas of Sector West under Croatian control, there have been reports of continuing discrimination and harassment against Serbs. In one case of discrimination in April 1993, the Daruvar local authorities adopted a decision to prevent Serbian displaced persons who had allegedly participated in the 1990 Referendum on the Cultural Autonomy of Serbs to benefit from assistance provided by the Daruvar Social Welfare Office. Through the coordinated actions of UNPROFOR and UNHCR, this decision was revoked by the Croatian Government Commissioner for Daruvar.

155. In the areas of Sector West under the control of the Knin authorities, there are approximately 35,000 to 40,000 inhabitants, of whom 500 are ethnic Croats. According to the Knin authorities, approximately 30 per cent of the population are displaced persons. During a meeting with the field staff, the Knin authorities complained that UNPROFOR had not allowed them to realize the resettlement of 6,000 displaced Serbs in "empty" Croatian villages.

156. Because of their participation in confidence-building measures with the Croatian Government, some Serbs in Sector West have been stigmatized as "traitors". On 21 September 1993, two former high-ranking members of the Knin authorities were accused of cooperation with Croats and arrested because of their participation in a social reconstruction project co-sponsored by UNOV/UNDP and a non-governmental organization. A Serb who was the manager of the project was also arrested.

UNPA Sector East

157. According to figures in the 1991 census and a 1993 UNCIVPOL census, the Croat population of the Sector has dropped from 46 per cent of the total to approximately 6 per cent, whereas the Serb population has increased from 34 per cent to approximately 73 per cent. During the same period the census figures indicate a drop of approximately 44 per cent in the Hungarian population, from 10,131 to 5,765.

158. There continues to be a flow of displaced persons out of the Sector because of intimidation, family reunification and economic pressures. Offences against minorities include unlawful killings, arson, armed robbery and looting. Out of 53 known cases of unlawful killing of Croats committed in the period between May and December 1992, only five have been investigated and brought to court. There are reports of brutal beatings by the local militia, as well as the forcible recruitment of non-Serbs into the armed forces. In several reported cases, those who have refused recruitment have been beaten, imprisoned and even killed.

159. Another area of concern is the discriminatory treatment of Croats in regard to medical care and food. At the Vukovar hospital, it was reported that several Croatian patients were denied adequate amounts of bandages and even anaesthetics. One elderly Croatian woman, who was in a critical condition after a suicide attempt was refused a blood transfusion by the medical staff of the hospital and died the following day. It is also reported that the local Red Cross in Baranja has openly discriminated against minorities in the distribution of food.

160. Seven Catholic churches have been destroyed in Sector East and during July 1993 the church building in Ilok was attacked on three occasions.

K. Shelling of civilian areas by the parties to the conflict

161. The armed forces of the so-called "Republic of Serbian Krajina" have engaged in the deliberate and systematic shelling of civilian objects in Croatian towns and villages. According to Croatian sources, between April 1992 and July 1993, Serbian shelling resulted in a total of 187 civilian deaths and 628 civilian injuries. These sources also allege that during the period between 1991 and April 1993, an estimated total of 210,000 buildings outside of the UNPAs were either seriously damaged or destroyed, primarily as a result of shelling.

162. In the Dalmatian coast area, Zadar, Sibenik, Biograd, Tribunj, Filipjakov and the surrounding area have sustained particularly heavy damage. In other areas, Gospic, Karlovac, Ogulin and surrounding areas have been heavily affected. On certain days, some areas have sustained several hundred impacts. There have been numerous civilian deaths and injuries and extensive damage to civilian objects including schools, hospitals and refugee camps, as well as houses and apartments.

163. On 14 September 1993, the field staff of the Special Rapporteur visited Karlovac to investigate damage from shelling. They observed that civilian objects, including a hospital and a refugee camp which were apparently not situated in the proximity of a military object, had been deliberately shelled from Serbian positions within visual range of the targets. In the case of the "Gaza" refugee camp, at least three civilians were killed as a result of such attacks. The field staff also inspected the damage caused by a 500 kilogram "Frog-7" missile, which on 11 September had hit a residential area in Lucko, in the immediate vicinity of Zagreb.

164. The Special Rapporteur has received reports that Croatian forces have also engaged in the deliberate shelling of civilian areas including the villages of the Medak pocket, the village of Baljci near Drnis, the village of Vrlika near Sinj, the village of Biljane Gornje near Benkovac, Ravni Kotari and Knin.

III. THE FEDERAL REPUBLIC OF YUGOSLAVIA

A. Introduction

165. In the absence of a field office in the Federal Republic of Yugoslavia, the Special Rapporteur has relied on information collected through the Centre for Human Rights at Geneva and during a visit by two staff members to Serbia and Montenegro between 13 and 26 October 1993. They visited Belgrade, Pristina, Novi Pazar, Novi Sad and Podgorica, meeting officials of the Federal,

Serbian and Montenegrin Governments, private individuals and representatives of national non-governmental organizations and of international organizations.

B. Serbia

Security of the person

166. The use of brutal and excessive force by the police has been reported to the Special Rapporteur throughout the Republic of Serbia. These reports come from lawyers, victims, human rights organizations in Belgrade, Kosovo and Novi Pazar and the independent Yugoslav press (notably Vreme and Borba). Abuses occur in both political and criminal cases where individuals are held in custody and involve both the regular police and security officials. Further, it appears that police use excessive force both in searches and in random encounters with the public.

167. The Special Rapporteur's staff interviewed seven Albanians in Kosovo who had been released from custody within the last two months, took testimony which described beating and torture and saw physical marks consistent with these facts. They considered reports of police use of excessive force during a political demonstration in Belgrade on 1 June, interviewed one person who had been severely beaten on that date and saw a medical certificate. In Novi Pazar they were informed that police used excessive force during the investigation of political cases and that the majority of those who passed through police hands in other cases were beaten.

168. In the middle of October, the issue of police brutality was publicly discussed in Belgrade through the case of an actress, Nadeza Bulatovic, whose upper arm and nose were broken when she was taken from a food queue and beaten by police after she had questioned the manner of flour distribution. The decision to prosecute the responsible police officers is seen as an exceptional measure, taken because of the publicity given to Ms Bulatovic's case, while Borba described the behaviour of the police as reflecting a trend to "intimidate the public" which had begun with the police reaction to the June 1993 demonstration (see below). A Belgrade lawyer told the Special Rapporteur's staff that it was common for criminal suspects to undergo brutal physical treatment which verged on torture.

169. The Criminal Procedure Code of SFRY, which still applies, provides that a person suspected of committing a criminal offence may be held in custody for no longer than 72 hours. The Prosecutor must be informed at the outset, but there is no access to a lawyer during this period. After 72 hours, the suspected person must be brought before an examining judge, who decides on the investigation and whether there are grounds for maintaining detention. At this point legal access is allowed. These two decisions must be taken within 24 hours; and the detained individual and the defence lawyer must be informed of the decisions. The Law on Internal Affairs of the Republic of Serbia of 17 July 1991 allows detention for an initial 24 hours - for identification purposes - of a person who is suspected of a security or public order offence; during this time the family of the detained person should be informed "promptly" (art. 11). There is no right to see a lawyer. The Ministry of Justice of the FRY told the Special Rapporteur's staff that the Constitution sets higher standards than the Criminal Procedure Code and that changes would be made to bring the Code into conformity with the Constitution by the end of 1994.

170. This procedure is not invariably observed where individuals are under investigation for political reasons. The Special Rapporteur's staff were told that it is common for detainees to be ill-treated during the 72-hour period and that the decision on arrest is not always taken by an investigating judge within the required time. In Kosovo, investigation of political cases is by the security services, without a defence lawyer being present when the detained person is questioned by the security services. It is during this interrogation period that ill-treatment takes place. In one case, no decision by the examining judge was taken for 20 days. In several cases, the decisions on detention and on investigation were not delivered to the defence lawyer within

the time limit for lodging an appeal. Furthermore, in one case where the investigating judge had mandated the security service to conduct an investigation, a complaint was made to the District Court in Pristina about brutal methods of investigation. The Deputy President of the Court rejected the complaint, on the grounds that it had no jurisdiction over the security services.

171. An administrative procedure exists for minor offences which allows detention for a maximum of 60 days and fines, to be imposed. These minor offences include offences against public order and public peace and are used by municipal authorities to deal with, inter alia, political demonstrations. The procedure does not provide for a full investigation and defence rights are diminished.

Freedom of assembly and association

172. The Serbian Prosecutor General has asked the Serbian Constitutional Court to ban the Serbian Renewal Movement (Srpski Pokret Obnove (SPO)). This is the second application to ban a political party. The Court is already considering an application to declare the Sandzak Democratic Party an illegal organization under article 42 of the Serbian Constitution. The President of the Constitutional Court informed the Special Rapporteur's staff that the Court would "proceed very cautiously" in considering this first exercise of its power to ban a political party.

173. The initiative to ban the follows a demonstration on 1 June 1993 in Belgrade. The Serbian authorities' response illustrates the difficult position of opposition parties in Serbia. During a debate in the Serbian Assembly on Yugoslavia's international position, a deputy of the opposition Serbian Renewal Party called on President Milosevic to resign. When the deputy left the Chamber he was assaulted and knocked unconscious by a Radical Party deputy. This incident sparked a demonstration in which - according to official figures - 121 persons were detained, one policeman died and 32 persons were injured. Police raided the SPO office, arresting some 40 deputies, officials, members and journalists, including the SPO President, Vuk Draskovic. Non-governmental sources recorded that the police used "indiscriminate force" during and after the demonstration. After breaking up the rally by force, the police beat up more than 250 demonstrators as they attempted to flee, continued to beat those who had fallen and attacked a large number of passers-by.

174. Medical reports received indicate that after his arrest, Mr. Draskovic had signs of severe beating. The Special Rapporteur appealed to the Yugoslav authorities to release him pending trial and allow him to obtain proper medical treatment. Mr. Draskovic was later charged with murder, criminal injury and criminal damage and with assaulting a police officer. On 9 July 1993, the first charge was dropped. In October, the assault charge was also dropped.

175. Gatherings in Kraljevo and Nis, called to protest the arrest of Draskovic and the use of police violence, were banned; the police also questioned SPO members about their political activities. Up to 400 arrests were made in connection with the 1 June and subsequent demonstrations.

Freedom of expression and the media

176. In January 1993, 1,000 employees of Radio-TV Serbia were sent on "enforced holiday". While this practice is increasingly used in response to economic pressures on employers, new staff were later hired and it appears that Radio-TV Serbia used political selection criteria in deciding who should be sent on enforced vacations. The dismissed journalists and technicians included well qualified professionals and those who had publicly condemned "the war-mongering policies" of the State-owned company and its "instigation of national and religious intolerance"; many were also members of an independent trade union. The Special Rapporteur's staff interviewed two former employees, one journalist (a Muslim) and the other a technical specialist (a trade union activist). Both had been professionally recognized by their superiors and both were among media staff criticized on television as "spies", "collaborators" or

"betrayers of Serbia" by V. Seselj, the leader of the ultra nationalist Serbian Radical Party.

177. The Yugoslav Constitution (art. 37) and the Law on Public Information (art. 31) establish the right to correct false information, but Radio-TV Serbia frequently refuses to publish corrections from opposition politicians and the independent press. Specific cases where the right of reply has been refused include requests from TV journalists named by Seselj, (see above) and from Vuk Draskovic, the SPO leader.

178. The Anti-War Centre in Belgrade, a non-governmental organization, has analysed the Yugoslav press to identify the incidence of "hate speech" (writing which incites hatred). The Centre believes that publicly expressed intolerance, insults and threats often lead to physical violence. In a report on Vecernje Novosti, the largest circulation daily, the Centre describes the paper's attitude in these terms:

"The hate speech is directly reflected in the glorification of the Serbian people, ... and the disparagement and hatred of other peoples, along with pronounced xenophobia ... The disparagement of other peoples and the instigation of hatred towards them are pursued through doubts systematically sown regarding the characteristics and loyalty of national minorities ... in former Yugoslavia."

The Special Rapporteur's staff noted that Radio-TV Serbia includes in its broadcasts material which denigrates ethnic groups and is explicitly discriminatory.

179. Prosecutions are not normally brought against the authors of writings and speeches which incite national or racial hatred. Nonetheless, an investigation is now taking place in the case of Haroun Hadzic, former President of the Sandzak Committee for the Defence of Human Rights. This arises out of a special issue of the Sandzak magazine, which was guest edited by Mr. Hadzic and dealt with human rights violations. The offence alleged is the publication of false information.

180. On 21 September 1993, Dusan Reylic, Foreign Editor of Vreme was abducted from the street in which he lived and detained by unidentified persons for interrogation. This was immediately reported in the press and Mr. Reylic was released. The Special Rapporteur urges the Serbian authorities to take effective steps to investigate and to prosecute those responsible.

181. The impact of hyperinflation on newspaper circulation and hence on public access to information, is demonstrated by figures issued by the Association of Newspaper Publishers. At the end of August 1993, the overall circulation of all daily papers in Serbia and Montenegro was 250,000. Prices were then frozen and sales immediately rose to 400,000. In late October 1993, prices were unfrozen; on 22 October, the price of Borba rose from 2,000 to 15,000 dinars. Circulation dropped sharply.

Discrimination and citizenship

182. Non-governmental sources report that after the December 1992 presidential elections, institutional and non-institutional pressures increased against members of different national communities and confessional organizations in Belgrade.

183. The legal uncertainty surrounding citizenship of the Federal Republic of Yugoslavia encourages discrimination against those who cannot prove that they are citizens, (for discussion of Croatian citizenship law, see para. 115). In principle, the former federal and republican citizenship laws continue to apply (1976 Citizenship Act of SFRY and Socialist Republic of Serbia Citizenship Act 1979, amended in 1983). Under those laws citizens of the former Yugoslavia all held dual citizenship: they were both Yugoslav nationals (citizens of the federal State) and republican nationals (citizens of one of the constituent republics). Those who did not hold Serbian or Montenegrin citizenship and who

have not since acquired citizenship of Slovenia, Croatia or Macedonia, have become, de facto, stateless persons. In practice, applications for the acquisition or confirmation of citizenship of the Federal Republic of Yugoslavia are not being dealt with. Those residents of the Federal Republic of Yugoslavia who cannot prove their Serbian citizenship face discrimination in such areas as employment, housing and education, where access may be restricted to citizens. This situation affects two distinct groups: those who, whatever their ethnic origin, are long-term residents of Serbia or Montenegro, but have never taken the formal step of acquiring either citizenship and those displaced persons who have come from another territory of the former Yugoslavia, but do not hold its citizenship. The problem is caused largely by the failure of the authorities to comply with the existing law and the absence of a new citizenship law which would regulate the acquisition and loss of Yugoslav citizenship.^{10/}

The situation of refugees

184. There are some 530,000 refugees in Serbia from other territories of the former Yugoslavia (84.2 per cent Serbs, 6.2 per cent Moslems and 1.6 per cent Croats); despite the difficult economic situation, all have equal access with citizens to social security and educational provision. Under the 1992 refugee law, refugee status may be revoked if a refugee, *inter alia*, refuses to perform military or other assigned duties, which include work assigned by the Refugee Commissariat. Loss of status carries with it loss of humanitarian aid, education and health care.

185. Under new instructions, issued by the Serbian Commissioner for Refugees in May 1993, certain regions of Bosnia and Croatia are designated as "safe municipalities" and applicants from these areas are normally refused refugee status. The "safe municipalities" correspond to the Serb-controlled areas of Bosnia and Croatia. The instructions are consistent with a policy of discouraging the departure of Serbs from these areas, particularly those of military age. The Serb Commissioner for Refugees told the Special Rapporteur's staff that Serbs from areas of Croatia and Bosnia which were "not affected by the war" (for example Knin) while refused refugee status, were not required to leave Serbia. However, the Special Rapporteur notes that in these circumstances they are without any legal basis on which to remain in Serbia. UNHCR has repeatedly expressed its concern about the instructions and stressed that, as a minimum, the authorities should consider all applications on a case-by-case basis.

186. In February 1993, the Conference on Security and Cooperation in Europe (CSCE) mission in Vojvodina received reports of the unlawful recruiting of Serb refugees from the so-called Republic of Serbian Krajina by "armed gangs", who took them from the streets and sent loaded trucks of "volunteers" directly to the front. The Special Rapporteur's staff was informed that after a group of 500 Bosnian Serb refugees arrived in a refugee centre in Sremska Mitrovica in March 1993, the men were taken from the camp and sent to the front, certainly with the knowledge of the camp authorities. As a result of these and similar incidents, refugees of military age are reluctant to apply for refugee status, fearing this will simply serve to bring them to official attention.

187. The Yugoslav Government told the Human Rights Committee in November 1992 that an amnesty would be granted to those who had deserted from the federal army, or who had failed to heed military call up orders, or had participated in mutinies or had failed to obey the orders of the military authorities. However, no amnesty has been granted.

C. The situation in Kosovo

188. The polarization of the Albanian and Serb populations in Kosovo continues. One area affected by this polarization is the judicial system. Albanians lack confidence in the will and ability of the courts to provide an independent and effective remedy and point to the small number of Albanian judges. The CSCE monitors investigated this issue and commented:

"A major reason for the lack of Albanian judges is the refusal of most Albanians to serve in the courts. Judges must take an oath to the government, which most Albanians feel would give recognition to what they see as an illegal Serb regime."

However, the situation is in reality more complex and is illustrated by the experience of the Prizren District Court. Three Albanian judges have refused to serve as judges, but in June 1993, two others, both well qualified, were rejected by the Serbian Assembly in June 1993 after being described as "separatist murderers".

Ill-treatment and torture

189. The Special Rapporteur has continued to receive reports that the Serbian police and state security services act in excess of their powers and in breach of the law in their dealings with the Albanian population in Kosovo. These reports have increased significantly since July 1993.

190. In May 1993, some 30 Albanian prisoners were serving sentences for offences involving illegal political activities; this figure does not include those given administrative sentences of up to 60 days. New trials have since taken place and are continuing; most frequently the defendants are charged under article 116 of the Serbian Criminal Code with acts against the territorial integrity of Yugoslavia. In October 1993 Albanian sources reported that 93 people had been detained since July and were in custody; they included former officers of the Yugoslav National Army, as well as members of the Democratic League of Kosovo.

191. Two former detainees told the Special Rapporteur's staff that in August 1993 they had been systematically beaten to induce them to confess to membership of illegal Albanian separatist movements and to provide information about armaments. In each case, the individual was asked whether he had arms himself. When this was denied, he was told to obtain gun(s) and produce them to the police.

192. Albanian human rights organizations have reported deaths following detention and ill-treatment by the police. One such case, that of Adem Zeqiraj from Dakovica, was investigated by the CSCE monitors. Mr. Zeqiraj was arrested on 17 December 1992 during a search for firearms at his father's house. The next day he was admitted to the Dakovica hospital and then transferred to Pristina hospital, where he died on 19 December. A medical report from Dakovica hospital recorded that he had been admitted with traumatic shock, internal bleeding and a serious kidney condition.

193. The Special Rapporteur's staff were told by the Serbian Ministry of the Interior that 52 attacks against the police had taken place between 1 January and 30 September 1993. Two police had been killed and 15 wounded. The Deputy Minister denied that Albanians who had been in contact with CSCE monitors had been arrested. However, this denial is inconsistent with statements made to the Special Rapporteur's staff by four people who were questioned by police after the departure of the CSCE monitors.

194. The Special Rapporteur has also received reports of police abuse in the course of searches for illegal arms. Such searches are frequent. There is frequently damage to property, including the destruction of national flags, symbols and teaching materials and removal of money and valuables.

Housing evictions

195. The Special Rapporteur's staff have received information about the eviction of Albanians from apartments in which they were lawfully resident, often without legal proceedings, in order to accommodate Serb families. In one case, a worker from the JP Elektropower enterprise of Kosovo, was evicted from the apartment of which he was the legal tenant, by two police on 7 December 1992. He remains employed, has held his job for 20 years and occupied the apartment as a member of his workers' association. The apartment was then

occupied by a Serb family. Legal proceedings have commenced in the Pristina court.

Use of language

196. Albanians are a "national minority" under the federal Constitution and have a constitutional right to use their language in the areas in which they live and in court proceedings. The 1991 Serbian Law on the Official Use of Language and Alphabets gives municipalities the discretion to decide which languages shall be in official use. Given the use of Albanian before 1990 and the fact that Albanians represent around 90 per cent of the Kosovo population, the Special Rapporteur believes the use of Albanian in all official matters should be normal practice, regardless of Albanian representation on municipal bodies. In practice, there has been a decline in the official use of the Albanian language.

197. The Special Rapporteur notes the issue of identity cards, birth and marriage certificates and other public documents in the Serbian language. The Special Rapporteur's staff took copies of identity cards issued in Pristina: in 1984 the cards were in three languages (Albanian, Serbo-Croat and Turkish); in 1990 in two languages (Serbo-Croat and Albanian) and in 1993 in Serbian only.

198. In the Prizren District Court proceedings are now held only in Serbian, although 95 per cent of criminal defendants are Albanian. Before 1990, Albanian and Serbo-Croat were of equal status, the criterion being the language of the defendant. While in principle a complaint may be made in Albanian, in practice it will not be dealt with because there is only one translator. A complaint made by an Albanian to the Prosecutor of the Pristina District Court, alleging ill-treatment at the hands of the police, with a medical certificate attached, was returned the same day (27 August 1993) by the Deputy Prosecutor, with a note saying: "We return your complaint ... so it may be translated into the Serbo-Croat language".

199. Throughout the territories of the former Yugoslavia, street names continued to be changed in 1993 to reflect recent political changes. While in many areas this is not controversial, the Special Rapporteur's staff were told of changes in Pristina and Prizren which had the effect of giving a Serbian character to areas in which the overwhelming majority of the population is Albanian. In Prizren, he is informed that 90 per cent of names have been changed since 1991. For example: "Bayran Curri" (an Albanian leader) to "27 March" (the date of the 1992 Serbian constitution); "League of Prizren" (Liohja e Prizreni) to "Car Dushani" (a Serb king). Similar changes have been made in the Hungarian areas of Vojvodina.

Education

200. The Special Rapporteur has received reports of continuing harassment and use of force by the police against teachers and pupils working in the "parallel" education system.

201. According to the President of the Association of Albanian Teachers, during the 1992-1993 school year, 274,280 pupils attended primary "parallel" schools. This figure contrasts with official statistics showing that in 1990, more than 295,000 Albanian pupils were enrolled in state primary, secondary and tertiary education. It will be recalled that the "parallel" schools started after August 1990, when teachers refused to accept a new curriculum drawn up by the Ministry of Education in Belgrade and some 18,000 of them lost their jobs. The new curriculum is compulsory throughout Serbia and replaces, inter alia, curricula prepared by the educational councils of Kosovo and Vojvodina. The councils were abolished as part of a broad centralisation process and with the aim of creating a common teaching system for all schools in Serbia. The "parallel" system functions at the primary, secondary and tertiary levels. Teaching is in Albanian, according to a curriculum which is not recognized by the Serbian Ministry of Education. The schools issue their own diplomas, which are, in turn, not recognized by the Serbian educational authorities. Though teachers receive no official salary, teaching at the primary level (which is

compulsory under Serbian law) largely continues to take place in school buildings, the expenses of which are paid by the education authorities. Secondary and tertiary education takes place in private houses and premises.

202. The Serbian Minister of Education told the Special Rapporteur's staff that teaching in the Albanian language is available in the state system and both the Serbian Constitution and Serbian education laws give national minorities a right to education in their own languages. The Minister said that the teachers had refused to accept curricula decided in Belgrade. In June 1990 all national minorities had been invited to propose their own teaching programmes in certain culturally specific subjects to be included in a "core" Serbian curriculum: literature, history, applied arts and music. The minorities in, for example, Vojvodina had done so, but the Albanians had not.

203. In March 1993, the former Rector of the University of Pristina, Professor Ejup Statovci, was arrested to serve a sentence imposed in 1992, when he was convicted on a public order charge after writing a letter to the current Rector asking for the university buildings "which were taken by force" to be returned to Albanian teaching staff and students. The Special Rapporteur notes with concern that the conflict surrounding the University of Pristina continues and is contributing to the prevailing climate of tension.

204. Views expressed recently by the Minister of Education and by the current Rector of the University of Pristina illustrate the intellectual climate. The Minister described education as the "sphere in which a country manifests its identity" and criticized the University of Pristina and the former Kosovo Academy of Sciences before 1990 as "centres of actual and theoretical separatism". The Rector of the University, Professor Radivoje Popovic, speaking in May 1993, referred to changes in the university since 1990 in these terms:

"Our first task was to remove the hatred for all that is Serbian which had been accumulated here for decades ... This factory of evil, established with the basic intention of destroying Serbia and the Serbian name ... is now destroyed thanks to the coordinated action of the Government and university personnel ... Our university has the ultimate object of renewing Serbian thought in Kosovo and Metohija."

205. Throughout 1993 the police have entered "parallel" schools, questioned teachers and students and in some instances threatened or used violence. On 21 June, the CSCE monitoring team in Pec reported a "campaign" against the parallel schools to coincide with the end of the school year. Eight schools were searched for graduation certificates issued in the name of the Republic of Kosovo. In Klina, the police searched the school and then went to the local Democratic League of Kosovo (LDK) office where a meeting was in progress which included a number of teachers. The 12 people present were arrested; 8 were beaten on the head and arms and 2 were beaten more severely, while being questioned about the school system. Similar police actions marked the start of the new school year in September 1993.

D. Sandzak

206. In his February 1993 report, the Special Rapporteur expressed concern about the position of the Muslim community in the Sandzak region of Serbia and Montenegro and noted the particular difficulties of those living on the frontier with Bosnia: in Pljevlja, Prijepole, Priboj, Bjelo Polje and the Bukovice region.

207. Non-governmental sources recorded the exodus of more than 3,000 Muslim citizens from the municipality of Priboj between June 1992 and February 1993 and noted as a cause the "uncontrolled presence of military and paramilitary Serbian groups from Bosnia" and their links to local militant groups. Serbian irregular formations from Bosnia continued to cross the territory of Serbia and, in the presence of the Yugoslav army, maltreat, steal and destroy the property of Muslim citizens.

Abductions

208. The Special Rapporteur in his February 1993 report, noted the abduction in October 1992 of 16 Muslims from Sjeverin, taken from the bus on which they were travelling to work in Priboj, at a point where the road passes through Bosnian territory. The abduction was connected to a planned exchange with Serbs held by Bosnian forces. The exchange did not take place. It is now feared that all 16 were killed in Visegradska Banja.

209. On 16 February 1993, Bosnian-Serb soldiers abducted 12 members of one family from their homes in Seliste village, in Bukovice. Six, all aged over 70, were later released from the town of Cajnice and six remained in captivity, including two children under five. Latif Bungur, aged over 90, had died; his body was left unburied outside his house.

210. On 19 February 1993, 19 Muslims and a Croat were taken from the Belgrade-Bar train (No. 671) at Strpci station, which is on Bosnian territory controlled by the Bosnian Serb army. A group of armed men, in camouflage uniforms with chetnik insignia, checked the identities of passengers and the Muslims were taken to a military truck and driven away. It is not known where they were taken and they are reported to have "disappeared". A government commission was established in Belgrade, but has not reported. Milan Lukic, reported to be a Serb paramilitary commander in Bosnia, was briefly arrested in connection with the kidnapping. On 19 October 1993, a commission of investigation was established by the Montenegro Parliament.

211. More than 800 Muslims have been forced to leave their homes in the Bukovica area because of violent behaviour by members of the Yugoslav army and by the army of Bosnian Serbs in the Montenegrin border area.

212. In May 1993 the Humanitarian Law Fund, a non-governmental organization reported some continuing incidents of violence and harassment against the Muslim population, but said that the general situation in Sandzak had become calmer.

E. Vojvodina

213. Involuntary migration has decreased, but harassment of members of minority groups in Vojvodina by radical Serbs continued. Since 1991 more than 145,000 refugees and displaced persons have entered the region, including Serbs from Bosnia, Krajina and Slavonia. Many of those who are now leaving Vojvodina do so under the terms of the September 1992 agreement between the Yugoslav and Croat Governments, which included provisions for "voluntary and humanitarian resettlement" of the Croat population.

214. In March 1993, the CSCE mission to Vojvodina reported continuing threats and intimidation against the non-Serb population by Serb extremists, with the aim of "replacing" them with Serbian refugees from Bosnia and Croatia. There had been telephone threats, attempts to blow up houses and other forms of intimidation, encouraged by radical Serb political groups.

215. However, non-governmental sources report that some action has been taken by the local police to protect members of minorities against radical Serb groups. They point to the case of Hrtkovci, a village whose population dropped from 2,899 (1,100 Croats, 550 Serbs, 500 Hungarians and 450 Yugoslavs) to 2000 after 1991. By 1993, 350 Croat families had left, taking with them their Serb and Hungarian family members and been replaced by Serb refugees, from Croatia and Bosnia. Only 600 Croats and Hungarians remained in the village. Intimidation, at gunpoint and by telephone threats, had come from Serb extremist groups connected to the Serbian Radical Party. The homes of 168 Croats who had left were forcibly entered by Serb groups, who then installed Serb refugees in the houses. Efforts were made by the local police to regulate the illegal occupation of property, but they were forcibly resisted by radical Serb groups. Police did prevent an attempt to change the name of Hrtkovci to "Srbislavci". To reduce tension, some extremist Serbs have been resettled by the authorities in other areas.

F. Montenegro

216. Montenegrans officials criticized previous reports by the Special Rapporteur because they had not distinguished between the situation in Montenegro and Serbia and the impression was given that the same violations were taking place in both republics.

217. The Constitution of the Republic of Montenegro provides that "the citizens of Montenegro have the right to address themselves to international institutions in order to protect their freedoms and rights guaranteed by the present Constitution" (art. 44). Furthermore, article 74(2) provides the same right for the "members of national and ethnic groups". Nevertheless, a suggestion by an opposition party that Montenegro should ratify the Optional Protocol to the International Covenant on Civil and Political Rights was rejected by the Parliament, reportedly because the Republic of Montenegro is a federal entity of the Federal Republic of Yugoslavia and, therefore, does not have the competence to ratify such a treaty. However, article 7 of the Yugoslav Federal Constitution provides that "within its competence, a member republic may conclude international agreements, but not to the detriment of the Federal Republic of Yugoslavia or any of its member republics".

218. Protection of the Montenegrans historical and cultural identity is a major issue among the Montenegrans population. Accordingly, on the occasion of the commemoration of the birth of the poet Njegos that took place first in Belgrade and then in Cetinje in October 1993, parts of the audience reacted when it was declared that he was a Serbian poet, and allegedly insulted the President of Montenegro who was attending the Cetinje celebration. This was followed by a massive police reaction. Cafes and apartments were searched. Twenty-four people were arrested and four were detained. Criminal proceedings were introduced against 24 individuals. According to a defence lawyer, criminal procedure had been violated several times: one person was detained for two days illegally without a decision on detention. Furthermore, the investigating judge did not inform the defence lawyers of the date and time of the hearing of the accused after the charges had been brought, or of the date and time of the hearings of the witnesses. Finally, the decision to bring charges was taken before the decision on beginning an investigation became effective.

219. The Special Rapporteur's staff were told of an unsuccessful attempt to establish an independent television channel and radio station, which failed in September 1993 after the withdrawal of the licence which had previously been granted by the competent federal authorities.

220. The Montenegrans Republic continues to maintain open borders for refugees. There are 60,000 registered refugees, largely Muslims and Serbs. The refugees, termed "displaced persons", have equal access to health care and social security provisions. Unlike in Serbia, there is no requirement that refugees work.

221. At the beginning of October 1993, the local press reported that a mosque had been damaged near Bar. The perpetrators have not been found.

The humanitarian situation

222. By September 1993, inflation had reached an official monthly rate of 1860 per cent, with an annual rate estimated by the London Economist at 363 quadrillion (363,000,000,000,000,000 per cent). In August and September, the value of the Yugoslav dinar depreciated on an hourly basis. While inflation at these levels affects all parts of society, its gravest impact is on the elderly, the sick, children and all those without access to material help or external financial support ("hard" currency).

223. The World Health Organization (WHO) office in Belgrade describes the health situation as "a catastrophe". There is a serious shortage of essential pharmaceutical products in Serbia and Montenegro. The extensive black market and a growing and flourishing private sector do not assist vulnerable sectors of the society. Overall mortality rates have risen by 10 to 20 per cent in the

last two years. Suicides among the elderly are up by a factor of four. Tuberculosis, which is accepted as an indicator of low levels of hygiene malnutrition and overcrowding, has also increased fourfold. A reactivation of old cases and new infections, particularly among the refugee population, has been observed. Deaths among mental and neurological patients have increased - from suicide, exposure to cold and disease. Disinfectant is not available for hospitals, with a consequent increase in disease. The public health system is bankrupt. Patients must therefore bring their own medical supplies, bandages as well as drugs. For many, this is impossible. The situation is expected to worsen dramatically during winter, particularly for the most vulnerable - the old and the very young. Much of Belgrade housing is connected to centralized municipal heating systems and many apartments have no separate means of heating; the stated official policy in October 1993 was to keep municipal heating at 5°C during the winter months.

224. Taking this situation into account, it is obvious that international humanitarian assistance for the Federal Republic of Yugoslavia is essential. Medicines, food and essential humanitarian supplies are exempted from the sanctions which were imposed on Yugoslavia by the Security Council in May 1992. In their discussions with international humanitarian agencies in Belgrade, as well as with Yugoslav officials and medical personnel, the Special Rapporteur's staff were informed about the difficulties which international agencies and non-governmental organizations are encountering in transporting medicines and food.

225. Under the April 1993 Guidelines of the Sanctions Committee (S/AC.27/1993/CRP.3/Rev.2), the Committee may consider communications from intergovernmental humanitarian agencies and Member States. Where Yugoslav institutions wish to import humanitarian supplies, the overseas manufacturer must approach the Sanctions Committee through its own Government. The Committee receives large numbers of communications, perhaps 1,000 a week. Delays occur both at the national level and after a communication has been received by the Committee. Both UNHCR and WHO informed the Special Rapporteur that their work has been adversely affected by the procedural delays of the Sanctions Committee. Even for those established agencies, which are both familiar with the procedure and known to the Sanctions Committee, delays of two months have been normal. In the case of some intergovernmental agencies and their partner non-governmental organizations, steps have recently been taken to resolve the problem. But for individual NGOs the delays are normally longer and may result in, for example, donated drugs approaching their "use by" date and having to be sent elsewhere. The Special Rapporteur's staff were told that significant non-governmental aid is lost because the procedure deters smaller donors.

226. All medicines and humanitarian supplies destined for the Muslim areas of east Bosnia must also be cleared by the Sanctions Committee because they transit Yugoslavia. Both UNHCR and WHO gave as an example of extreme delay a shipment containing equipment required by surgeons operating in the Srebrenica hospital, which is under fire; it included bullet proof vests for the doctors. The application, which had been made in June 1993 was queried by the Sanctions Committee, returned to the submitting State and by mid October, four months later, had not been cleared.

IV. CONCLUDING OBSERVATIONS

Bosnia and Herzegovina

227. The onset of winter presages a humanitarian disaster of immense proportions. There are no peoples of Bosnia and Herzegovina who can remain unaffected by such a tragedy - hunger and cold recognize no differences of ethnic origin or social role. The Special Rapporteur accordingly strongly condemns all actions which block, interfere with or in any way delay the distribution of all forms of humanitarian aid. He also urges the international community to respond generously and speedily to the needs of Bosnia and Herzegovina by providing humanitarian aid to the extent and in the forms required. The Special Rapporteur cannot over-emphasize that people will die without international humanitarian assistance.

228. The Special Rapporteur has already warned that a prolongation of the conflict in Bosnia and Herzegovina would lead to the commission of atrocities by all sides and the persecution of peoples of every ethnic origin. He is greatly saddened that this situation has now come to pass and unequivocally condemns every violation of international human rights and humanitarian law. Moreover, while fully acknowledging the suffering of all peoples, he must again draw particular attention to the appalling extent of persecution by "ethnic cleansing" against those of Muslim ethnic origin. He reminds the world that the Muslim community in Bosnia and Herzegovina is threatened with extermination.

229. The Special Rapporteur condemns the continuing commission of the crime of rape and of all other forms of sexual abuse.

230. The Special Rapporteur reiterates his conviction that the perpetrators of violations of human rights and humanitarian law must be held accountable in law and punished. He expects that the international community will do all that is required of it in order to ensure that the International Tribunal to prosecute violations of humanitarian law in the former Yugoslavia can achieve its goals speedily and effectively.

Croatia

231. Further to his letter dated 1 October 1993, the Special Rapporteur once again requests the Croatian authorities to ensure that those responsible for the contravention of human rights and international humanitarian standards in the Medak pocket operation be punished and that steps be taken to prevent such incidents in the future.

232. The Special Rapporteur notes with concern the continuing discriminatory practices against ethnic Serbs in Croatia, in particular with regard to arbitrary detention, the right to a fair trial, citizenship, illegal evictions and the destruction of property.

233. The Special Rapporteur is also deeply concerned at the increasing hostility and discrimination against Muslims in Croatia and hopes in this respect that the responsible Government organs will take all the necessary measures in order to observe international human rights standards.

234. The Special Rapporteur is concerned about the contribution of the media to the prevailing climate of inter-ethnic hostility through misinformation and indoctrination and requests that the Government take the necessary measures for ameliorating the situation.

235. The Special Rapporteur requests that in the conduct of hostilities the parties to the conflict in the UNPAs refrain from all further shelling of civilian objects.

236. In areas under the control of the so-called "Republic of Serbian Krajina", the Special Rapporteur is deeply concerned by the militarization of the population, the collapse of the rule of law and the absence of conditions for the repatriation of displaced persons.

Federal Republic of Yugoslavia

237. The Special Rapporteur notes with concern the articulation of ethnic hatred in public life and in the media. This creates a climate in which acts of discrimination are encouraged and condoned. While Yugoslav law forbids incitement to racial or national hatred, the law is not enforced and, in any event, other and more effective means are required to prevent the promotion of discrimination by public authorities and institutions. In this context special attention should be given to the development of independent, democratically-oriented communications media and in particular the electronic media.

238. The Special Rapporteur regrets the decision of the federal authorities to refuse to extend the mandate of the CSCE human rights missions in Sandzak, Kosovo and Vojvodina. The missions played an important and constructive stabilizing role in situations of tension and potential conflict, especially in Kosovo. They were also an important source of objective and accurate information on the human rights situation.

239. Abuse of power and the use of excessive force by the Serbian police has been noted in this report. The Special Rapporteur believes the Yugoslav and Serbian authorities should amend the law to allow immediate access to a lawyer of persons after arrest, should investigate impartially and effectively all cases in which there is reason to believe power has been abused or excessive force used and should prosecute those responsible.

240. While noting the large numbers of refugees within Yugoslavia and the fact that they have full access to social and health provisions, the Special Rapporteur believes the Serbian authorities should review a major weakness in these procedures. They should thus rescind their May 1993 instruction not to register as refugees, men of military age from those areas of Bosnia and Croatia regarded by the authorities as "safe municipalities": without registration they may not benefit from the Welfare provisions of the State.

241. The Special Rapporteur notes reports of the deaths of Albanians as a result of injuries sustained while in police detention in Kosovo. He draws the attention of the Serbian authorities to their duty under international law to carry out exhaustive and impartial investigations with a view to identifying and punishing those responsible. The Special Rapporteur concludes that the police in Kosovo routinely illtreat those arrested for political reasons. In other areas of activity, for example during searches for illegally held arms, the police use excessive force.

242. There also is a serious abuse of power by the police in the harassment and even physical assault, of Albanians engaged in the exercise of the rights in the educational, political and trade union fields.

243. The Special Rapporteur has considered the present situation in which Albanian children and students attend "parallel" schools and colleges outside the Serbian state system and whose examinations are not recognized by the Serbian Ministry of Education. The Special Rapporteur believes the Serbian authorities should recognize years of education acquired in these institutions, thus avoiding the marginalization of a generation of Albanian students.

244. The Special Rapporteur notes the need for medicines and humanitarian assistance for vulnerable groups within Yugoslavia. Ways and means must be found to ensure that medicines and other items exempted from sanctions reach vulnerable groups before the heights of winter. The Special Rapporteur urges that procedures within the Sanctions Committee be reviewed without delay.

Notes

1. For an account of the gross violations of human rights which accompanied the start of this campaign of "ethnic cleansing" see the Special Rapporteur's first two reports (E/CN.4/1992/S-1/9 and E/CN.4/1992/S-1/10).

2. The Secretary General, assisted by the staff of the Special Rapporteur, has submitted a report on rape and abuse of women in the territory of the former Yugoslavia (E/CN.4/1994/5).

3. See E/CN.4/1994/4, of 19 May 1993 Section I. An on-site investigation of the area is also planned by the Commission of Experts pursuant to Security Council resolution 780 (1992). See the Commission's second interim report, S/26545, of 6 October 1993.

4. See E/CN.4/1994/8 of 6 September 1993.

5. See E/CN.4/1994/3 of 5 May 1993.

6. In addition to the investigation by the field staff of the Special Rapporteur, reference is here made to the UNPROFOR "Report on the Medak operation and assessment of human casualties and material damages".

7. See also the concluding observations of the Committee on the Elimination of Racial Discrimination, adopted at its 1010th meeting (forty-third session), held on 19 August 1993, contained in the report of the Committee to the General Assembly (forty-eighth session) (A/48/18, para. 502); and the observations of the Committee on Human Rights, adopted at its 1205th meeting (forty-sixth session), held on 6 November 1992 (CCPR/C/79/Add.15, para. 7).

8. See para. 183.

9. The Law on the Provisional Use of Apartments of 4 December 1991 (Narodne Novine, No. 66, 9 December 1991, p. 2075; unofficial translation; referred to as the "Law on Provisional Use") was enacted by the Croatian legislature "in order to care for displaced persons, refugees, persons who defended the Republic of Croatia and members of their family" (art. 1, unofficial translation). The primary purpose of this law is to regulate the provisional use of apartments which are owned or possessed by the Republic of Croatia and which are "empty, emptied or abandoned". Towards this end, the Law on Provisional Use (art. 3) establishes two categories of Commissions on Provisional Use: one for apartments pertaining to civilian entities and the other for apartments formerly owned by the Yugoslav National Army (JNA). In the latter category, there are 38,000 apartment units formerly belonging to the JNA, the administration of which was transferred to the Croatian Ministry of Defence pursuant to an Agreement of 22 November 1991 between the JNA and the Croatian Government. The situation of tenants in these apartments has been the source of considerable problems and, therefore, it has been the particular focus of the field staff in their investigations.

10. See para. 115, 183.

- - - - -



Economic and Social
Council

Distr.
GENERAL

E/CN.4/1994/110
21 February 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Agenda item 12

SITUATION OF HUMAN RIGHTS IN THE TERRITORY OF THE FORMER YUGOSLAVIA

Sixth periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 32 of Commission resolution 1993/7 of 23 February 1993

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
Introduction	1 - 4	4
I. BOSNIA AND HERZEGOVINA	5 - 79	4 - 14
A. Introductory remarks	5 - 6	4
B. Terrorization of civilians	7 - 27	4 - 7
C. The situation in Tuzla	28 - 33	7 - 8
D. Detention	34 - 39	8 - 9
E. Displacement of populations	40 - 48	9 - 10
F. Certain human rights issues arising pursuant to displacement	49 - 52	10
G. Rape	53 - 57	11
H. Violations of human rights and humanitarian law by means of military attacks on civilians	58 - 63	11 - 12
I. Human rights issues arising from interference with humanitarian aid	64 - 74	12 - 14
J. Conclusions and recommendations	75 - 79	14
II. CROATIA	80 - 119	14 - 20
A. Introductory remarks	80 - 83	14 - 15

B.	Legal remedies for human rights violations	84 - 87	15
C.	Discrimination against Serbs, Muslims and other groups	88 - 94	15 - 17
D.	Illegal and forced evictions	95 - 99	17 - 18
E.	The situation of refugees	100 - 103	18
F.	The situation of the media	104 - 106	18 - 19
G.	The situation in the United Nations Protected Areas	107 - 113	19 - 20
H.	Conclusions and recommendations	114 - 119	20
III.	FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)	120 - 158	20 - 26
A.	Introductory remarks	120 - 121	20 - 21
B.	Serbia	122 - 138	21 - 23
B.1	Kosovo	139 - 143	23 - 24
B.2	Sandzak	144 - 147	24 - 25
B.3	Vojvodina	148	25
C.	Montenegro	149 - 151	25
D.	Conclusions and recommendations	152 - 158	25 - 26
IV.	FORMER YUGOSLAV REPUBLIC OF MACEDONIA	159 - 189	26 - 30
A.	Introductory remarks	159 - 162	26 - 27
B.	Administration of justice	163 - 166	27
C.	Situation of the mass media	167 - 171	27 - 28
D.	Situation of national minorities	172 - 181	28 - 29
E.	Refugees and the humanitarian situation	182 - 185	29 - 30
F.	Conclusions and recommendations	186 - 189	30
V.	SLOVENIA	190 - 200	30 - 32
VI.	PROBLEM OF DISAPPEARANCES	201 - 208	32 - 33
VII.	SITUATION OF CHILDREN	209 - 278	33 - 43
A.	Introductory remarks	209 - 216	33
B.	Children of war	217 - 247	33 - 38
C.	Refugee and displaced children	248 - 262	38 - 41
D.	Children in the shadow of war	263 - 271	41 - 42
E.	Conclusions and recommendations	272 - 278	42 - 43

VIII. PREVIOUS RECOMMENDATIONS OF THE SPECIAL RAPPORTEUR AND THEIR FOLLOW-UP	279 - 360	43 - 54
A. Introductory remarks	279 - 282	43 - 44
B. Ethnic Cleansing	283 - 293	44 - 45
C. Safe areas in Bosnia and Herzegovina	294 - 296	45 - 46
D. Humanitarian aid and assistance	297 - 312	46 - 48
E. Prisoners and detainees	313 - 319	48
F. Rape victims	320 - 322	48 - 49
G. War crimes	323 - 331	49 - 50
H. Disarmament	332 - 335	50
I. United Nations Protection Force	336 - 342	51
J. Human rights in the peace process	343 - 347	52
K. Additional recommendations	348 - 356	52 - 53
L. Concluding observations	357 - 360	54
Annex I: FIELD OPERATION	1 - 12	55 - 56

Introduction

1. The mandate of the Special Rapporteur, originally established by the Commission on Human Rights at its first special session on 14 August 1992, was extended for one year by the Commission at its forty-ninth session in resolution 1993/7 of 23 February 1993.
2. The Special Rapporteur submitted three reports to the Commission on Human Rights (E/CN.4/1992/s-1/9; E/CN.4/1992/s-1/10; A/47/666-S/24809; E/CN.4/1993/50) and one to the General Assembly (A/47/666-S/24809) before the renewal of his mandate. Since then, and following many field trips undertaken by his field staff and missions which he undertook himself, the Special Rapporteur has submitted five periodic reports (E/CN.4/1994/3, 4, 6, 8 and 47).
3. The Special Rapporteur continues, where appropriate, and following investigation by his field staff, to intervene with the competent authorities in order to draw their attention to particular instances of allegations of human rights abuses. In each case he has urged that the situation be investigated and, where necessary, be remedied without delay. The Special Rapporteur cooperates with the Commission of Experts established pursuant to Security Council resolution 780 (1992) and offers his full cooperation to the International Criminal Tribunal for the Former Yugoslavia.
4. The Special Rapporteur expresses his gratitude to the various bodies which assist him in carrying out his mandate, including the United Nations Protection Force, the Office of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, the European Community Monitoring Mission, missions of the Conference on Security and Cooperation in Europe and other inter-governmental as well as non-governmental organizations.

I. BOSNIA AND HERZEGOVINA

A. Introductory remarks

5. War continues unabated in Bosnia and Herzegovina and continues to be characterized by wholesale violation of human rights and of humanitarian law. Whole populations remain victim to terrorization and harassment, particularly, though not exclusively, on territory controlled by Bosnian Serb and Bosnian Croat forces. The Special Rapporteur draws attention to the forms of suffering imposed on groups of peoples including the human rights issues associated with and pursuant to their displacement. A particular area of concern is the ongoing military attacks on civilians, particularly in Sarajevo, Mostar and Tuzla. The incident on 5 February 1994 in a Sarajevo marketplace, in which 68 people were killed and 200 wounded, is one of the worst attacks perpetrated on civilians during the war. The commission of rape and other forms of sexual abuse against women continues. Considerable suffering has been caused by interference with international humanitarian relief operations.

6. Information contained in this chapter is based on investigations conducted by the Special Rapporteur's field staff, a range of reliable sources, as well as a mission of the Special Rapporteur to Tuzla during December 1993. The Bosnian Serb authorities continue to refuse to permit the Special Rapporteur to conduct investigations in territory under their control. In connection with the information contained in this chapter, the detailed reporting on violations of human rights in Bosnia and Herzegovina contained in the previous reports should be taken into consideration.

B. Terrorization of civilians

7. Tragically, the terrorization of members of ethnic communities persists, with particular prevalence in territories under the control of Bosnian Serbs and Bosnian Croats. The Special Rapporteur reiterates his outright condemnation of such practices, which violate fundamental human rights including the right to life, integrity of the person, property, privacy and a

family life, freedom of thought, conscience, religion and of movement, to earn one's livelihood, to nationality, and rights as a member of an ethnic or cultural group. The Special Rapporteur also condemns all violations of human rights occurring in territory controlled by the Government of Bosnia and Herzegovina.

Terrorization of Muslims and Bosnian Croats in Bosnian Serb held territory

8. An escalation in the rate of "ethnic cleansing" has been observed in Banja Luka since late November 1993 and there has been a sharp rise in repossessions of apartments, whereby Muslim and Croat tenants are summarily evicted in violation of the terms of the Act on Housing Legislation and without de facto recourse to redressive legal procedures. Indeed it has been reported that a form of housing agency has been established in the municipality, which chooses accommodation for incoming Serb displaced persons, evicts Muslim or Croat residents and reputedly receives payment for its services in the form of possessions left behind by those who have been evicted. Typical of current eviction practices was an incident on 13 December 1993 in Banja Luka when six armed and uniformed men entered by force the home of a non-Serb family, assaulted the occupants and, despite the family's possession of a court order assuring the tenancy, ejected them onto the street.

9. Almost all non Serbs have now lost their jobs in Banja Luka and it is estimated that only 3 per cent of non Serbs continue to hold employment within the territories administered by the Bosnian Serbs. Dismissal is often without a legitimate reason, but frequently because of "draft evasion". Entire families have been dismissed from employment for the "draft evasion" of one member. Even family members of persons who have permanently settled in other countries can suffer in this way, as such emigrants may be deemed to be draft evaders. Dismissal removes the right to accommodation and social security.

10. The Special Rapporteur is aware of many specific recent incidents of attack on and terrorization of non-Serbs in the Banja Luka region in recent times. A typical case is that of an 82-year old Muslim man who, between 5 and 7 November, suffered repeated physical and verbal abuse and theft by assailants, one of whom was in military uniform. On each occasion the police failed to respond promptly to requests for assistance or to conduct proper investigations.

11. Muslim residents of the village of Vrbanija, five kilometres from Banja Luka, have been the victims of frequent shootings, assaults, threats and robberies. A recent incident, at 9 a.m. on 29 December 1993, involved the murder of a married couple and their neighbour and the theft of property. The police were informed of the incident at 9.30 a.m. but did not arrive until 5 p.m. when they spent just 10 minutes at the scene. During the funeral, on 30 December, mourners were detained and assaulted by men in military uniform.

12. During November 1993, continuing allegations were brought to the attention of the Special Rapporteur concerning widespread incidents of rape and sexual abuse by Bosnian Serb troops against Muslim women in the Olovo area.

13. The authorities in Banja Luka have removed physical traces of the presence of a Muslim community with the demolition of all of the municipality's 202 mosques. On 15 December 1993 in the town of Banja Luka, the remains of the 16th century Ferhadpasina mosque and four other mosques/mausoleums were razed. The site has since been adapted as a car-park. Roman Catholic constructions have also suffered. Twenty-one per cent of those in the Banja Luka diocese have been partially destroyed and a further 25 per cent damaged. In addition, Roman Catholic graveyards are increasingly being plundered.

14. The Special Rapporteur has received reports that the Muslims remaining in the Siprage region are subject to ongoing harassment and intimidation.

Terrorization of Muslims and Bosnian Serbs in Bosnian Croat held territory

15. "Ethnic cleansing" and general harassment of Muslims and Bosnian Serbs has been systematic and characterized by brutality, theft and eviction, absence of any due process of law and frequent detention. It is also characterized by the withholding of humanitarian aid (see below paras. 64-74). Many Muslims and Bosnian Serbs are in detention and others have either been issued with Croatian transit visas or forced into de facto ghettos such as eastern Mostar, an area rendered unfit for human habitation.

16. Control of the eastern part of the city Mostar is exercised by Government forces and of the western part by Bosnian Croat forces. The "ethnic cleansing" of Mostar was first directed against Serbs and then against Muslims. A result of the "ethnic cleansing" of Serbs is that their population in Mostar has been reduced from a pre-war figure of 30,000 to just 400. Unlike their counterparts in western Mostar, who are subject to numerous abuses by the Croat population, Serbs in the eastern part of the city do not appear to be the victims of any form of invidious discrimination by the Muslim majority.

17. During November 1993, the Special Rapporteur became aware of the killing in Mostar on 18 October of a well known Muslim doctor and members of her family. The incident occurred in her apartment in a building which houses a Bosnian Croat Defence Force (HVO) barracks. An eyewitness identified the plainclothed assailants as members of the HVO.

18. Muslims and Bosnian Serbs have also been subjected to intimidation by Bosnian Croat forces at locations such as Livno, Omerovici, Rotilj and Plocari. With regard to Plocari, it is alleged that around 15 November 1993 all the inhabitants were killed by the HVO. Due to local fighting, international observers could not establish that a massacre had taken place, but did observe that the place was deserted and that a number of buildings had recently been destroyed by fire.

19. The Special Rapporteur drew attention in his report of 17 November 1993 (E/CN.4/1993/47, para. 50) to an incident in the village of Stupni Do on 23 October 1993. That incident has since been investigated by UNPROFOR and the evidence indicates that it comprised the summary execution by HVO troops of at least 15 villagers. Witnesses also indicated incidents of rape and other sexual abuse.

Treatment of Bosnian Serbs and Bosnian Croats in territory controlled by the Government of Bosnia and Herzegovina

20. There have been a number of recent reports of summary killings. In Fojnica on 15 November 1993 Government troops killed two Roman Catholic priests and initially obstructed an attempt by UNPROFOR to conduct an investigation. Subsequently, the Government itself undertook an investigation of the matter. Its conclusions are not known to the Special Rapporteur. In early January 1994 it was reported that, possibly at Krcevine, a Croat family was forced to pass through a minefield. The father and his child were killed and the mother seriously injured.

21. An incident has been reported in Zivinice where a Croat woman was threatened with a choice between being raped and having her business premises destroyed. The police failed to handle her complaint in a serious manner. One incident at Bugojno, reported in November, concerned the rape in front of jeering troops of two Croat women.

22. In response to a letter from the Special Rapporteur to the Prime Minister of Bosnia and Herzegovina, dated 15 October 1993, the Minister for Foreign Affairs replied, on 25 November 1993, that government troops were not responsible for alleged massacres at Maline in June and at Uzdol in September (see E/CN.4/1994/47, paras. 29-33). He stated that the deaths occurred during fighting and, furthermore, that the expulsion of Croats from the area was

perpetrated by the HVO. However, given the many testimonies to the contrary, the Special Rapporteur continues to pursue an investigation of this matter.

23. Allegations by Croat authorities that the forces of the Government perpetrated a massacre and other atrocities at Dubravici (also known as Krizancevo Selo) during late December 1993 have not been substantiated. UNPROFOR investigations indicate the probability that the persons whose bodies were found in a mass grave at the site had suffered war injuries and had been killed in recent combat in the area.

24. The Special Rapporteur has received reports of harassment of Croats in Zenica, with an increase in incidents of assault and public humiliation. However, at the time of writing of this report, there are indications of improved inter-community relations.

25. Bosnian Croats in Sarajevo continue to complain of harassment. Thus, for instance, they point out the human rights violations associated with the disbandment of the HVO on 6 November 1993 which involved widespread short-term arrests and interrogation, destruction of uniforms and flags and drafting of HVO members into the army.

26. The forces of the Government took control of Vares in November 1993, at which time large numbers of Croats fled the town. There was a particular fear that the troops would want to avenge incidents such as that at Stupni Do by terrorizing the Croat population. However order was quickly established and the town returned to civilian control. The municipal authorities have since urged Croats to return. International observers are of the view that the invitation is a sincere one. However, though some Croats would like to return, circumstances have not yet permitted this.

27. There are recent reports from the towns of Bihac and Cazin of the harassment and intimidation of relatives of officials in the administration of the so-called "autonomous province of western Bosnia", and of supporters of that regime. The Special Rapporteur is also aware of acts of harassment perpetrated by forces of the so-called "autonomous province" and directed against those loyal to the Government.

C. The situation in Tuzla

28. The Special Rapporteur visited Tuzla on 10 and 11 December 1993 and met with local officers of international organizations, representatives of provincial and local authorities, representatives of local and international non-governmental organizations and religious leaders. During the course of his visit he was able to make a first-hand assessment of both the human rights situation and the impact of the crisis concerning delivery of humanitarian aid. International observers with whom he spoke were of the view that there are no problems of co-existence between ethnic and religious groups, but that circumstances might well deteriorate with the worsening of the humanitarian aid crisis.

29. Until recently Bosnian Serb and Croat residents did not appear to be subject to harassment at a level comparable to that suffered by groups elsewhere in Bosnia and Herzegovina. The Special Rapporteur is confident that this situation was largely facilitated by the efforts of the local government in Tuzla to avoid any form of discriminatory treatment against various community groups.

30. Recently there have been signs of a deterioration. The Bosnian Serb community in particular feels that it is subject to especially discriminatory and invidious treatment and many Serbs are anxious to leave. In particular, Bosnian Serbs allege that the general mobilization has concentrated on them and that those who refuse the draft are subject to immediate detention. Recently, they have complained of an increase in general harassment, which they believe is encouraged by the withholding of police protection from Bosnian Serbs. In one incident on 10 October 1993 an elderly couple was attacked by uniformed,

but off-duty, soldiers and the wife died from her injuries. Her husband is adamant that the police have failed to investigate the matter properly.

31. While deploring any form of harassment, the Special Rapporteur notes the relationship between the escalation of inter community tension and the shortage of aid supplies. Owing to interference with convoys and the continued Bosnian Serb enforced closure of the airport, Tuzla is unable to adequately feed its population and provide them with other basic necessities. For instance, it received only 14.5 per cent of the food needs assessed by UNHCR for target groups during the month of December 1993. There is considerable local anger at the deprivations and this is occasionally turned against Bosnian Serbs, and, to some extent, Bosnian Croats. Tension is exacerbated by the extent to which local agencies succeed in delivering aid (from Belgrade and Zagreb), for Bosnian Serbs and Bosnian Croats while locally organized aid for Muslims is blocked by hostile forces.

32. The impact of the aid crisis on the present and long-term state of inter-ethnic relations, together with the immense suffering caused by deprivation, dictate that blockages must be immediately terminated. In that regard, the Special Rapporteur notes that the Bosnian Serb forces have, in January 1994, agreed to allow unhindered access by UNHCR convoys. It is necessary to monitor implementation of this commitment.

33. The Special Rapporteur also continues to draw attention to the need to reopen Tuzla airport as expressed in his correspondence on this matter with the Secretary-General of the United Nations (see para. 68). He noted that the re-opening of the airport would not only greatly alleviate the aid crisis but would also serve as a signal of the intent of the United Nations to enforce effectively its proclamation of Tuzla as a "safe areas".

D. Detention

34. During 1993, the International Committee of the Red Cross (ICRC) visited some 200 detention centres throughout Bosnia and Herzegovina. As some camps remain open only for short periods it is not possible to say how many of the 200 existed at any one time. During 1993 ICRC visited 16,900 detainees, 14,400 of them for the first time; 10,440 of those 16,900 were released during the year and some 1,000 were removed from the ICRC "active" register by reason of death, escape or for other reasons. As of 31 December 1993 there were 5,500 on the "active" register. According to reliable estimates around 40 per cent of detainees are held by Bosnian Croat authorities, 25 per cent by the Government, 13 per cent by the Bosnian Serbs and the remainder by the forces of the so-called "autonomous province of western Bosnia".

35. The HVO continues to detain Bosnian Serbs and Muslims for labour at the front line and as human shields. Evidence suggests that, as with the forces of the Government of Bosnia and Herzegovina, the practice is not centrally coordinated and depends on the initiative of local commanders. An appalling variant on the practice was reported during November 1993 whereby, at Novi Travnik, two detained Muslims were forced to carry remote-controlled explosives and to walk across the front line until they reached the midst of the government troops, when the explosives were detonated.

36. During December 1993 large numbers of Muslim detainees were released by Bosnian Croat forces. By the end of the month the camps and other places of detention at Livno Tomislavgrad, Ljubuski and Gabela were empty and that at Rodoc reduced in size. Most of the detainees subsequently left Bosnian Croat controlled territory. International observers who visited the detention camp at Prozor stated that conditions there were very bad and that prisoners suffered from cold, hunger, abuse and lack of basic necessities. The camp was closed in January 1994.

37. The conditions in which detainees are held by the Government is a serious cause for concern. In particular, the Special Rapporteur is aware of appalling conditions in the detention camps at Bugojno and Jablanica. At Bugojno

detainees are held in a sports stadium in unsanitary and cramped conditions, without light, access to bedding or physical exercise. Conditions are no better at Jablanica where many civilians are held. Among the detainees are a number suffering from psychiatric illnesses.

38. Authorities of the so-called, "autonomous province of western Bosnia", are responsible for the violation of the rights of various purported opponents of the regime. Many of these are held at a detention centre at Velika Kladusa, and there have been a number of reports of abductions.

39. With respect of the detention of children (see below paras. 224-227)

E. Displacement of populations

40. Displacement of populations has been effected by three means: involuntary population exchanges between municipalities under the control of opposing belligerents; private arrangements for emigration to the territory of another of the belligerents; and, least commonly, the forced and immediate expulsion of communities from their places of residence. These forms of displacement are associated with the phenomenon of "ethnic cleansing". Additionally, in recent months, the Special Rapporteur has noted the exchange of sizeable populations who have applied to leave their homes voluntarily, for fear of what might happen to them if, in any future peace settlement, control over the area where they live falls to another ethnic group.

41. The various forms of displacement are often accompanied by extortion and theft. Thus, for instance, displaced persons leaving Serb held territory are routinely subjected to strip searches at the frontier and to the confiscation of all valuables. One recent such incident occurred on 28 November 1993 when Bosnian Serb forces plundered the possessions of Muslims leaving the village of Siprage. On the other hand, reports of displacements from Government held Zenica in early January 1994, indicate that there was no interference with the moveable property of the displaced.

42. Population exchanges occur throughout Bosnia and Herzegovina. Frequently a substantial fee is demanded by the organizers (which may be central or local authorities or private agencies). Sometimes, however, the exchanges also involve detainees. Occasionally, little or no notice is given to those participating in exchanges. Thus, the frequent forced exchanges affecting residents of the Doboj (Serb held) area are often implemented on less than 24 hours' notice.

43. Private arrangements for displacement are entered into frequently and are almost always associated with extortionary practices in every aspect of their operation. They are usually organized with the assistance of "travel agencies" and are permitted after the intending travellers have relinquished to the authorities their rights to property which is left behind. The traveller is not permitted to return. The Special Rapporteur is also aware of practices in the Serb controlled Banja Luka municipality whereby those Muslims and Bosnian Croats who succeed in obtaining permission for temporary travel outside the municipality lose all rights to return after 30 days. No such regulations limit the travel freedom of ethnic Serbs.

44. The Special Rapporteur is aware of many recent instances of the immediate forced evacuation (in the absence of an exchange arrangement) of areas throughout Bosnia and Herzegovina. For a detailed exposition of the manner in which such evacuations occur he refers to his report of 6 September 1993 (E/CN.4/1994/8) concerning the city of Mostar, where thousands of Muslims were forced into the eastern part of the city by the Bosnian Croat forces. A particularly horrific example of the practice occurred on 26 October when Serb locals gave 25 Muslim families in the village of Teslic just 30 minutes to leave. The Muslims were then bussed to the front line and forced to cross a minefield.

45. Voluntary population exchanges are currently occurring with frequency in central Bosnia. Thus, for instance, the Government controlled town of Zenica established the "Commission for the Temporary Displacement of Citizens" in November. As of early January 1994, 3,000 Serbs and Croats have applied for and been granted tickets to leave. On 6 January 1994 the first 600 Serbs were transported to Banja Luka.

46. On occasion, members of communities who wish to move are forbidden to do so by the local authorities. This practice is usually explained as being designed to stop the process of "ethnic cleansing". Thus, for instance, Serbs are reported to have great difficulty in obtaining the necessary local authority permission to move outside the Tuzla municipality. This is reputedly because of a wish to stem the flow of Serbs out of the area. Bosnian Serbs have also had difficulty in leaving Sarajevo. On 22 January 1994 five Bosnian Serb doctors and three Bosnian Serb nurses were arrested by Government forces as they attempted to leave the city. As a retaliatory measure, Bosnian Serb forces threatened to arrest an equivalent number of Muslim doctors and nurses, to prevent medical evacuations through their territory, reduce deliveries of medical supplies to Muslim areas and stop medical treatment of Muslims in their territories.

47. Bosnian Croat forces have on occasion refused Bosnian Serbs permission to leave Mostar other than by means of exchange arrangements.

48. In October, the Government of Bosnia and Herzegovina refused permission for an exchange of Muslims from the Dretelj area for Croats in east Mostar. It is believed that the refusal stemmed from a decision to keep a Muslim presence in the Dretelj area. Croats also have been refused permission to leave Government-held Bugojno.

F. Certain human rights issues arising pursuant to displacement

49. The Special Rapporteur notes the very serious problems arising pursuant to the massive displacement of people. As of mid-November there were over two million people displaced either as a result of "ethnic cleansing" or other elements of the war. Even without the current crisis concerning delivery of humanitarian aid, it would be impossible for communities to care both for their own members and the huge numbers of displaced people to which they must often play host. The effects of the displacement of 7,150 people from Vares may be taken as illustrative of the problems involved. As of December 1993, 5,000 former residents of Vares were to be found in Kiseljak, which had a pre-war population of just 6,500. Of the displaced people, 1,250 are housed in the primary school and 1,000 in the secondary school. The resultant overcrowding is acute and causes grave problems in terms of provision of food, adequate accommodation and other essential services. Another illustration of the effects of displacement was the discovery in November 1993 by international agencies of 865 people, expelled from their homes in eastern Bosnia and constrained to find shelter in a network of caves near Zepa, alongside the road to Srebrenica.

50. There are frequent reports of harassment and looting by displaced people intent on avenging themselves against members of a group which had terrorized them in their original places of residence. Many such cases have been reported from Banja Luka and from towns and villages in western Herzegovina.

51. Mistreatment may also be directed against the displaced people themselves. For instance, in Tomislavgrad the local HVO has been evicting displaced persons from their accommodation if they lacked a "refugee card". Such cards have not been issued since March 1993 when the Tomislavgrad authorities declared that they would receive no more displaced persons.

52. Instances have also been observed of local populations becoming increasingly hostile to displaced persons when they perceive that the displaced persons receive preferential access to humanitarian aid. The Special Rapporteur has noted this phenomenon, for example, in Tuzla.

G. Rape

53. Pursuant to Commission on Human Rights resolution 1993/8 of 23 February 1993, the Special Rapporteur continues to address the problem of rape and abuse of women. He draws attention to his references to the matter in his fifth periodic report to the Commission (E/CN.4/1994/47), and to the conclusions drawn therein, and to the report of the Secretary General on rape and abuse of women in the territory of the former Yugoslavia, dated 30 June 1993 (E/CN.4/1994/5). The Special Rapporteur updates that information as follows.

54. A persistent problem besetting attempts to chart the extent of the incidence of rape and other forms of sexual abuse remains the exceptional difficulty in obtaining reports of or investigating allegations. Hindrances include the continuing war conditions, the distress of victims and their fear of retaliation by or on behalf of the perpetrators, the dispersal of victims among other displaced people and, not least, the refusal of the Bosnian Serb authorities to permit investigations in territories under their control. Also, reports of incidents of rape often only come to the attention of investigators many months after the incident has occurred.

55. Despite such fact-finding problems the Special Rapporteur is of the view that the commission of rape and other forms of sexual abuse remains widespread, if not on a scale comparable to that earlier in the course of the war.

56. Given the problems associated with investigation, the Special Rapporteur welcomes the initiative of the Commission of Experts established pursuant to Security Council resolution 780 (1992) to conduct thorough investigations of sexual assault occurring in connection with the hostilities in the former Yugoslavia.

57. The Special Rapporteur has received reports of sexual abuse perpetrated in areas under the control of each of the principal belligerents. Reference is made in this report to a number of such incidents.

H. Violations of human rights and humanitarian law by means of military attacks on civilians

58. Bosnian Serbs continue to be responsible for the military targeting of civilians throughout the areas where they are fighting. However, there is cause for particular concern with respect to the situations in the "safe areas" at Sarajevo, Tuzla and Gorazde.

59. Sarajevo remains subject to indiscriminate attacks and to sniping, directed from territory held by the Bosnian Serbs. By early January 1994 there were on average 1,000 shell or rocket impacts per day. Many civilians have lost their lives, including, on 1 December 1993, nurses on duty at Kosevo Hospital and, on 29 December, local journalists, in the course of their work. The Special Rapporteur acknowledges in particular, the courage of medical workers and journalists who persist in their tasks despite the dangers. He considers it entirely appropriate that the United Nations Human Rights Prize has been awarded to the staff at Kosevo Hospital. With regard to journalists he commends their commitment to the maintenance of a free press in Sarajevo where 10 newspapers/journals and 3 radio stations struggle to survive.

60. The Special Rapporteur notes the inability of UNPROFOR to establish the exact origin of launch for the mortar attack on the marketplace in Sarajevo which killed 68 civilians and wounded 200 on 5 February 1994.

61. Although a number of Bosnian Serb attacks on Sarajevo occur in response to firing by forces of the army of Bosnia and Herzegovina from positions situated close to highly sensitive civilian locations, most attacks would appear to be indiscriminate.

62. Bosnian Serb forces have subjected the residents of Tuzla to a number of attacks with cluster bombs and anti-personnel rockets. Casualties have been

high, and include four children, killed on 23 January 1994. Also, in early December 1993, it became clear that the Bosnian Serbs were directing attacks at the city's chemical factories, despite the danger for the civilian population.

63. Bosnian Croat forces continue to direct attacks at the civilian population of eastern Mostar. On 11 December 1993, for instance, in the space of 20 minutes, 24 shells landed. On 23 January 1994 four children were killed in a playground. The populations of both eastern and western Mostar are regularly subject to sniper attack by, respectively, forces of the HVO and the Government.

I. Human rights issues arising from interference
with humanitarian aid

64. Since the report 17 November (E/CN.4/47) of the Special Rapporteur of the need of the people of Bosnia and Herzegovina for humanitarian assistance has been very great. International agencies have drawn attention to the very serious shortages, in particular of food, medicines and "winterization" materials and have done much to attempt to meet at least the minimum needs. Following his visit to Tuzla, the Special Rapporteur also drew attention to the presence and rapid spread of malnutrition and of diseases such as Tuberculosis and Hepatitis A. He further noted the phenomenon whereby serious aid deprivation can and does raise the level of inter-community tension, particularly in areas harbouring large numbers of displaced people relative to the size of the permanent community. He also warns of the possibility of such an occurrence in towns such as Kladanj, Zivinice and Lukovac.

65. Interference with the delivery of aid has continued, in contravention of the commitment given by the parties to the High Commissioner for Refugees, on 18 November 1993, that convoys would not be hindered. All of the belligerents have further complicated the delivery of aid by frequent insistence on "linkages", the process whereby aid deliveries are only permitted in return for commitments to give similar amounts to other groups, regardless of relative need. The belligerents have also been responsible for the deliberate employment of aid obstruction and deprivation as instruments of war. Furthermore, the fighting parties are culpable for their failure to curb the banditry and looting of aid supplies which is endemic throughout the country. Many participants in such activities are members of the armed forces of one or other party to the fighting.

66. Obstruction of aid, tolerance of lawlessness and other related interference with the attempts to provide humanitarian assistance constitute direct violations of the human rights of the people of Bosnia and Herzegovina and of the aid workers who are killed or injured by attacks against them.

67. Some of the worst situations of aid deprivation and associated suffering occur in areas where access is controlled by the Bosnian Serbs. In this respect, areas such as Gorazde, Tuzla, Zenica, Olovo, Tesanj and Maglaj are among the most deprived in Bosnia and Herzegovina. With regard to Gorazde, the Bosnian Serbs are blocking all but food assistance and even that is subject to interference and delay. During January 1994 UNHCR delivered just 40 per cent of the targeted aid. The figure for December 1993 was 29 per cent. Lack of fuel and medicines have resulted in deaths in the local hospital.

68. The Special Rapporteur, in a letter to the Secretary-General dated 14 December 1993, drew attention to the effects of the refusal by the Bosnian Serbs to agree to the reopening of Tuzla airport and of their interference with aid convoys destined for affected areas including the "safe areas". There have been numerous reports of their interference with convoys to such places as Gorazde, Srebrenica and Zenica, and with convoys overland to Sarajevo and from Sarajevo airport into the city. Deliveries of fuel, medicines and surgical equipment to the hospitals in Sarajevo have been so limited as to severely compromise their ability to function effectively.

69. The authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) have also been responsible for interference with aid destined for Bosnia and Herzegovina. They have, for instance, insisted that fuel deliveries to Sarajevo and Tuzla only take place provided that the Serb authorities receive equal amounts, regardless of need (UNHCR refused to comply with this request). Also, on 10 December 1993, the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) refused to allow across its frontier a convoy with "winterization" equipment to Gorazde across its frontier.

70. The Bosnian Serb authorities also hinder the international humanitarian effort by interfering with the medical work of ICRC and the medical evacuation programme (Medevac). On 17 January 1994, in Banja Luka, an ICRC vehicle was destroyed by explosives, resulting in the suspension of local ICRC activities. Local police have not been willing to investigate the incident properly. During late November 1993 they blocked Medevac evacuations until, following an appeal, their leadership intervened. Subsequently, the authorities imposed the complicating condition that they be given a minimum of 72 hours' notice of each proposed evacuation out of Sarajevo.

71. Bosnian Croat forces have interfered with aid deliveries for or in transit through areas under their control. The result of such practices is demonstrated by, for instance, the situation of the citizens and displaced persons in eastern Mostar, among whom deaths from malnutrition and lack of medical services have been reported. Furthermore, reports from the western part of the town indicate that the authorities have denied aid to both Muslims and Serbs. Elsewhere the Bosnian Croat authorities have compounded the problems of aid deliveries by insisting on quid pro quo delivery of aid to Muslims and Croats regardless of relative needs. They have also interfered with delivery of medical supplies. Thus, on 23 December 1993, they refused to allow materials for a field hospital to be delivered to the eastern part of Mostar. A particular difficulty reported during November 1993 was the refusal of the Bosnian Croat authorities to permit inclusion in convoys of the necessary amount of fuel to enable subsequent local delivery of aid materials. Aid convoys in transit through territory controlled by the Bosnian Croats have been stopped on a number of occasions. Essential supplies to locations such as Zenica and Kakanj have been particularly affected by this practice.

72. Interference with aid and other related practices also occur in territory under the control of the Government of Bosnia and Herzegovina and result in suffering no less grave than that in other parts of the country. Thus, for instance, in early January 1994, evidence of people starving and on the verge of death was noted in locations such as Kakanj where food supplies had been diverted to the army by the local authorities. The latter practice may have been encouraged by the recent announcement by the Prime Minister of rationing priorities which favour the armed forces. Bad conditions, exacerbated by interference with and unfair distribution and/or inadequately suppressed banditry of aid have also been noted in Bugojno, Jablanica, Zenica and Tuzla. Deprivation of access to medical and fuel supplies has had an adverse impact on the functioning ability of hospitals such as those at Banovici, Drin, Nova Bila and Pazaric. During this winter a number of deaths have occurred in Pazaric psychiatric hospital, which may be related to the lack of fuel for heating. In November an aid worker was killed by government troops in Vares and there have been repeated attacks on ICRC vehicles in both western and eastern Mostar.

73. On a number of occasions local authorities in areas under the control, respectively, of the Government of Bosnia and Herzegovina and of the Bosnian Serbs, have exchanged or attempted to exchange prisoners or members of local communities for food. Such arrangements would appear to have been made recently between the authorities in Zenica, Travnik and Banja Luka, and between the authorities in Zepce and Maglaj.

74. In northern Bihac, the forces of the so-called "autonomous province of western Bosnia" are also guilty of interference with attempts to deliver aid. They have repeatedly denied passage to convoys destined for the southern region

controlled by the forces of the Government and have harassed convoy personnel by means, inter alia, of short-term kidnapping.

J. Conclusions and recommendations

75. The terrorization of civilian populations, associated with the policy of "ethnic cleansing" first initiated two years ago, continues.

76. The continuation of the war and the willingness of the belligerents to employ access to aid as an instrument of war are root causes of the severe suffering. All interference with aid deliveries should cease immediately. The Special Rapporteur again draws attention to the unacceptable refusal of Bosnian Serbs to permit the opening, under UNPROFOR control, of Tuzla airport.

77. The Special Rapporteur notes the effects of the aid crisis on locations such as Tuzla which had previously been spared severe inter-community conflict. He warns of serious consequences for such areas if the aid crisis is permitted to persist.

78. Military attacks on civilians, such as sniper attacks, indiscriminate shelling, bombing and land-mining, constitute flagrant violations of human rights and humanitarian law. Military forces of all the belligerents have been guilty of such practices: However, the Special Rapporteur draws particular attention to the fact that the scale of such practices as committed by Bosnian Serb and Croat forces exceeds that of the other warring parties.

79. The Special Rapporteur yet again expresses his conviction that the perpetrators of violations of human rights and humanitarian law must be held accountable in law and punished. The international community should do all that is required in order to ensure that the International Criminal Tribunal for the Former Yugoslavia can achieve its goals speedily and effectively.

II. CROATIA

A. Introductory remarks

80. In his report of 17 November 1993 (E/CN.4/1994/47), the Special Rapporteur expressed his concern with respect to violations of international humanitarian law and human rights in Croatia. Since then, there has been a considerable decrease in violations of international humanitarian law such as the shelling of civilian objectives in UNPAs and surrounding areas by the parties to the conflict. Nevertheless, there are serious human rights violations and patterns of discriminatory treatment against minority groups, as well as arbitrary practices on the part of the authorities.

81. The Special Rapporteur acknowledges the cooperation that the authorities of the Republic of Croatia have offered in the implementation of his mandate.

82. During his meeting with representatives of the Government of Croatia in December 1993, the Special Rapporteur expressed his concern with respect to confirmed information that Croat armed forces are directly involved in the conflict in Bosnia and Herzegovina. The Special Rapporteur also asked the representatives of the Government of Croatia to use their influence at Bosnian Croats in order to stop the practices of interference into the delivery of humanitarian aid.

83. Further to previous communications between the Special Rapporteur and the Government concerning the Medak pocket incident of 9 September 1993 and a preliminary investigation conducted by the Government (see E/CN.4/1994/47, paras. 100-105), a report of 2 November 1993 based on a comprehensive investigation headed by the Vice-President, Mr. I. Kostovic, concluded that all those killed were combatants and that the extensive property damage was primarily the result of earlier hostilities, in 1991. The Special Rapporteur

considers this report as inadequate in view of the clear evidence of grave breaches of international humanitarian law in the Medak pocket.

B. Legal remedies for human rights violations

84. During his visit to Croatia in December 1993, the Special Rapporteur had meetings with the Chairman of the Parliamentary Committee for Human Rights and National Minorities, which is entrusted with the task of ensuring the compliance of legislation with human rights standards. During 1993 this body received some 4,500 complaints. However, the Committee does not have the mandate to provide legal remedies as such. Most of the complaints related to the refusal on the part of some authorities to execute court orders. Numerous complaints concerning the denial of citizenship have also been received.

85. Another complaint mechanism is the Law on the Ombudsman (Narodne Novine, No. 60, 1 October 1992, pp. 1336-1338) which was implemented recently upon the appointment of an Ombudsman by the President of the Republic. In accordance with the law, this institution is independent and enjoys competence when other remedies have been exhausted. However, the competence of the Ombudsman before the authorities is limited and frequently amounts to a "letter of recommendation" in favour of the complainant. Furthermore, local observers have pointed out that the effects of the Ombudsman's activities are very limited.

86. The Special Rapporteur also notes that the Constitutional Law on Human Rights and Freedoms and Rights of National and Ethnic Communities or Minorities in the Republic of Croatia (Narodne Novine, No. 34/92, 17 June 1992, p. 832; hereafter "Constitutional Law on Human Rights") establishes a provisional court of human rights (art. 60, para. 2) preliminary to a permanent court of human rights (art. 60, para. 1). Nevertheless, even the provisional Court remains to be effectively established.

87. Certain Executive Orders which were declared by the President as emergency measures in 1991 continue to be valid. These Orders allow, inter alia, for the suspension of certain legal remedies in criminal proceedings, and in certain cases, give military courts jurisdiction over civilians. They include: Regulation on the organization, the activity and the territorial competence of municipal and district public prosecution offices in the situation of a state of war or immediate threatening of the independence and unity of the Republic of Croatia of 7 December 1991 (Narodne Novine, No. 67, 12 December 1993, p. 2127); Regulation on the organization, the activity and the scope of the judicial power in the situation of war or immediate threatening of the independence and unity of the Republic of Croatia (Narodne Novine, No. 67, 12 December 1993, p. 2127); Regulation on the implementation of the Law on Criminal Procedure in a state of war or immediate threatening of the independence and unity of the Republic of Croatia of 27 December 1991 (Narodne Novine, No. 73, 31 December 1991, p. 2236); Regulation on the modification and amendment of the Regulation on the implementation of the Law on Criminal Procedure in the situation of a state of war or immediate threatening of the independence and unity of the Republic of Croatia of 22 April 1992 (Narodne Novine, No. 25, 29 April 1992, p. 583); and Regulation on the modification and amendment of the Regulation on the organization, the activity and the scope of the judicial power in the situation of war or immediate threatening of the independence and the unity of the Republic of Croatia of 22 April 1992 (Narodne Novine, No. 25, 29 April 1992, p. 583). During his last mission to Croatia, the Special Rapporteur expressed his concern that the prolonged application of these regulations seriously endangers the protection of human rights. The process of creating a democratic State governed by the rule of law requires the abolition of such regulations.

C. Discrimination against Serbs, Muslims and other groups

88. The Special Rapporteur has received reports concerning the mining and destruction on 25 December 1993 of the seat of the Eparchy of the Serbian Orthodox Church in the town of Karlovac. The Government of Croatia has

condemned the act. Cardinal Kuharic also expressed his strong condemnation of these acts of terrorism. Nevertheless, the local authorities and some media attempted to belittle the gravity of the situation by suggesting that the building was being used by groups hostile to Croatia.

89. Allegations have been made that representatives of the Serbian Orthodox Church in Croatia are repeatedly subjected to ethnic and religious discrimination. However, there are certain positive developments including, in particular, the return to Zagreb of the Metropolitan Bishop of the Serbian Orthodox Church for Zagreb and Ljubljana on 28 January 1994 for an Orthodox celebration, with the full cooperation of the authorities.

90. The Special Rapporteur has received reports that the Ministry of Internal Affairs has required some Croatian citizens belonging to minority groups or children of mixed marriages to "give evidence of nationality [i.e. Croatian ethnic origin] and to establish Croatian citizenship", for example, by producing baptismal or school certificates (see E/CN.4/1994/47, paras. 115-123). In several cases, Croatian citizenship has been withdrawn because Croatian ethnic origin could not be adequately established.

91. The deteriorating economic situation, compounded by the massive influx of refugees, has created a serious unemployment problem in Croatia. It appears that Serbs and Muslims are always the first to be dismissed and that consequently, a disproportionate number have become unemployed. At the end of 1992, 52 employees of the Bank of Split were dismissed. Among them were 35 non-Croats. The total number of non-Croats in the Bank had been 72 out of 1123 employees. This case of discriminatory dismissal is still before the court. Sixteen similar cases of discriminatory dismissal from employment have been appealed to the Supreme Court after the court of first instance failed to reinstate the plaintiffs. In yet another case, 14 Muslims who were originally from Bosnia and Herzegovina, but who had lived in Split for 25 years and worked in a cement factory for 20 years, have been denied a prolongation of their working and residence permits. They have appealed this decision before a court. The Special Rapporteur has also received information concerning 16 dismissals from the Central Post Office of Split on 17 September 1992. Of those dismissed, 9 are Serbs and 4 are Croats married to Serbs or Montenegrins. All of them had worked there from 7 to 33 years. Out of 1,300 employees at the Central Post Office of Split, 26 were Serbs. This case is still before Court.

92. The situation of the Serb and Muslim minorities is especially difficult in the Dalmatian area, primarily because of its proximity to the hostilities in the region of UNPA Sector South, as well as Herzegovina. Since the escalation of hostilities between the Bosnian Croat and the Government forces in Bosnia and Herzegovina, there has been a significant increase in harassment of local Muslims and Bosnian Muslim refugees by the authorities, the police and, especially, soldiers returning from the front. During his visit to Split, the Special Rapporteur received information concerning illegal and forced evictions (see below; "Illegal and enforced evictions") and the destruction of shops belonging to Serbs and Muslims. It appears that there have been no prosecutions in connection with the destruction of shops. In certain areas, Muslim children are prevented from attending schools.

93. According to reliable sources, in 1993 the Croatian armed forces confiscated approximately 90 per cent of the automobiles belonging to Bosnian Muslim refugees. In Dubrovnik alone, more than 500 vehicles were confiscated in the summer of 1993. It has been reported that the Croatian authorities have justified their actions on the basis of a request from the Bosnian Croat armed forces (HVO) that the automobiles be confiscated and sent to "Herzeg-Bosna".

94. The Special Rapporteur has received reports concerning discriminatory treatment of Croatian citizens whose place of birth is Bosnia and Herzegovina. It is reported that former Bosnian Croat refugees who have acquired Croatian citizenship on the basis of Croatian ethnic origin in accordance with recent legislation (see E/CN.4/1994/47, paras. 119-120), are discriminated against in obtaining employment and social benefits through the refusal to issue

appropriate official documents. It is also reported that Croatian citizens born in Bosnia and Herzegovina are being singled out for forced recruitment. According to information received, an unknown number of Croatian citizens, all with their place of birth in Bosnia and Herzegovina, were forcibly gathered up by the military on 15 and 16 December 1993 and informed at the barracks that they would be sent to fight in Bosnia and Herzegovina. There have been reports of intimidation and beatings by the military of those who have refused to comply. It has also been reported that some of those who have refused to comply have had to sign documents under duress indicating that they are "volunteering" to fight in Bosnia and Herzegovina (see also, "Situation of refugees", Sect. 103 below).

D. Illegal and forced evictions

95. The Special Rapporteur met with representatives of the Ministry of Defence in August 1993, and expressed his concern about illegal evictions (see E/CN.4/1994/47, paras. 124-130). In view of the continuation of this practice by the military police despite assurances to the contrary, a meeting was held once again with the relevant authorities of the Ministry of Defence during the Special Rapporteur's visit to Croatia in December 1993. He was informed that a moratorium had been adopted as of 10 December whereby all evictions would cease for a 20-day period, during which all individual cases, as well as the legislation itself, would be examined. The Special Rapporteur was also informed that the Ministry of Defence was prepared to undertake concrete measures to compensate those who have been affected by illegal evictions. Furthermore, the Special Rapporteur was informed that a Commission of Control has been established in order to regulate the activities of the Housing Commission established pursuant to the Law on the Provisional Use of Apartments of 4 December 1991 (see E/CN.4/1994/47, para. 126). Nevertheless, contrary to these assurances and measures, the Special Rapporteur has continued to receive verified information from his field-staff concerning illegal and forced evictions both during and subsequent to the period of the moratorium. Furthermore, court orders for the reinstatement of tenants continue to be disregarded and frequently, the evicted tenants also lose their personal belongings in the apartment.

96. The authorities continue to claim that most illegal and forced evictions were being committed by "uncontrollable" private individuals and that in the few cases where members of the Croatian armed forces may have been implicated, disciplinary and judicial measures have been taken. In practically all of the cases which have been investigated, however, the perpetrators have been uniformed soldiers. Furthermore, the authorities have not adopted effective measures for punishment or compensation of such evictions and, therefore, appear to tolerate the practice.

97. The illegal and forced evictions are connected in certain respects with the influx of refugees and displaced persons which has caused a severe shortage of housing, including for members of the Croatian armed forces many of whom have replaced evicted tenants with members of their own family. The Dalmatian area appears to have been particularly affected by evictions, especially in Split where it has been alleged that some 200 tenants - mostly wives, children, and other dependents of former members of the Yugoslav National Army - have been forcefully evicted from their apartment units. According to information provided by the Mayor of Split during a meeting with the Special Rapporteur in December 1993, approximately 80 per cent of the evictions have been from the approximately 8,000 apartment units under the control of the military. In one case, the Attorney-General and the Military Prosecutor had successfully intervened in favour of a tenant whose apartment had been illegally occupied by soldiers. Furthermore, from February to November 1993, there were 364 cases where evicted tenants appealed to the courts and there were 280 rulings, by which all but 60 were reinstated. However, the Special Rapporteur has received indications that the military authorities have refused to execute almost all of the court orders. Furthermore, the Special Rapporteur has received information that the offices of two lawyers who defended evicted tenants were damaged by unknown assailants with the use of explosives.

98. The Special Rapporteur is particularly concerned with the brutal and excessive use of force by those who are carrying out illegal evictions. Testimony was received in this regard from one such victim during his last mission to Croatia.

99. In a letter dated 20 January 1994, the Special Rapporteur reminded the Government of Croatia that the practice of illegal and forced evictions constitutes a violation of the right not to be subjected to arbitrary or unlawful interference with privacy, family or home, as well as the principle of non-discrimination. In addition, he requested that the Government inform him about the steps which have been taken to restore the rights of those who have been subjected to illegal and forced evictions and to prevent the recurrence of such actions. Because of information received concerning an incident on 2 February 1994 in which the president of a local non-governmental organization was severely beaten by persons in uniform while trying to prevent an illegal eviction, the Special Rapporteur was compelled once again, in a letter dated 3 February 1994, to remind the Government that such acts are in express contradiction to the assurances which he has previously received and that appropriate measures must be adopted in order to counter such violations.

E. The situation of refugees

100. The number of refugees and displaced persons has created serious humanitarian problems and constitutes a major burden for the social system of the State. The humanitarian situation in Croatia remains difficult because of inadequate housing, as well as lack of food, fuel and hygienic materials. During the last mission of the Special Rapporteur to Croatia, he visited refugee centres and discovered that the living conditions - especially those of Bosnian Muslim refugees - were very difficult.

101. In December 1993, the Special Rapporteur received information that an additional group of the Bosnian Muslims who had been expelled from Croatia in July and August 1993 and detained by the HVO (see E/CN.4/1994/47, paras. 140-143) had been allowed to return. It is reported, however, that among those who have been released, 26 have been denied transit visas to enter Croatia. The Special Rapporteur has also received reports from reliable sources that in September 1993 approximately 100 Kosovo Albanians who had resided in Croatia for 20 to 30 years were denied a prolongation of their residence permit and subsequently expelled to Bosnia and Herzegovina.

102. Since 31 March 1993, the police have refused to register refugees from Bosnia and Herzegovina, especially men of draft age, with few exceptions. In other cases, municipal authorities have removed the refugee status of Bosnian Croats and Bosnian Muslims by categorizing the areas from which they come as "safe". This "safe" category includes Mostar and Stolac for the Bosnian Croats and Zenica for the Bosnian Muslims. The unregistered refugees are denied access to humanitarian assistance and, if arrested, receive an order for deportation to Bosnia and Herzegovina.

103. Special Rapporteur is also concerned at continued reports of the forced recruitment in Croatia of Bosnian refugees by the Bosnian Croat army (HVO). Such recruitment has occurred mainly in the Dalmatian area (see para.94).

F. The situation of the media

104. Despite some improvements, the climate of political hostility continues to be exacerbated by misinformation and indoctrination, especially by the State-controlled electronic media. As a general rule, the press tends to be more impartial than the electronic media as evinced by its coverage of issues such as the Stupni Do incident in Bosnia and Herzegovina on 23 October 1993 (see E/CN.4/1994/47, para. 50). On 29 October for instance, Vjesnik carried a lengthy article entitled "No Excuse" saying that a massacre of Muslims definitely took place at Stupni Do and calling into question denials by the Bosnian Croat forces. The article goes on to state that whatever crimes the

"Mujahedin" may have committed, there is no excuse for Croats to retaliate with the wilful killing of civilians.✓

105. In other cases, however, the press has covered incidents in an irresponsible manner which has contributed to a climate of fear. This is exemplified by coverage of the meeting of the Special Rapporteur with representatives of local non-governmental organizations during his visit to the city of Split. In the 11 December 1993 issue of the regional newspaper Slobodna Dalmacija, these representatives were stigmatized as "enemies of the country".

106. Another issue of particular concern to the Special Rapporteur is the case of Mr. Viktor Ivancic, Editor-in-Chief of the independent newspaper Feral Tribune, who was taken to the Dracevac Barracks on 5 January 1994 for recruitment into the Croatian armed forces. The Feral Tribune has covered in an extensive manner illegal activity by the military, including illegal and forced evictions from apartment units under the control of the military.

G. The situation in the United Nations Protected Areas

107. In contrast to the improved situation in other areas, in the south-western part of UNPA Sector South the shelling of civilian areas continues in the area of Zadar and Sibenik.

108. The Special Rapporteur also continues to receive reports of human rights violations of the remaining non-Serbian population. Because of the prevailing climate of lawlessness and inadequate police protection, many of those people live in a constant fear of death and are frequently subjected to violent acts in the form of physical assault and armed robbery as well as the destruction of private property. The flow of displaced persons from the UNPAs to areas under the control of the Croatian Government remains unabated.

109. The situation is particularly grave for the few remaining Croats, Hungarians and other non-Serbs in Sector East. On 8 November 1993 in the vicinity of Ilok, two Croats and a Hungarian were shot and wounded, one of whom died on 17 November as a result of his injuries. On 11 November 1993, the Croatian spouse of a Serb was arrested at Dalj and has apparently "disappeared". On 17 November 1993 in Ilok, four men broke into the home of an elderly Croat couple, subjected them to beatings, took away their valuable possessions, and then forcefully evicted them from their apartment. On 1 December 1993, a Croat from the village of Knezevi-Vinogradi reportedly received a threatening letter telling her to leave the area within 24 hours. On the same day, a Hungarian had his home pillaged.

110. The Special Rapporteur has received reports that 28 Croats in the village of Podlapaca in Sector South wish to leave because of constant harassment and fear (see E/CN.4/1994/47, para. 147).

111. The Special Rapporteur is also concerned at the arrest by the military police in Glina on 15 December 1993 of 16 United Nations local staff members. They were detained inter alia, on the grounds that they must contribute part of their salary to the war effort by signing a contract obliging them to pay a considerable sum of money over a period of six months. In order to secure their release, the United Nations employees were eventually forced to pay the "war tax" which was arbitrarily imposed upon them by the military authorities.

112. Concerning the arrest (referred to the previous report of the Special Rapporteur (E/CN.4/1994/47, para. 156) on 21 September 1993 of two former high-ranking members of the so-called "Republic of Serbian Krajina" because of their participation in a social reconstruction project co-sponsored by UNOV/UNDP and a non-governmental organization (the project manager was also arrested) the field-staff have confirmed that all three were released from Glina prison in Sector North on 1 December 1993 upon a decision of the Investigation Judge. Nevertheless, the investigatory proceedings continued and on 3 December a new order for their arrest was issued by the "Interior

Minister". Since the police did not go to their home to arrest them until 4 December, the accused apparently seized the opportunity to escape. There have also been allegations that the individuals in question were tortured by the police during their detention. The Special Rapporteur is seriously concerned about information which he has received concerning the forceful abduction by the Serbian Security Police of one of the accused, Mr. Zeljko Dzakula, in Belgrade on 4 February 1994 (see para. 123, below).

113. With respect to the areas of Sector West under Croatian control, the Special Rapporteur has received reports concerning the harassment, intimidation and arbitrary detention of Serbs. There are also reports concerning the forced recruitment of refugees. According to information received, on 22 and 23 January 1994 Bosnian refugees who had registered with the authorities were taken from their homes to military barracks in Zagreb for recruitment into the Croatian armed forces.

H. Conclusions and recommendations

114. Further to his letters to the Government of Croatia dated 20 January and 3 February 1994, the Special Rapporteur condemns the continuing practice of illegal and forced evictions by members of the Croatian armed forces and calls upon the Government to adopt appropriate measures in order to restore the rights of affected tenants and to prevent the recurrence of such acts. In this connection, the Special Rapporteur commends the local non-governmental organizations in Croatia who, despite harassment, intimidation and abuse by the military authorities, remain active in attempting to prevent evictions and to protect those tenants who have been affected.

115. The Special Rapporteur recommends that the court of human rights envisaged in article 60 of the Constitutional Law on Human Rights be promptly and effectively established.

116. The Special Rapporteur considers the practice of forced recruitment in Croatia of Bosnian refugees by the Croatian armed forces and the Bosnian Croat army (HVO) as a serious violation of fundamental human rights.

117. The Special Rapporteur notes with concern the continuing support by the Republic of Croatia, including direct involvement of the Croatian armed forces, for Bosnian Croat forces which have been responsible for "ethnic cleansing" and other grave violations of human rights in areas under their control.

118. Further to his previous recommendations, the Special Rapporteur wishes to remind the international community of the urgent need for humanitarian assistance for refugees and displaced persons.

119. The Special Rapporteur remains deeply concerned that in the United Nations Protected Areas the practice of "ethnic cleansing" continues. He regrets that the conditions for the repatriation of displaced persons still remain to be secured.

III. FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)

A. Introductory remarks

120. Further to his report of 17 November 1993 (E/CN.4/1994/47), the Special Rapporteur has continued to receive disturbing reports of human rights violations in the Federal Republic of Yugoslavia (Serbia and Montenegro). In particular, the situation of certain ethnic and religious groups remains a cause of grave concern.

121. The Special Rapporteur also wishes to draw attention to the refusal of the Federal Republic of Yugoslavia to allow the establishment of a field-office of the Centre for Human Rights in Belgrade, similar to those currently operating in Zagreb and Skopje. Such refusal has the effect, inter alia, of

restricting the capacity of the field-staff of the Special Rapporteur to verify allegations of human rights violations.

B. Serbia

Security of the person

122. The Special Rapporteur continues to receive reports concerning the use of brutal and excessive force, as well as torture, by the police, particularly in connection with random searches and other encounters with the public. A disproportionate number of such incidents appear to be directed against members of certain ethnic and religious groups, especially Muslims and Albanians. The brutal nature of police abuse is demonstrated by a case which has been brought to the attention of the Special Rapporteur concerning two Muslims in Belgrade who, on 7 June 1993, were allegedly beaten by Serbian police with truncheons and pistols and had hand bombs placed in their mouths in order to extract confessions from them.

123. It is also reported that threats and reprisals are frequently carried out against members of the political opposition and especially against trade union activists. The Special Rapporteur is particularly concerned at the case of Mr. Zeljko Dzakula (see 112 above) who, having fled from the so-called "Republic of Serbian Krajina" because of political persecution, was abducted by the Serbian Security Police in Belgrade on 4 February 1994. According to eyewitness testimony, brutal and excessive force was used in his arrest. In a letter dated 8 February 1994 addressed to the Minister of Foreign Affairs of the Federal Republic of Yugoslavia, the Special Rapporteur expressed his concern at the arbitrary nature of the arrest, and the fact that Mr. Dzakula is being detained incommunicado.

Public incitement to discrimination and hatred against minority groups

124. A primary area of concern for the Special Rapporteur is the incitement to national and religious hatred in public life and in the media. In public life, leading political figures make inflammatory and threatening statements against minority groups on a regular basis. On several occasions, for instance, the leader of the Serbian Radical Party, Mr. Vojislav Seselj, has suggested that the Hungarian and Albanian minorities should be expelled from Vojvodina and Kosovo, respectively. The incitement to hatred by political leaders was particularly widespread during the campaigns leading to the parliamentary elections in December 1993. The use of demagogic methods in order to intensify and manipulate irrational fears and prejudices among the electorate appears to be an important means of gaining votes.

125. The prevailing climate of ethnic and religious hatred is also encouraged through misinformation, censorship and indoctrination by the media (see E/CN.4/1994/47, paras. 176-179). In particular, the coverage of atrocities committed in the conflict between Serbs and Muslims in Bosnia and Herzegovina is selective and one-sided. The media denigrates Muslims and Islam through sensationalist and distorted accounts of historical and existing "crimes" which they have committed "against the Serbian people" while grave violations perpetrated against Muslims are either rarely reported or discounted as malicious accusations forming part of an "anti-Serbian conspiracy." The programming of the State-controlled TV Belgrade regularly involves the demonization of certain ethnic and religious groups. In this respect, a particularly disturbing broadcast is the programme Iskre i varnice nedelje.

Freedom of expression and the situation of the media

126. Another area of concern is political censorship and unequal access to the media. This is especially the case with the State-controlled Radio-TV Serbia, which has a monopoly on broadcasting at the national level. The fact that newspapers are expensive because of the prevailing economic situation contributes to the dominating role of Radio-TV Serbia as a primary source of information for the public. It does not appear either that the Government has

the intention of adopting the draft law on the liberalization of Radio-TV Serbia, which was proposed by the Serbian legislature before it was dismissed by the President.

127. The domination of the media, including Radio-TV Serbia, by the ruling Serbian Socialist Party, was particularly evident during the political campaigns leading to the parliamentary elections in December 1993. During this period, there was extensive propaganda in favour of the ruling party both on Radio-TV Serbia programmes and in much of the press, while coverage of the opposition appeared to be scant and selective. For instance, a demonstration by several thousand members of the coalition of opposition parties received no mention on the television news. In addition, the ruling party used the media in order to indoctrinate and misinform the public about important issues. Evidently, perpetuating the myth of an anti-Serbian conspiracy through the demonization of external actors is a convenient means of absolving the ruling party of responsibility for its failures.

128. The Special Rapporteur has received reports that during the period leading to the elections, and in general, there have been attacks against the independent media on Radio-TV Serbia. On 12 December 1993, for instance, the weekly Vreme was attacked on TV Belgrade 1 because of information which it had published concerning the detention camps run by the Bosnian Serbs at Omarska and Manjaca.

129. The Serbian Law on Public Information contains provisions on the right of reply. In practice, however, they are not implemented.

130. The Special Rapporteur has also received reports that the Serbian authorities have adopted repressive measures against cultural expression by minorities in the media. For instance, Radio Bijelo Polje has decided to ban the use of Turkish words on its radio transmissions. This measure was intended, in particular, for the programme in which Muslims send regards to friends and family using local Sandzak words that have remained from the Turkish language.

Conscientious objection to military service

131. Further to Commission resolution 1993/84, the Special Rapporteur notes with concern the reports which he has received about the violation of the right to conscientious objection to military service as a legitimate exercise of the right to freedom of thought, conscience and religion, and, especially under present circumstances, the right to refuse service in those elements of the military forces which have been responsible for "ethnic cleansing" and other grave violations of human rights in Croatia and Bosnia and Herzegovina.

132. Although the Constitution and relevant legislation of the Federal Republic of Yugoslavia provide for conscientious objection, the corresponding regulations and procedures for its implementation remain to be adopted. article 214, paragraph 1 of the 1992 Federal Criminal Code of Yugoslavia provides, inter alia, a sentence ranging from a fine to a term of one year of imprisonment for refusing to serve in the military forces. Furthermore, article 214, paragraph 3 of the Code provides that those who avoid military service by going or staying abroad may be sentenced to a term of one to ten years of imprisonment. According to the jurisprudence of the Supreme Military Court (K.223/76), the elements of article 214, paragraph 3 are satisfied simply if there is an established legal obligation for military service and an intention to avoid this service through escaping abroad or through the extension of an existing stay abroad.

133. During the armed conflict in the former Yugoslavia, refusing service in the military has usually been punished with a sentence ranging from three to four months. Under article 214, paragraph 3, those who remain abroad are still liable to prosecution upon their return to Yugoslavia.

134. In practice, a disproportionate number of those who have been prosecuted for refusing service in the military have been members of certain ethnic and religious groups, in particular Muslims, Slovaks and Hungarians.

Refoulement of refugees including the question of forced recruitment

135. The Special Rapporteur has continued to receive disturbing reports concerning the refoulement of Bosnian Serb and Bosnian Muslim refugees through forced recruitment, primarily in refugee centres in Belgrade and other cities, for combat in the Republic of Bosnia and Herzegovina and the Republic of Croatia (see also E/CN.4/1994/47, para. 186). In one recent case alone, at least 26 Bosnian Serb males of fighting age were rounded up at a refugee collection centre in Kosovo. They were reportedly taken to the Bosnian border with Bosnia and Herzegovina by the Serbian police where they were handed over to the Bosnian Serb authorities. According to information received, the Serbian police had presented them with call-up documents stamped by the "Defence Ministry" of the so-called "Bosnian Serb Republic" warning them of arrest and imprisonment for non-compliance.

136. It is evident that such actions have been carried out with the full knowledge of the Serbian authorities. The Special Rapporteur has even received reports from a reliable source that prior to granting a passport to Bosnian Serb refugees, the Serbian authorities contact the office of the "Bosnian Serb Republic" in Belgrade in order to determine whether the applicant is wanted for military service. UNHCR has strongly condemned the forced recruitment of refugees in violation of fundamental principles of refugee protection.

137. The Special Rapporteur has also received reliable reports concerning the difficulties faced by Muslim refugees from Bosnia and Herzegovina attempting to enter Serbia. Because of their ethnic origin as reflected in their names, many are forced to enter with forged documents which they usually obtain as a result of bribery. It should be acknowledged that once they have succeeded in entering Serbia their applications for refugee status appear to be treated equally with those of Bosnian Serb and Bosnian Croat refugees.

138. There is also information concerning attacks against refugees. However, it appears that in certain cases the authorities have taken action against such acts. For instance, on 5 October 1993 in Leskovac, the authorities arrested three men who were suspected of a bomb attack on 29 June 1993 against a camp containing mainly Muslim refugees from Bosnia and Herzegovina.

B.1. Kosovo

139. The human rights situation in Kosovo continues to deteriorate with reports of abusive and discriminatory treatment on the part of the authorities. Furthermore, the continuing absence of a dialogue between the Serbian and Yugoslav authorities on the one hand and the leadership of the Kosovo Albanians on the other has prevented any improvement on vital issues such as the "parallel" education system of the ethnic Albanians (See E/CN.4/1994/47, paras. 200-205). In this connection, the situation of the University of Pristina remains a source of considerable tension. This is the third academic year in which enrolments, lectures, tutorials, exams and other activities of over 22,000 students and 900 teaching staff are being carried out in private homes and buildings.

140. There are continuing reports of discriminatory and abusive treatment of ethnic Albanians by the Serbian police. Allegations of beating and torture against ethnic Albanians are not uncommon. The Special Rapporteur has received, with grave concern, information from a reliable non-governmental organization about a meeting with the President of the Pristina Regional Court in which the ill-treatment of detainees by the police was discussed. It was reported that the President of the Court supported such treatment when "crimes against the State" were involved, "irrespective of whether there was a conviction or not".

141. In addition to the brutal and excessive use of force by the Serbian police, a climate of ethnic hatred and repeated harassment adds to a feeling of insecurity among the ethnic Albanian population. In one case reported to the Special Rapporteur, on 13 January 1994 the Serbian police allegedly seized gold and silver jewellery from Albanian shops in Prizren without explanation. According to information received, if there was any resistance, the police would break shop windows and shopkeepers would be arrested and ill-treated. There are also reports that police at the border crossing between Serbia and the former Yugoslav Republic of Macedonia frequently seize goods and money and confiscate passports from ethnic Albanians.

142. The Special Rapporteur has continued to receive information concerning the illegal and forced eviction of Albanians from their apartments. In most cases, the evictions take place without prior legal proceedings. Furthermore, the evicted tenants are usually replaced by Serbian families. It is reported that in January 1994 alone, the Institute for Urban Planning for Pristina issued 17 eviction notices to Albanian families, all of whom were reported to have been occupying their homes for decades and to be in possession of all the necessary supporting legal documents. Evictions are also used arbitrarily by the authorities to penalize those who do not comply with their orders. In one case in Pristina, the wife and children of an Albanian who refused recruitment into the armed forces and left the country were evicted.

143. The Special Rapporteur has continued to receive reports concerning arbitrary detention and violations of the right to a fair trial by a competent and impartial tribunal (See E/CN.4/1994/47, paras. 169-171). In particular, these violations have been associated with several criminal proceedings initiated against ethnic Albanians in Pristina, Pec, Gnjilane and Prizren, who were all accused of causing a "threat against the territorial integrity of Yugoslavia" pursuant to article 16, paragraph 1 of the Criminal Code. Most of the accused are former officers of the Yugoslav National Army or the Territorial Defence Forces of Yugoslavia. Apparently, taking into consideration the previous military experience of the accused, the Serbian authorities have alleged that this group was setting up a military organization, forming armed units, registering conscripts for military service and collecting weapons. In December 1993, the Serbian Supreme Court extended for an additional three months the period of detention for some of the accused who were awaiting trial.

B.2. Sandzak

144. Although the human rights situation in this region has somewhat improved, the Special Rapporteur has continued to receive reports of serious violations. There is a considerable amount of information on abductions, the destruction of homes through arson and the use of explosives, and the general harassment of Muslims, including beatings and torture by the police, as well as arbitrary weapons searches in their homes. It is reported that Muslims are frequently summoned for "informative talks" to police stations where they are interrogated for hours and often ill-treated. It has also been reported that numerous Muslims in prominent positions have been dismissed and, in most cases, replaced by members of the ruling Serbian Socialist Party.

145. The Special Rapporteur has received reports that on 19 October 1993 proceedings were initiated by the District Public Prosecutor in Novi Pazar against 25 Muslims from the Sandzak regions of Novi Pazar, Sjenica and Tutin on the grounds of the illegal possession of weapons and threatening the territorial integrity of the Federal Republic of Yugoslavia through the creation of an independent Sandzak state. All but four of the accused have been confined to prison since May 1993. Their trial has commenced on 31 January 1994. In contrast to such prosecutions against Muslims, members of the ultra-nationalist Serbian Radical Party appear to enjoy immunity, although they are reportedly in possession of large quantities of weapons.

146. The Special Rapporteur has received allegations concerning the arrest between 25 and 28 January 1994 of approximately 100 Muslims, primarily members

of the Sandzak Democratic Alliance (SDA), in the region of Prijepolje, Bijelo Polje and Rozaje. According to information received, the police have given no explanation for the arrests. There are also allegations that the police have subjected the detainees to beatings and torture in order to obtain confessions.

147. The situation of Muslims appears to be considerably better in the areas of Sandzak situated in the Republic of Montenegro. The Montenegrin authorities have demonstrated a greater willingness to punish the perpetrators of ethnically motivated crimes. In particular, the Special Rapporteur has received information concerning four men who on 3 November 1993 in Podgorica were charged with murder and incitement of national and religious hatred. Apparently, on 31 May 1993 they had fired their guns at random in a predominantly Muslim suburb of Niksic, resulting in the death of a 37-year old woman and the wounding of her five-year old son.

B.3. Vojvodina

148. Despite certain improvements in the situation in Vojvodina, the Special Rapporteur continues to receive reports of serious discriminatory treatment and other violations against members of certain ethnic and religious groups. In particular, the killing of a Croatian family from Ocmokic on 30 July 1993 in Kukujevci instigated the exodus of the majority of the remaining Croats. Before the arrest on 15 November 1993 by the Serbian authorities of those suspected of this crime, and of the killing of a Croat from a village near Sid, some fifty Croatian families had left fearing for their safety. Those arrested were all members of the Serbian Radical Party. There are increasing reports of attacks against homes belonging to minority groups involving arson and the use of explosives.

C. Montenegro

149. Since the submission of his previous report (see E/CN.4/1994/47, paras. 216-221), the Special Rapporteur has not received any information indicating significant developments in the human rights situation in Montenegro. Nevertheless, the situation of the media continues to be a major area of concern. Attempts to restrict State control of the media through the adoption of new legislation have failed. The Belgrade-based Tanjug news agency dominates the information sector in Montenegro.

150. The situation of the media also affects the issue of maintaining the Montenegrin historical and cultural identity. A particular area of concern is the lack of recognition for the Montenegrin Orthodox Church, while the Serbian Orthodox Church enjoys official status. In this regard, it appears that the media is manipulated as part of a general policy of diminishing the importance of the Montenegrin Orthodox Church. For instance, the State-controlled television did not give coverage to an assembly of 15,000 people at a Montenegrin orthodox celebration on 6 January 1994.

151. According to information received, the Montenegrin authorities have accepted a considerable number of refugees from Bosnia and Herzegovina without imposing any restrictions against particular ethnic or religious groups or against men wanted for recruitment by the Bosnian Serb military.

D. Conclusions and recommendations

152. Further to the concluding observations in his previous report (E/CN.4/1994/47, paras. 237-244), the Special Rapporteur notes with concern the continuing serious violations of human rights, in particular: the use of brutal and excessive force by the police; public incitement to discrimination and hatred against ethnic and religious groups; restrictions on the freedom of expression and especially the control of the media by the State; the refoulement and forced recruitment of refugees; and abusive and discriminatory treatment against ethnic and religious groups in Kosovo and Sandzak, and in Vojvodina.

153. With respect to conscientious objection to military service, the Special Rapporteur recommends that the federal authorities adopt a law on amnesty and, furthermore, that they introduce alternative forms of service which are non-combatant or civilian in character, which are in the public interest and not of a punitive nature. The Special Rapporteur also encourages third States to grant asylum, or safe transit to another State, to conscientious objectors who would otherwise be subject to prosecution in the Federal Republic of Yugoslavia (Serbia and Montenegro).

154. The Special Rapporteur notes with concern the continuing support by the Federal Republic of Yugoslavia (Serbia and Montenegro), including the direct involvement of the Yugoslav armed forces, for Bosnian Serb forces which have been primarily responsible for large-scale "ethnic cleansing" and other grave violations of human rights.

155. Further to the consideration of discrimination and citizenship in his previous report (see E/CN.4/1994/47, paras. 182-183), the Special Rapporteur recommends the adoption of appropriate legislation on citizenship in order to remove the legal uncertainty surrounding citizenship of the Federal Republic of Yugoslavia and the possibility of discriminating on grounds of ethnic, religious or other origin.

156. The Special Rapporteur recalls his previous recommendations concerning international support for the development of the democratic opposition in Serbia.

157. The humanitarian situation in the Federal Republic of Yugoslavia (Serbia and Montenegro) has been described in the previous report of the Special Rapporteur (E/CN.4/1994/47, paras. 222-226). It has been reported that since then the situation has further deteriorated. The gravest impact of the devastating spiral of inflation and the overall deteriorating economic situation has been on the unemployed, the sick, the elderly, single parents, and children. Medicine, medical equipment and food are in particular short supply.

158. The Special Rapporteur recalls his previous recommendation (see E/CN.4/1994/47, para. 244) concerning the need for medicines and humanitarian assistance for vulnerable groups, and in particular, the review of procedures within the Sanctions Committee in order to expedite the delivery of such humanitarian assistance. Since then, there has been a considerable improvement on the part of the Sanctions Committee in expediting the delivery of humanitarian assistance destined for refugees by international agencies such as UNHCR. In other cases, however, the clearance of medicines and other related items is still subject to prolonged delays.

IV. FORMER YUGOSLAV REPUBLIC OF MACEDONIA

A. Introductory remarks

159. Following the adoption by the Security Council of resolution 817 (1993) of 7 April 1993 and the subsequent General Assembly vote, the Former Yugoslav Republic of Macedonia was admitted as a member of the United Nations in April 1993.

160. Full integration of this new State into the international community as recommended by the Special Rapporteur (see E/CN.4/1993/50, para. 255) is relevant to the effective promotion and protection of human rights in as much as this will allow it to receive the international assistance it requires to develop further its democratic institutions and to improve its economic situation. In this way, it will have the opportunity to effectively create more appropriate conditions for the full enjoyment of human rights.

161. At the end of 1993, through the positive attitude and cooperation of the Government, the Centre for Human Rights was able to open a field office in Skopje. The main task of the field office in Skopje is to provide the Special

Rapporteur with objective, reliable and comprehensive information to allow him to assess fully the human rights situation. The following report is mainly based on the findings of the field staff, as well as on information provided by international observers and other reliable sources. The Special Rapporteur is particularly indebted to UNPROFOR and to the Conference on Security and Co-operation in Europe (CSCE) Spill-over Mission.

162. The Special Rapporteur wishes to acknowledge that the Government has expressed its willingness to be bound by almost all the basic international instruments in the field of human rights, and has initiated the relevant procedures in this connection.

B. Administration of justice

163. The legal structure of the Former Yugoslav Republic of Macedonia has not yet been completed and thus the Constitution adopted on 17 November 1991 (see E/CN.4/1993/50, paras. 219-231) has not yet been fully implemented. Many of the essential laws that will constitute the legal structure of the State, in accordance with the Constitution, have not yet been adopted by the Representative Assembly and the relevant laws from the time of the former Yugoslavia are still in force. These old laws are currently being revised by the Constitutional Court in order to adapt their provision to the new Constitution.

164. The law on the judiciary has not yet been adopted by the Representative Assembly owing to the large amount of votes required, (a majority of two thirds), and to a lack of agreement among the different political parties represented in the Assembly. It appears the ethnic Albanian parties would oppose the draft unless it includes the creation of a second instance court in Gostivar, where there is a considerable concentration of the Albanian population, and unless the Albanian language is also used by the judges. As a result of this situation, the courts are still organized in accordance with the law of the Socialist Federal Republic of Yugoslavia.

165. On 26 January 1994 the Representative Assembly appointed the seven members of the Republic Judicial council of whom one is of Albanian and one of Turkish origin. In accordance with article 10 of the Constitution, the Council proposes candidates for the judiciary to the Assembly.

166. The Constitution provides for a public attorney to be elected by the Assembly, with the mandate of protecting the constitutional and legal rights of citizens when these rights are violated by bodies of the State administration and by other bodies and organizations with public mandates (art.77). However, the law on the public attorney has not yet been adopted and thus, no public attorney been elected.

C. Situation of the mass media

167. Freedom of public expression, speech, public address and information, as well as freedom to establish institutions for public information are guaranteed by the Constitution. Censorship is prohibited. However, it has been reported that the State exerts considerable influence over the media through the control of national television and of Nova Makedonia, the biggest printing and publishing house.

168. Since at this stage there is no private entity in the country with the economic capacity to invest in a printing house and to produce a daily newspaper on a minimum profit basis, it seems inevitable that the only large-scale printing facilities are owned by the State. It was pointed out that two newspapers in the Albanian and Turkish languages, Flaka a vlazerimit and Birlik are produced by Nova Makedonia; the State bears the financial losses involved and without State support these national minorities would not have a newspaper in their languages.

169. The situation of the electronic media seems to be somewhat different, although a distinction must be made between radio and television. Except for the Serbs, all national minorities have radio programmes, which are broadcast country-wide in their mother tongue by the National Radio of Macedonia. Local radio stations are said to have flourished since independence.

170. The situation concerning the television appears to be similar to that of the daily in that only the state has the economic means to run a television station capable of transmitting country-wide, which requires a network of repeaters and local retransmitting stations installed throughout the whole territory.

171. Thus, until the economy and market becomes strong enough to allow for private investments in radio and television stations capable of broadcasting country-wide on a profitable basis, State ownership of these facilities seems inevitable. Nevertheless, there should be equal access to these facilities for all political parties and national groups.

D. Situation of national minorities

172. In accordance with article 78 of the Constitution, the Representative Assembly has established the Council for Inter-Ethnic Relations under the chairmanship of the President of the Assembly. Although this Council has been constituted and its members appointed, its activity so far has not brought any meaningful results.

173. According to the 1991 census, Albanians constitute the largest national minority, roughly 22 per cent of the total population, concentrated mainly in the areas close to the north-western border and in Skopje. It should be noted that the Albanians, who boycotted the 1991 census, contend that they account for far more than 22 per cent of the population and should not, therefore, be considered as a "minority" but as a constituent nation with equal constitutional status with Macedonians. A new census, under the supervision of the Council of Europe, was originally scheduled to take place in April 1994, but so far there has been no agreement in the Representative Assembly regarding this issue.

174. In accordance with their aspiration to national equality with Macedonians, the Albanians also wish to raise the status of their language, to that of an official language, equal with Macedonian. It must be noted that in accordance with the Constitution, the Albanian language is also in official use in the units of local self-government where Albanians constitute a majority or are present in considerable numbers (art.7).

175. In the field of education, Albanians complain of insufficient educational opportunities in their language and, in particular, of the absence of an Albanian-language university. While the Government appears to acknowledge the problem, it does not seem to be in a position to invest in new schools owing to the current economic difficulties the former Yugoslav Republic of Macedonia faces.

176. There has been a general increase in the admission of members of national minorities to the St. Cyrill & Methodius University of Skopje. According to figures produced by the university, in 1991 7 per cent of students admitted belonged to national minorities, in 1992 8 per cent and in 1993 11 per cent. The break-down of these figures reveals that the admission of Albanian students increased from 3 per cent in 1991 to 6 per cent in 1993; the ratio of Turkish entrants remained stable at 3 per cent; and the number of admissions of students belonging to other minorities increased from 3 percent to 4 percent between 1991 and 1993.

177. A quota system has been established whereby an additional number of vacancies equivalent to 10 per cent of places can be occupied in all faculties by students of the different national minorities. Under this 10 per cent quota system, applicants who do not obtain the amount of points required to be

admitted by the normal standards, can still register if they claim that they belong to a national minority and have obtained a minimum amount of points. It has been reported that the performance of such candidates tends to be rather poor and that very few obtain enough points to qualify for admission under the lower standards. Thus the 10 per cent quota is seldom filled. Owing to an inferior knowledge of the Macedonian language, most ethnic Albanian students whose schooling has been mainly in their own language find themselves at a disadvantage when competing with ethnic Macedonians.

178. It has been reported that there is a movement among educated Albanian women to promote better access for Albanian women in general to higher levels of education. It appears that few of them have such access because of the traditional views of their parents, who do not think it necessary for their daughters to be educated beyond high school or, in some cases, primary school.

179. In connection with employment in the public administration, the Government appears to acknowledge that Albanians are considerably under-represented, particularly in the police force, the military and the diplomatic and consular services, as well as the importance of reversing this situation. It has been reported that this may be partly due to the fact that Albanians do not have many "cadres" with enough qualifications for high official positions. Nevertheless, the Government has reportedly changed enrolment conditions in order to admit more Albanians and is taking appropriate steps to increase Albanian participation in the army and in the diplomatic service. The number of policemen of ethnic Albanian origin is increasing steadily. At present, 20 per cent of police school graduates are Albanians.

180. The Serb minority complains that it does not have a newspaper, or television or radio programmes, in its language. However, it must be noted that various newspapers and magazines from the Federal Republic of Yugoslavia (Serbia and Montenegro) are normally available, and that Yugoslav radio and television are also normally received. It has been reported that a daily hour of radio broadcasting in the Serbian language is planned as soon as the law on the financing of broadcasting is adopted by the Representative Assembly. The project is said to include the recruitment of ethnic Serb journalists for this purpose. It should be recalled that Agreed Minutes were signed on 27 August 1993 between the Government and representatives of the Democratic Party of the Serbs. However, this resulted in a change of leadership in that party and the expulsion from the party of the chairman who signed the agreement.

181. A controversial issue is the performance of religious services by Serbian Orthodox priests. The Macedonian Orthodox Church and the Serbian Orthodox Church do not recognize each other. It has been reported that two Serbian priests have been allegedly prosecuted by the authorities for conducting religious services in the homes of Serbs. According to official information two priests of the Serbian Orthodox Church were sentenced by the Municipal Court in Kumanovo on 16 January 1994. Without obtaining the approval of the Macedonian Orthodox Church and the police department, they had stayed on the territory of the Republic, conducting church services in eight villages populated by Serbs, at Christmas and on New Year's Eve. During the services, it was alleged one of them had induced religious and national hatred among the villagers. Both priests had been fined.

E. Refugees and the humanitarian situation

182. Following a decision made by the government, since August 1992 no more refugees have been admitted to the Republic. However, a certain number of individuals fleeing the war have continued to enter the country illegally. Moreover, between 400 and 450 refugees have been legally admitted and have received assistance from the UNHCR, although without being recognized as refugees by the government. The UNHCR is not aware of any case of refoulement.

183. Many refugees have already gone to third countries and, following an evaluation made by UNHCR in the middle of 1993, it was then assisting only 10,000 refugees almost exclusively from Bosnia and Herzegovina. About 80 per

cent of these refugees are accommodated with host families. The remaining refugees are in five collective centres, four of which are located in Skopje and the remaining one in the area of Mavrovo. According to UNHCR, the overall living conditions of these refugees appear to be quite satisfactory. Parallel to the refugee programme, UNHCR also has a programme of support for social cases, mainly the 12,000 families registered by the Government as "classical" cases.

184. While the Government recognizes the existence of 50,000 social cases, humanitarian agencies on the ground consider that their number amounted to some 169,000 in December 1993, excluding pensioners. Most ethnic Albanian villages along the north-west border are in urgent need of humanitarian aid: 30,000 farmers have been severely affected by a recent drought and lakes and rivers have dried up. Hygiene is also a problem and many cases of hepatitis have been reported in the area of Prilep.

185. Medical shortages along the border with Kosovo appear to be considerable. Before the disintegration of the former Yugoslavia, most Albanians from that area used to travel to Kosovo for medical assistance because medical facilities were not, at that time, available on the Macedonian side of the border.

F. Conclusions and recommendations

186. The former Yugoslav Republic of Macedonia is a new State faced with serious difficulties, due to adverse external and domestic conditions, in its transition from socialism to democracy based on the rule of law. The consolidation of the overall stability of the country is a key element in the maintenance of peace in the region and thus, for the enjoyment of human rights. The destabilization of Macedonia could bring much suffering not only to its own population, but also to that of the neighbouring countries. Mutual understanding and trust among all citizens of the Republic regardless of their ethnic origin is an important part of this process.

187. Since the Special Rapporteur submitted his previous report a certain amount of progress has been achieved in the process of eliminating discriminatory practices. Despite certain problems concerning the rights of national minorities, the Special Rapporteur expresses his satisfaction at the fact that these problems are being approached within the framework of the Constitution and encourages the parties concerned to continue to do so. The Special Rapporteur urges the Council for Inter-Ethnic Relations to pursue its efforts.

188. Progress has also been accomplished as far as freedom of the media is concerned. Nevertheless, the Special Rapporteur reiterates the opinion expressed in his previous report that full pluralism of the media in the former Yugoslav Republic of Macedonia has not been achieved.

189. The Special Rapporteur urges the international community to increase to an adequate level technical and financial assistance for a fair and immediate compensation for the losses incurred by the economy in the implementation of the sanctions imposed by the United Nations on the Federal Republic of Yugoslavia (Serbia and Montenegro). The Special Rapporteur also urges donor countries to consider providing the former Yugoslav Republic of Macedonia with adequate bilateral technical and financial assistance with a view to fostering the overall development of the country.

V. SLOVENIA

190. The mandate of the Special Rapporteur, as described by the Commission on Human Rights in its resolution 1993/7 also covers the Republic of Slovenia. In his report of 10 February 1993 (E/CN.4/1993/50), the Special Rapporteur pointed out "that Slovenia is still in a process of transition to a democratic society, which influences the implementation of various human rights. Certain important problems have not yet been satisfactorily resolved including restoration of property rights, pluralism in the media, etc." (para. 215). The Special

Rapporteur concluded that "the situation in the Republic of Slovenia does not at present give rise to major concern" (para. 216).

191. Slovenia became a member of the Council of Europe on 14 May 1993. It has also signed the Convention for the Protection of Human Rights and Fundamental Freedoms (The European Convention). However, ratification of that Convention will require certain modifications to the existing law.

192. In the above-quoted report, the Special Rapporteur drew attention to the activities of the Council of Human Rights and Fundamental Freedoms established in Slovenia in 1990. The term of office of the members of the Council expired at the beginning of 1993. The National Assembly, however, decided that former members of the Council should continue their mandate until the law on the human rights Ombudsman was adopted. That law was finally adopted on 20 December 1993. In the light of its interim provisions the Council should function until the Ombudsman assumes his/her duties. The Law on the Human Rights Ombudsman gives this institution a wide range of competencies as far as the protection of individual rights is concerned. The Ombudsman is also authorized to approach the legislative and administrative authorities on general matters when the protection of human rights is at stake.

193. In a previous report referred to above (E/CN.4/1993/50) the Special Rapporteur expressed the opinion that "the Republic of Slovenia has managed to solve the citizenship issue without creating a feeling of discrimination or insecurity among its inhabitants" (para. 201). However, in 1993 certain legislative changes were proposed in order to tighten the conditions for obtaining citizenship through naturalization. Those changes could have resulted in discriminatory treatment against some categories of applicants. The law was originally passed by the National Assembly, but owing to the veto of the National Council it came back to the Assembly, where it did not obtain the required majority. A new draft does not contain discriminatory provisions.

194. Controversy has arisen in regard to the draft law on the abolishment of dual citizenship. The Council of Human Rights and Fundamental Freedoms in its opinion of 4 October 1993 stated that "the most controversial are those provisions that may cause individuals the loss of nationality, i.e. denaturalization, and may adversely affect their acquired rights, thus having a retroactive effect, and being discriminatory on the basis of ethnicity, origin, and some other reasons". The opinion of the Council was endorsed by the participants of a seminar organized by the Council of Europe in December 1993. The Special Rapporteur supports the efforts of the Council and points out that the proposed abolition of dual citizenship may cause a violation of human rights of affected categories of individuals.

195. Unresolved citizenship status remains the main reason for individual complaints lodged with the Council of Human Rights and Fundamental Freedoms. It seems that unduly delays in administrative procedures create a serious problems for significant number of applicants.

196. The Council also points out that the individual's rights to an effective legal remedy have been seriously hampered by the length of court proceedings. The courts, in particular in labour disputes, are not able to reach their decisions within a reasonable time limit.

197. Various international and local observers point out that occasional signs of extreme nationalism and xenophobia can be observed in Slovenia. They have not, however, received popular support and, therefore, have not escalated into inter-ethnic acts of violence.

198. With regard to the situation of the media, in his previous report (E/CN.4/1993/50) the Special Rapporteur mentioned that new draft legislation on the media has been prepared in cooperation with the Council of Europe. However, the new law has not been passed. The Government seems to be continuing its control of the media, in particular television.

199. Some of the most important problems of refugees described in the previous report of the Special Rapporteur (para. 204-209) remain essentially the same. In that context the problem of family reunion, restriction of freedom of movement or the fact that refugees are not permitted to seek employment other than that connected with the functioning of the refugee centres should be mentioned.

200. The Special Rapporteur once again reiterates his opinion that in Slovenia, in spite of all the difficulties, which to a large extent can be attributed to the transition to a democratic society, the human rights situation is by and large satisfactory. The very fact that Slovenia has met the conditions which enable it to obtain membership of the Council of Europe speaks for itself. For all these reasons, the Special Rapporteur recommends that the Republic of Slovenia, barring any unforeseen circumstances, should be excluded from his mandate.

VI. PROBLEM OF DISAPPEARANCES

201. The problem of disappearances in the former Yugoslavia is a very serious one. Worse still, it is growing rapidly. The United Nations is now seized with over 11,000 cases of missing persons. According to estimates, the number may well exceed 15,000 in the coming months. It is impossible at this stage to calculate a number of missing persons resulting from the war in Bosnia and Herzegovina.

202. The Special Rapporteur has always placed a strong emphasis on this problem. During his missions he addressed it in his discussions with relatives of missing persons and representatives of Governments concerned. In his first report to the Commission on Human Rights the Special Rapporteur concluded that there was an urgent need to establish an investigative commission, under the auspices and in cooperation with the competent United Nations bodies, with the task of examining the fate of those who disappeared following the siege of Vukovar and those who have disappeared elsewhere (E/CN.4/1992/S/-1/9, paragraph 67, 28 August 1992). A similar recommendation made by the Special Rapporteur is to be found in a memorandum to the Secretary-General, dated 4 September 1992.

203. At the initiative of the Special Rapporteur, a mission was undertaken by the Special Rapporteur on extrajudicial, summary or arbitrary executions from 15 to 20 December 1992 to make a preliminary investigation of allegations of mass graves (see E/CN.4/1993/50, annex I).

204. At its forty-ninth session, on 23 February 1993, the Commission on Human Rights adopted resolution 1993/7, in which it inter alia requested the Special Rapporteur, in consultation with the Working Group on Enforced or Involuntary Disappearances and the International Committee of the Red Cross, to develop proposals for a mechanism to address the subject of disappearances in the former Yugoslavia.

205. Accordingly, at the request of the Special Rapporteur, Mr. Toine van Dongen, a member of the Working Group conducted a mission to the Republic of Croatia and to the Federal Republic of Yugoslavia (Serbia and Montenegro) in order to consult with relevant governmental officials, representatives of intergovernmental and non-governmental organizations, and the families of those who had disappeared, in order to determine which mechanisms might usefully be proposed with a view to elucidating the fate or whereabouts of missing persons. Mr. Van Dongen also consulted with the ICRC.

206. The results of this mission, including detailed proposals for an appropriate mechanism, called a special process, are contained in the report of the Working Group on Disappearances to the Commission on Human Rights of 15 December 1993 (see E/CN.4/1994/26 and in particular Add.1).

207. The special process should take a strictly humanitarian, non-accusatory approach to clarifying cases of missing persons in the former Yugoslavia. The

special process should be entrusted to the Special Rapporteur in a joint mandate with one member of the Working Group on Enforced or Involuntary Disappearances.

208. The Special Rapporteur fully endorses the proposals summarized above. He is convinced that the United Nations is under an obvious obligation to act more effectively with respect to cases of missing persons.

VII. SITUATION OF CHILDREN

A. Introductory remarks

209. While the Special Rapporteur acknowledges that the civilian population in its entirety has suffered as a result of the war, he has found it necessary to focus on the situation of children because they are the most dependent group of a society and because what they experience will have long-term repercussions for themselves and for the society to which they belong.

210. In order to analyze the situation of children, the staff of the Special Rapporteur travelled to most of the regions of the former Yugoslavia. They met in each case with national authorities, international agencies working in the area, local and international non-governmental organizations and individuals. The nature of the issues, the complexity of the situation and the difficulty in gaining access to the war zones and obtaining reliable data makes it impossible for the Special Rapporteur to present a comprehensive report on all the factors which are affecting children's well-being. This report therefore focuses only on the main concerns.

211. It should be noted that in the process of gathering information on this vulnerable group, it became apparent that all civilians who have been caught in the conflict in the former Yugoslavia can be considered in one way or another as "vulnerable". Men are also affected by the traumatic events that they have experienced, witnessed or committed themselves during the war. Men of draft age from Bosnia and Herzegovina who object to fighting in the war are in a particularly precarious position. They cannot obtain exemption, and leaving the country is often not a solution because of the policy adopted by the neighbouring reception countries through which they pass to a third country.

212. Women are also vulnerable, especially when they are separated from their families and are left to face the war alone. The accounts of women who have been victims of sexual abuse highlight their vulnerable situation.

213. Old people are equally at risk because of their age and their inability to care for themselves. Being attached to their land they find displacement particularly difficult to cope with.

214. These aspects are mentioned and are worth keeping in mind because children are dependent on adults for their protection and safety. The vulnerability of their fathers, mothers and other relatives is a destabilizing factor in children's lives.

215. Groups of psychologists, sociologists and other professionals from the former Yugoslavia have repeatedly warned of the serious consequences that the war would have on children, many of which would take generations to be resolved. Their calls have gone ignored. Indeed the outbreak of hostilities and the nature of the war in the region have led to numerous and continuous violations of most of the rights of the children.

216. The former Yugoslavia, as well as its successor States, have ratified the Convention on the Rights of the Child.

B. Children in war

217. In various regions of the former Yugoslavia the drive for "ethnic cleansing" has made the civilian population a primary target, with the

objective of displacing them from their homes. The impact of these events on children, who themselves have often witnessed or suffered attacks is still impossible to quantify. It is already clear, however, that the damage has not been restricted to children's physical integrity and health; the war is inflicting less visible but equally serious damage on the psychological well-being of children.

218. The war has disrupted the environment of children in the most dramatic way and has rendered impossible the satisfaction of their most basic needs. UNICEF estimates that close to 281,000 children are living under the constant shelling of their residential areas, and are forced to endure artillery exchanges between rival troops in the vicinity of their homes, attacks by armed forces on their homes and villages and shelling of their schools.

219. The most basic of human rights, the right to life, has been constantly disregarded. In many reported incidents children have been the primary victims of sniper and mortar attacks. Recently, on 23 January 1994, four children were killed in a playground in Mostar, and four in Tuzla, while three mortar bombs killed six children in Sarajevo on 22 January 1994. Data quoted by UNICEF indicate that since the beginning of the war close to 16,000 children have been killed in Bosnia and Herzegovina.

220. Large numbers of children have suffered direct injuries from bombing, shelling and snipers. Hospitals are often unable to give them adequate treatment for lack of resources, or because equipment has been damaged or is over-utilized by all the war injured. Many children have suffered amputation, burns or the loss of sight or hearing, with limited treatment. The war leaves little room for the psychological intervention and training needed to help them accept and cope with their disabilities. Interviews with surviving children give a glimpse of the level of traumatization that such injuries leave in their minds. Memories of the event remain with them for a long time, causing extreme nightmares, daily intrusive flashbacks of the traumatic events, fear, insecurity and bitterness. These children have their future development shattered by their experiences.

221. The attempts to alleviate the lack of medical facilities have led to medical evacuation schemes from UNHCR, ICRC and The International Organization for Migration. They are however, reserved for cases fulfilling very specific criteria and are thus not commonly available to the majority of children.

222. Even when children do not suffer physically as a result of the war, the exposure to frequent shelling and stressful situations affects them. Thus, in October 1993 in the village of Potocari in the area of Srebrenica, a 15-year old girl was reported to have gone into deliriums and hallucinations after a terrifying nightmare. She was diagnosed as suffering from schizophrenia reactiva as a consequence of serious war trauma. The house where she lived was located in an area that at times received 5,000 shells a day. The hospital in the area reported 19 cases of serious mental problems in the enclave at that time.

223. The violent death or injury of someone close to a child, in particular a parent or a care giver, especially if it is witnessed by the child, is known to bring about severe stress and depressive reactions. There are disturbing accounts from children who have not only witnessed their parents being killed, but have been actively forced to watch their killing or, at least, their suffering. An interview conducted by an international worker with a child from a village near Foca provided details of how a child of 13 years was forced by Bosnian Serb forces to see his father, some relatives and other villagers, shot against a wall in May 1992. Interviews conducted by UNICEF staff with children from Vukovar revealed that some of them saw members of the Yugoslav National Army (JNA) come to their houses in September 1991 and execute their fathers in front of them:

"My father was killed, the army killed him. In front of our house there were barricades, but the army came with tanks and the gunfire was so

strong ... then the army came to our house. The soldiers shouted 'is there anyone here' and my father said 'yes, yes, I'm here with my children and wife, don't shoot'. But they shot my father, they killed him. He fell down the stairway and then one of the soldiers came and kissed me and my father and said 'We didn't kill your father, a shell exploded'. But they were lying. I saw it all. There were three of them, they killed my father with one bullet each. They shot him three times in the head, with dum-dum bullets. The bullets went into his face, and everything came out of the back of his head ... my mother held his brain in her hands. She pleaded they shouldn't kill my brother and me."

224. On many other occasions children have witnessed the rape of their mother or close relatives.

Detention of children and torture

225. Many children have been placed in detention centres and several of them have been tortured there, according to reports that have been brought to the attention of the Special Rapporteur. Girls, for instance, have been raped and have seen their mothers being raped and injured. In one case, an 11-year-old girl who had witnessed the killing of the young men from her town was detained by Bosnian Serb soldiers in Lukavica with her mother and was then taken with her and other girls and women to a place where many were raped. She saw a woman slashing her mother's breasts with a broken bottle; later she was turned against the wall and shot at; she was saved by the screams of her mother which made her turn and avoid the whole impact of the bullet but not its physical and psychological scars. A few days later mother and child escaped from detention. After multiple displacements they found refuge in Sarajevo. This child was severely traumatized and began to cry as soon as she heard the sound of shelling. She often asked her mother to "take her away from here".

226. The Special Rapporteur has learned of children and their mothers being beaten in a Bosnian Serb detention centre near Zvornik. The events took place in 1992 and involved persons from an area near Cerska who had been detained in Karakaj, and then in Batkovic camp near Bjeljina. The account indicates that children as young as four years old were beaten and sexually abused.

227. Boys as young as 12 and 13 years old have also been victims of imprisonment and torture in detention centres. Specific accounts of children released from detention centres at Dretelj and Gabela in western Herzegovina in late August 1993 indicate that some of them were forced by their Bosnian Croat guards to beat their fathers.

228. In central Bosnia, in the areas of active conflict like Vares, Bugojno and Kisej lak there have been several allegations of rough handling and brief periods of detention of boys as young as nine years old. Similarly, it has been alleged that boys of 12 years of age have been taken with other prisoners to dig trenches in the frontlines.

Deprivation of food

229. The general impoverishment which has followed the collapse of the economy in most parts of Bosnia and Herzegovina has made a great portion of the population almost entirely dependent on foreign aid. The many deliberate obstructions of aid convoys by the warring parties have had repercussions on the level of nutrition and normal growth of children, particularly by early 1994, when most agricultural reserves have been exhausted.

230. According to a recent survey conducted by UNICEF among children from Sarajevo, the fear of death from hunger and cold ranks as one of the main causes of trauma and depressive reactions in children. Children living for extended periods in shelters are also forced to spend long periods without food or water.

Disruption of education

231. The war has interrupted the education of a significant number of children for various reasons, of which enforced displacement is perhaps the most important. When children are forced from their home communities they often leave behind materials and books. Upon their arrival at a new place of reception, their parents may be in a state of shock or feel uncertain about the duration of their stay and may not take steps to enrol their children at local schools - assuming that these are still working. Indeed, the arrival of large numbers of displaced persons has regularly forced communities to convert schools into reception centres or hospitals. In addition school buildings have also been destroyed by fighting.
232. The school system has also been disrupted by the drafting of teachers and even of some of the students. In cities and enclaves under siege, the danger from shelling forces children to remain in cellars at home without much contact with their peers for extended periods. The fear of parents for the safety of their children also prevents many children from attending school.
233. The disruption of their children's education has been identified as one of the main worries of displaced mothers once they reach a place of relative safety. Many of the agencies, international organizations and non-governmental organizations working in the region have recognized the importance of school attendance and education for the children's sense of continuity, stability and normality. They have made efforts to help local authorities reopen schools, or continue providing education even in the worst situations, such as those in enclaves and cities under siege. However this has not been easy to do. In Sarajevo, classes were interrupted for almost a year after the siege began in April 1992. During this time, several very dedicated teachers took the initiative of continuing their classes at their homes, in basements or in other relatively safe places until classes resumed in March 1993. It is impossible to determine the exact level of attendance among children of school age, although it appears to be relatively high.
234. In east Mostar, with the assistance of UNICEF, schools are functioning in basements under extremely difficult conditions as no electricity is available. Children study by candle light and there are only very basic teaching materials. These conditions notwithstanding, the number of children attending school has increased from 140 in the first month of the conflict in Mostar to 4,000 in early January 1994. The dedication of their teachers is admirable. UNICEF reports that they are beginning to organize secondary schools and even some tertiary education.
235. In Srebrenica, which has received a very large number of displaced persons, education resumed in the summer of 1993, once the displaced people who were living in the school building were successfully re-accommodated. Within a few weeks, a radical change in the children's attitude was noted by the parents, authorities and international agencies. Most of the children became more active and lively, and began to play in a more orderly way.
236. In another enclave, Zepa, the school was reorganized in June 1993 almost immediately after the fighting stopped and an improvement in the children's attitude was also registered, even though many of them were very slow in getting into their work and many had forgotten some of their previous knowledge.
237. In Zenica, Tuzla and towns in Herzegovina, local schools have difficulties absorbing displaced children and so not all of them can attend. Moreover, after a long period of relative isolation the communities have reached a stage of "compassion fatigue" and are more reluctant to accept displaced children into an overburdened system. Some children refuse to attend school if they have experienced humiliation from local children. Their mothers are reported by international social services staff, to be depressed by their long stay in collective centres and are therefore less active in ensuring that

their children receive formal education. School attendance for local children in these areas is said to be easier.

The plight of adolescents in war

238. Adolescents are at a stage of life when they undergo many physical and emotional changes. They are also in a process of establishing some independence from their families and their own perceptions of the outside world and are at a crucial point in the development of their identity. Because they have the cognitive maturity for reasoning and the ability to understand the far-reaching consequences of the war they are in many ways more vulnerable to its stress the young children. The needs of this group, however, are not always obvious or recognized by the parents and the community. They may even be forced to assume a prematurely adult role following stressful events or to take on the father's role. Many of these youngsters may appear to cope with the situation but their lack of emotional maturity may require the help of adults. In fact, it is understood that peers and adults such as teachers or community leaders can become an important source of support and security for adolescents.

239. Following the stressful experiences of the war many adolescents engage in high risk acts, in the abuse of drugs and in acts of delinquency like stealing and looting. The lack of organized activities for them only adds to their stress.

240. The particular needs of adolescents are not always acknowledged. The authorities, agencies and other organizations tend to focus primarily on the younger age groups. The limited resources and activities available are mostly directed towards young children, while adolescents are believed to be able to occupy and organize themselves. Even in the field of education, efforts are concentrated on assisting primary schools first and secondary schools later. In the provision of food no particular consideration is given to the growth needs of adolescents.

241. International staff working in Bosnia and Herzegovina are encountering adolescents who have "weeping crises", who attempt suicide, who are in a state of depression and who have increased levels of aggression and delinquency. Many adolescents have the added stress of deciding whether or not to participate in military activities. It has been impossible to ascertain how many adolescents have been recruited - voluntarily or under duress - into the various armies. In the Bihac pocket there have been allegations that boys as young as 16 may have been forcibly drafted into the army of the so-called "Autonomous Province of Western Bosnia and Herzegovina". In the UNPAs many boys of 15 to 17 years of age have volunteered for, and sometimes been accepted, into the army of the so-called "Serbian Republic of Krajina".

242. The strong ethnic animosity of the war in the former Yugoslavia has placed the children of mixed marriages in a particularly difficult situation. Their difficulties are likely to intensify in areas close to conflict zones, where the level of intolerance is high. These children suffer the psychological stress of seeing their families divided by the conflict and having to choose the side of the family to which they want to belong. They also face problems in the way they are perceived by the community in which they live. While there are many factors that influence this perception, reported cases of harassment indicate that in the case of boys the nationality of the father is likely to determine the way he is perceived by the warring factions.

243. The disintegration of families and the dramatic impoverishment of the population has also contributed to the general deterioration of values. International staff working in the area and non governmental organizations working in community-based programmes report the prostitution is on the increase even among young girls, especially in areas where large numbers of soldiers are concentrated. They are also concerned at the rising numbers of unsupervised children who wander in the streets with nothing much to do.

244. Even though difficult to quantify, domestic violence appears to be on the increase in areas close to the conflict and primarily affects children. The scale of child abuse, however, is unclear.

Unaccompanied minors and evacuation of children

245. The war has separated many families. Before the disintegration of the former Yugoslavia there were many children living in institutional care or receiving medical treatment in a republic other than the one in which their parent(s) lived. After the war began, contacts between these parents and their children were affected. In many instances children have not heard from their parents for long periods or only sporadically. Moreover, even when the whereabouts of the parents and these children have been identified, the possibilities for reunion have been limited.

246. Children have also been sent away by their parents to other towns or countries for their safety, with the hope that the family will be reunited later. In many of these cases the evacuation, regrettably, was not properly organized. Children were evacuated by well-meaning organizations without regard for the basic principle that separating children from their parents is one of the most traumatic experiences a child may have. Some of those evacuations were also not properly documented and did not include provisions for follow-up and mechanisms for continued contact between the families, all of which may jeopardize the possibilities of these families being reunited and is causing anguish to parents and children who have had no contact with each other, in some cases, for newly two years. In June 1992, UNICEF and UNHCR issued a "Joint statement and guidelines for the evacuation of children" with the aim of reducing improperly organized evacuations. The impact of this measure, however, has been impossible to calculate.

247. Family separations have also occurred when mothers and children left their homes while the fathers were at the front line or in detention. In many instances they have suffered multiple displacements, which further jeopardizes the tracing of relatives and the possibilities of reunion, or they have been separated by changing frontlines. Moreover, during multiple displacements many children have lost the parents or relatives who were accompanying them as casualties to the war.

C. Refugee and displaced children

248. Among the refugee and displaced children there are many children who are severely traumatized and clearly suffering from Post Traumatic Stress Disorders (PTSD) because of their experience in war zones. Their identification and treatment, however, is not easy as it requires attention and investment. In most of the receiving countries of the former Yugoslavia, Governments, international agencies and non-governmental organizations have acknowledged the problem and begun to provide treatment to persons in need, including children. The scale of the problem indicates that more resources will have to be allocated to this end.

249. Even those who are not traumatized suffer psychological problems. Accounts received from psychologists working with displaced persons and refugees portray a picture of general despair, a terrible sense of loss and anguish over the fate of relatives (especially husbands and fathers), feelings of guilt at not sharing the same suffering as those currently in the war, great uncertainty and worry about the future, and depression which grows deeper with the passage of time.

250. These feelings are aggravated among those who are living in collective centres, deprived of any privacy. Particularly if they do not attend school, the children's days are filled with boredom as there is nothing to do. Life in a collective centre deprives the members of the family of their normal roles. Even if reluctant to accept the situation initially, many of the refugees and displaced placed in collective accommodation gradually lose their capacity for self-reliance and a sense of control over their own life. In this framework,

many parents no longer have the energy to cater to the needs of their children who are then left without much supervision. Faced with the withdrawal and passivity of the adults, children and adolescents are likely to develop behavioural problems, drinking, aggression, smoking, etc.

251. The large number of refugees and displaced persons has put enormous pressure on the economies and infrastructure of the host countries. Official figures indicate that in Croatia there are 241,492 registered displaced persons and 252,153 registered refugees. It is estimated that on top of those figures there are some 37,500 unregistered displaced person and refugees. Approximately 33.6 per cent of the refugees and 31.7 per cent of the displaced persons are children under the age of 16. The refugees and displaced represent close to 6 per cent of the present population of Croatia. Approximately 57 per cent of the refugees have declared themselves Muslims and 41 per cent as Croats.

252. According to information provided by the Government of Croatia all the internally displaced children (Croatian) have been absorbed into the primary and secondary school system. However, nearly a third of the registered refugee children are not attending school. The children of unregistered families are not entitled to any form of assistance with education or medical care. The number and concentration of the refugee population has stretched the capacity of many schools to the limits and has forced the authorities to use school buildings in several shifts. In spite of these practices, places are still insufficient. In this situation, Croatian children have priority in gaining access, especially to secondary schools. Refugee children may be offered a place in a school far away from where they live or in a different town. The availability of transport and its cost may then become obstacles to the child's schooling. Other obstacles are the lack of teaching staff and suitable school buildings or the limited resources allocated for their provision.

253. In some cases, especially in some of the Dalmatian municipalities which are close to the theatre of inter-communal fighting in Bosnia and Herzegovina, the attitude of the population towards the refugees has changed since the outbreak of fighting between Bosnian Croats and Bosnian Muslims in March 1993. Some refugee parents have become afraid of sending their children to the local schools or are suspicious of the recent ideological changes introduced into the school curriculum, particularly in history, geography, literature and social science. There have been isolated reports of school principals refusing to accept refugee children by requiring them to present specific documentation which is impossible to obtain. Isolated cases have also been reported of children refusing to continue their schooling after being humiliated by a teacher, or beaten by their classmates. Whenever these cases were brought to the attention of relevant international agencies, intervention has produced a remedy at the level of the school principal but the children's fear has prevented them from returning to school.

254. The Embassy of Bosnia and Herzegovina in Croatia has actively sought the establishment of "extraterritorial" schools, which would follow the Bosnian curriculum and at the end of the school year issue certificates that would be recognized by the Croatian education authorities. Currently there are approximately 21 schools of this type in Croatia, most of which are located near collective centres for refugees. Many of them receive or have received financial assistance from United Nations agencies or non-governmental organizations.

255. According to international staff working in the field, the educational situation for registered refugee children in Croatia has improved significantly in the past year. The activities and assistance from several agencies, such as UNICEF and UNHCR, and several non-governmental organizations have contributed to this.

256. Serbia hosts about 445,000 refugees. Official figures indicate that the majority of them come from Bosnia and Herzegovina (235,000 or 53 per cent).

Others come from Croatia (185,000) Slovenia (37,000) and the former Yugoslav Republic of Macedonia (3,000). The majority of these refugees are Serbs (80 per cent), followed by Muslims (7.8 per cent). Children constitute about 42.1 per cent of the total refugee population (194,000). Close to 94 per cent of the refugees are hosted in private accommodations.

257. According to the Serbian authorities all of the children of primary school age are integrated into the national system and have similar access to secondary school, where the only problem is unavailability of transport between the children's homes and the schools. The psychological needs of school children are being addressed through programmes designed by the Institute for Mental Health. UNICEF and UNHCR have sponsored psycho-social programmes implemented through the schools and in the collective centres.

258. In the former Yugoslav Republic of Macedonia, refugee children could not go to school when they first arrived in 1992 because their status and that of their parents was still unclear, nobody knowing how long they would stay or be allowed to stay. The authorities took a decision granting the children access to local schools made in October 1992. By this time, however, the school year had already started and many important issues remained unclear, such as the language of instruction, the type of certificate to be issued to the children and the documents required for admittance. Decisions on these issues were taken at the local level by teachers and the authorities of the municipalities where the children lived. Most of them were resolved in the spring and summer of 1993. In order to help the children to make up for time lost, the Ministry of Education, in cooperation with UNICEF, organized summer courses that enabled them to prepare themselves for the new academic year. There are still children who cannot attend schools because of the distance from their collective centres and because transport is not available. Some of these children can attend only the 'extra-territorial' schools which have been organized in some collective centres.

259. In Slovenia, there are 31,118 registered refugees. 13,237 of them are under the age of 19, of whom 5,478 are children from 7 to 15 years and 3,161 from 16 to 19 years.

260. Refugee children have not, so far, been integrated into the Slovenian educational system. Schools have been organized for them by the Ministry of Education and Sport, and the curriculum has been designed in cooperation with the authorities of Bosnia and Herzegovina. Classes are held mostly in adapted premises in collective centres, or in school buildings when they are not occupied by Slovenian school children. They do not always have access to all the facilities in the schools, such as gymnasias and sports equipment. They are taught in most cases by teachers or other professional people from amongst the refugees themselves, who receive some payment through bilateral contributions to Slovenia. In 1994, UNHCR will cover these costs. Materials have been provided by UNICEF, UNHCR and the non-governmental organizations Cause Commune. All primary school age children receive education, but only 20 to 25 per cent of the educational needs of secondary school children are met. While the separation of the school systems may help refugee children preserve their identity and continue with a familiar curriculum, it has prevented direct contacts with Slovenian children and the lessening of prejudice which may arise from such contacts.

Unaccompanied and abandoned minors

261. Other than in Serbia, which has 1,200 registered unaccompanied minors including 31 infants in institutions, the number of unaccompanied minors in the region remains undetermined. A figure close to 11,000 has been mentioned by the Croatian authorities. These numbers include all the children who were sent out for their safety and who are still in regular contact with their parents, and not only those children who are in need of protection because they have lost their parents or because their parents' fate is unknown. In the implementation of the provisions of the Family Law, Croatia has identified through the Centres for Social Care more than 70 children in need of a guardian

and has proceeded to appoint one in each case. In Croatia, a non-governmental organization has begun comprehensively to document unaccompanied minors, not only in Croatia, but also in other countries providing protection to persons fleeing from the war.

262. The situation of orphans and abandoned children from Bosnia and Herzegovina is of particular concern because of their vulnerability. Many of the abandoned children are reported to be in a legal limbo, without a name or a legal status. The Serbian legislation, for example, requires at least one of the parents to give a name to the children. Children who have been abandoned before being registered are thus left in a legal vacuum and present a legal challenge to the host countries, which as parties to the Convention on the Rights of the Child are obliged (art. 7) to ensure that the children's right to a name and a nationality is implemented. Orphaned children also present a serious dilemma for the authorities. For many there is still the hope that their parents will be traced once the conflict is over. Some countries have actually passed a law to prevent the adoption of children coming from war zones in case their parents are later found to be alive. The majority of these children are therefore left in institutional care. Even when it has been established beyond reasonable doubt that the children have lost both parents the hosting States are reluctant either to place them in foster care, or to make them eligible for adoption or to adopt other measures which would be in the best interest of the children. The Serbian authorities have attributed their own reluctance to their fear of being accused of "Serbianizing" Bosnian children. As regards children of Bosnian Serb origin, the unclear situation of their nationality was the explanation offered. The Croatian authorities have attributed their reluctance to the "foreign" status of the children and the interest of the Government of Bosnia and Herzegovina in retaining jurisdiction over its own nationals and deciding on their future. Identified cases are thus reported to the Consulate of Bosnia and Herzegovina but no further action is taken.

D. Children in the shadow of war

263. Children who live in the territories of the former Yugoslavia which have not been directly involved in the war have experienced and are still experiencing its effects. The news relayed every day in the newspapers and on television, the loss of relatives in the areas of armed conflict, the preoccupation of their parents, the discussion of the events at school, the changes in the school curriculum, and in some countries, the change of attitude towards minorities, are bound to have an effect on the children.

264. The evaluation and analysis of those effects are being carried out and addressed by the authorities in each of the new States and also involve concerned agencies, international organizations and non-governmental organizations which have begun or have increased their programmes in the region in view of the heavy influx of refugees. The Special Rapporteur notices in this regard the differences in the support provided by the international community to the different States of the former Yugoslavia, which is not proportional to the number of displaced persons and refugees hosted by each country. Such differences have left some of the republics of the former Yugoslavia, notably Serbia and Montenegro with a proportionately heavy burden.

265. The staff of the Special Rapporteur have observed that hospitals lack medicines and that the general standard of sterilization and hygiene is not adequate because of the scarcity of cleaning and sterilizing equipment. In a hospital in Pristina a number of children with meningitis and tuberculosis were briefly visited. In Montenegro, the Special Rapporteur's staff saw babies who had to share an incubator, while some of the equipment was put aside unable to be repaired because the necessary spare parts could not be imported. They also saw children for whom the diagnosis remained unclear because of a lack of reagents to conduct the necessary tests. They were informed that testing blood for HIV and Hepatitis B is problematic. Because some of the drugs cannot be obtained, there is an increasing tendency to ask patients to purchase them at

their own expense, in private pharmacies where prices can be astronomical. Pharmacies in the towns visited, however, were nearly empty.

266. The situation is dramatic, and increasingly unequal according to region, for mentally disabled children and adults. These people are, in some cases, totally neglected. The spectrum of their needs is very great. Lack of drugs, including sedatives, clothing, bedding materials and food are among the most striking needs. Non-governmental organizations working in the field commented that the economic situation and the lack of materials to care, feed and work with this group has affected the motivation of staff working with them. The need for warmth and a human approach to the mentally handicapped is very much apparent. The atmosphere is not conducive to the satisfaction of these needs when medical staff are forced to resort to tying the patients up for control because of the lack of suitable drugs. All this occurs at a time when the incidence of psychiatric illness has increased because of war trauma, among other reasons.

267. The physically handicapped are also experiencing considerable difficulties. With resources dwindling, there is not much room for the material necessary for providing physically handicapped children with the means of contact with the outside world. There are not enough resources to replace books in Braille for the blind. The special schools for mute children are suffering similar cuts. Other important material for live-in institutions that are in short supply are the fuel for heating, as well as bedding and food.

268. Because many of these needs cannot be met, handicapped children and other persons in institutional care are returning to their families for longer periods, during which they cannot receive adequate care.

269. Orphanages and places for the education of children with undesirable behaviour are also suffering from a lack of fuel for heating and tremendous shortages of food. The necessary materials for the appropriate development of children in the case of orphans and for education through activity in the other cases was obvious in several of the institutions visited by the Special Rapporteur's field staff.

270. There are regional differences. A non-governmental organization working in the Federal Republic of Yugoslavia comments: "In Kosovo, many blind people do not even have a white stick, without mentioning the paralysed who do not have a wheelchair or even cushions or mattresses to prevent bedsores and who have to remain in their bed with no change in prospect." Disabled children whose parents have lost their job are in very difficult circumstance; the parents cannot apply for any form of treatment because they are dependent on the social security coverage which is lost with the job. Indeed, for the whole of Kosovo, health care is a problem which has been very much entangled in politics to the detriment of the population.

271. The staff of the Special Rapporteur had the opportunity to see an encouraging example of cooperation in the field of the care and rehabilitation of children. A hospital in Montenegro has managed to obtain funding from international sources and is dedicating itself to the treatment of war injuries, malnutrition, and psychosomatic disorders. It can cover the needs of up to 150 children and is mitigating the physical and mental impairments caused by the war; in that sense it is like an oasis in the desert.

E. Conclusions and recommendations

272. In the context of the present conflict the human rights of children as embodied in the Convention of the Rights of the Child have been completely disregarded.

273. The Special Rapporteur points out that violations of humanitarian law, such as indiscriminate shelling of civilian centres and sniper attacks are quite often directed against children.

274. Refugees and displaced children require a great amount of support in dealing with their situation. All actions intended to provide them with occupational or psychological assistance deserve support.

275. The psychological needs of children in war should continue to receive attention through support for the organization of schooling and education.

276. The plight of adolescents should receive more attention from the international community. Existing programmes for young children should be extended to this age group, which is most at risk from the effects of war.

277. The situation of psychologically and physically disabled children deserve particular assistance from specialized agencies.

278. The right of children to a name and a nationality should be respected by all parties. Abandoned children should be promptly registered and a long-term solution which is in their best interest should be identified. The identification, documentation and tracing of parents of unaccompanied minors should be conducted with the aim of facilitating their reunion.

VIII. PREVIOUS RECOMMENDATIONS OF THE SPECIAL RAPPORTEUR AND THEIR FOLLOW-UP

A. Introductory remarks

279. The tragic conflicts on the territory of the former Yugoslavia have involved human rights violations on a scale unprecedented in Europe since the Second World War. They constitute a very serious test of and challenge to the international system of human rights protection. The Special Rapporteur, from the moment of his appointment, was fully aware that the character of the above-mentioned violations must condition the way the mandate entrusted to him by the Commission on Human Rights was to be implemented. At a very early stage of his activity, in a memorandum to the Secretary General dated 4 September 1992, the Special Rapporteur stated:

"... the mandate should be implemented in a way that leads to concrete and immediate effects, independently of the negotiations concerning the long-term political solution which will determine the future of the former Yugoslavia. For that reason, it is not possible to limit the mandate to the preparation of reports stating facts and expressing opinions which are submitted to the United Nations bodies. The mandate should lead to prompt and concrete measures benefiting populations which are suffering and whose rights being violated".

When formulating his recommendations the Special Rapporteur was convinced that their prompt implementation should have first of all preventive effects.

280. The Special Rapporteur believes that in the context of the conflict which is taking place in the territory of Bosnia and Herzegovina, and, which may expand to other territories of former Yugoslavia, human rights questions cannot be examined separately from the development of the political and military situation in the area. The most fundamental human right - the right to life - of millions of people is at stake. For that reason he felt it necessary to tackle in his recommendations such problems as the mandate of UNPROFOR, disarmament, humanitarian issues etc.

281. The vast majority of the Special Rapporteur's recommendations deal with the situation in the territory of Bosnia and Herzegovina. It should not be forgotten, however, that his mandate also covers four other States. It is necessary to point out that as a general rule the authorities of those countries have offered their full cooperation to the Special Rapporteur. The only exception is the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro). While accepting missions operating within the framework of the Special Rapporteur's mandate, it refused to allow the opening of a

permanent office in Belgrade. Furthermore, the de facto Bosnian Serb authorities have created many obstacles and effectively prevented human rights monitoring on the territories under their control.

282. In the following paragraphs the Special Rapporteur presents to the Commission on Human Rights the main recommendations he has put forward in his previous reports and analyses their follow-up. Some other recommendations, such as those concerning the problem of disappearances and the organization of the field operation, are discussed in other parts of the present report.

B. "Ethnic cleansing"

Recommendation concerning "ethnic cleansing" (E/CN.4/1992/S-1/9, para. 61, 28 August 1992)

283. "Ethnic cleansing" may be equated with a systematic purge of the civilian population based on ethnic criteria, with a view to forcing it to abandon the territories where it lives. That policy was the objective of the whole conflict. The Special Rapporteur was convinced that the international community must do its utmost to stop that policy. To that end he formulated a number of recommendations.

284. The United Nations should not reward the practice of "ethnic cleansing" by allowing territorial gains and the displacement of the population to be consolidated. It therefore must uphold two inviolable principles. First, there must be a right of return to their homes for all refugees and displaced persons. Second, there should be no recognition of any transfer of property acquired by force or made under duress.^{2/}

Follow-up

285. The Security Council in its resolution 779 (1992) of 6 October 1992, (para.5) declared the right of all refugees and displaced persons to return to their homes and that the taking of property by force or under duress is null and void.

286. Also, the Security Council in its resolution 787 (1992) of 6 October 1992 (para.2) reaffirmed that any taking of property by force or any practice of "ethnic cleansing" was unlawful and unacceptable, and would not be permitted to affect the outcome of the negotiations on constitutional arrangements for the Republic of Bosnia and Herzegovina, and insisted that all displaced persons be enabled to return in peace to their former homes.^{3/}

287. The General Assembly, in its resolutions 48/153 of 8 December 1993 referred to "ethnic cleansing" in paragraphs 11 and 25. In the latter paragraph the Assembly urged all States and competent organizations to consider implementation of the recommendations of the Special Rapporteur, including the need for an effective response to the policy of "ethnic cleansing" as perpetrated by Bosnian Serb and Bosnian Croat forces.

288. In a statement to the Security Council on 13 November 1992, Lord Owen said the following:

"Europe knows that, were this flagrant 'ethnic cleansing' to be tolerated, were all its perpetrators to be allowed to escape without being brought to justice, and were its victims not to be helped to return to their homes and land, then we Europeans would pay a terrible price."
(see S/25221, Annex I, para. 4)^{4/}

Comment

289. During the whole period of the Special Rapporteur's mandate the policy of "ethnic cleansing", initiated by the de facto Bosnian Serb authorities, has continued unabated. It is obvious that inadequate reaction to that policy prompted other sides, in particular the de facto Bosnian-Croat authorities to

use the same methods. In his report dated 17 November 1993 (E/CN.4/1994/47) the Special Rapporteur concluded:

"228. The Special Rapporteur has already warned that a prolongation of the conflict in Bosnia and Herzegovina would lead to the commission of atrocities by all sides and the persecution of peoples of every ethnic origin. He is greatly saddened that this situation has now come to pass and unequivocally condemns every violation of international human rights and humanitarian law."

290. Despite repeated assurances by the Security Council, the General Assembly and the International Conference on the Former Yugoslavia (ICFY), that territory taken by force would not be recognized as validly taken, with the collapse of the Vance-Owen Peace Plan, the proposals for partition represent an absolute repudiation of the most basic recommendations of the Special Rapporteur, regarding the right to return and to regain one's property.

291. The Special Rapporteur warned on 17 November 1992 (A/47/666, para. 135) that the repeated assurances of the international community that "ethnic cleansing" would not be tolerated, were meaningless without coercive enforcement of that commitment. Indeed, he reported that the continued practice of "ethnic cleansing" in the former Yugoslavia was predicated upon an assumption by the protagonists of international inaction:

"135. The continuation of 'ethnic cleansing' is a deliberate effort to create a fait accompli in flagrant disregard of international commitments entered into by those who carry out and benefit from 'ethnic cleansing'. The continuation of this policy presumes the inability or unwillingness of the international community to enforce compliance with solemn agreements adopted under the auspices of the United Nations, and thus undermines the credibility and authority of international institutions. The international community cannot allow the London and Geneva agreements to continue to be systematically ignored and violated."

292. This warning has been ignored by the international community and the situation has deteriorated to such an extent that not only has the analysis been proved correct, but the Co-Chairmen of the Steering Committee of ICFY have now been compelled to plan for the partition of Bosnia and Herzegovina and the permanent transfer of population.

293. The Special Rapporteur additionally warned that the progress of events towards partition was clearly identifiable and preventable beforehand. Yet no serious attempt to avoid this outcome was undertaken by the international community. It is worth repeating the observation the Special Rapporteur made on 17 November 1992 (A/47/666, paras. 12 and 13), warning of the partition of Bosnia and Herzegovina:

"12. ... It should be noted that "ethnic cleansing" is not practised exclusively in areas where Serbs form a majority of the population. In some of the cities most strongly affected by Serbian "ethnic cleansing", such as Prijedor, Muslims and Croats were in the majority.

"13. This lends credence to the fear that the ultimate goal may be to incorporate the Serbian-occupied areas of Croatia and Bosnia and Herzegovina into a "Greater Serbia" ... From advocating Serbian control over all areas inhabited by Serbs to expelling the non-Serbian population from such areas is but a small step. Croatian nationalists also bear a share of the responsibility for this extreme position, having practised discrimination against the Serbian population of Croatia, which fuelled Serbs' fears and contributed to their ultra-nationalistic stance."

C. Safe areas in Bosnia and Herzegovina

Recommendation concerning security zones

(E/CN.4/1992/S-1/10, para. 25(b), 27 October 1992)

294. Security zones should be established within Bosnia and Herzegovina for the protection, under United Nations supervision, of the displaced.^{2/}

Follow-up

295. The Security Council in its resolution 787 (1992), of 16 November 1992, (para. 19), invited the Secretary-General in conjunction with the United Nations High Commissioner for Refugees to study the possibility of safe areas for humanitarian purposes. After several months the Security Council, in its resolution 819 (1993) of 16 April 1993, established Srebrenica as a United Nations-protected safe area. Later on, the Security Council, in its resolution 824 (1993), of 6 May 1993 declared that Sarajevo, Tuzla, Zepa, Bihac and Gorazde should be treated as safe areas free from armed attack. In Resolution 836 (1993) of 4 June 1993, the Security Council acting under Chapter VII of the Charter of the United Nations, decided to extend the mandate of UNPROFOR in order to enable it to deter attacks against the safe areas.

Comment

296. The first safe area was not authorized until April 1993, almost six months after the Special Rapporteur had made his recommendation. The safe areas in Bosnia and Herzegovina, Sarajevo in particular, are for the most part drastically overcrowded, short of basic food and medical resources and subject to indiscriminate shelling and military attacks. UNPROFOR has been unable to ensure the safety of those areas. To a large extent they have become "safe" only on paper.

D. Humanitarian aid and assistance

Recommendation to increase international and humanitarian aid
(E/CN.4/1992/S-1/10, para. 25(c), 27 October 1992)

297. There should be an increase in international humanitarian assistance to all persons in the affected areas of Bosnia and Herzegovina, with particular additional support by Governments for UNHCR activities.^{2/*}

Follow-up

298. The Security Council in its resolution 787 (1992) of 16 November 1992 (para.17), called for additional assistance from international donors. The General Assembly, in its resolution 46/242 of 25 August 1992, called upon organs of the United Nations and all international relief agencies to facilitate the return of the displaced people in their homes. And the World Conference on Human Rights in A/Conf/157/L.2 of 21 June 1993, called for immediate humanitarian help for the relief of persons in besieged towns and cities.

Comment

299. While the international relief operation has in general been well funded, occasional shortfall in international aid has led UNHCR to decrease the size of rations distributed Bosnia and Herzegovina.

Recommendations on humanitarian relief corridors
(E/CN.4/1992/S-1/10, para.25(d), 27 October 1992)

300. Priority should be given to opening humanitarian relief corridors in Bosnia and Herzegovina as a means of protecting aid convoys.^{2/*}

Follow-up

301. The Security Council in its resolution 776 (1992) of 14 September 1992 (para.2) authorized the enlargement of UNPROFOR's mandate inter alia for the protection of convoys.

302. In its resolution 787 (1992) of 16 November 1992 (para.18), the Security Council called on all parties to ensure the safe delivery of humanitarian assistance.

303. In its resolution 819 of 16 April 1993 (para. 8), the Security Council demanded the unimpeded delivery of humanitarian assistance to all parts of the Republic of Bosnia and Herzegovina and recalled that such impediments to the delivery of humanitarian assistance constituted a serious violation of international humanitarian law.

304. In resolution 859 (1993) of 24 August 1993 (para.3), the Council demanded the unhindered flow of humanitarian assistance in particular to the "safe areas" in Bosnia and Herzegovina.

Comment

305. Although aid continues to get through by road, there are frequently massive delays at Bosnian Serb and other checkpoints. Considerable difficulties are encountered in penetrating many areas, most notably Maglaj and the Eastern Bosnian Muslim safe areas of Srebrenica, Tuzla, Zepa and Gorazde. Drivers have been killed and aid convoys subjected to attack and harassment. In all his reports the Special Rapporteur has pointed out that the parties did not respect their commitments to respect the safe passage of convoys with humanitarian aid. UNPROFOR was not able to provide an effective protection to these convoys. It is obvious that humanitarian aid has been used as an element in a political game, in particularly by the Bosnian Serbs and Bosnian Croats.

Recommendation on the reunion of families
(E/CN.4/1992/S-1/9, para. 66, 28 August 1992)

306. Special care should be exercised in the treatment of families and their reunion, so as to minimize the effects of separation. In particular the needs of orphans should be given special attention.^{2/*}

Follow-up

307. The Special Rapporteur is not aware of any resolution in which this idea has been pursued.

Comment

308. UNHCR practice has shown a strong awareness of the special needs of broken families and orphans. The parties to the conflict have repeatedly shown complete disregard for the maintenance of contact between family members. Also, the problem of reunification of families whose members are in various countries outside the former Yugoslavia has not been solved.

Recommendation on the provision of havens abroad and temporary refuge by European States
(E/CN.4/1992/S-1/10, para. 25(a), 27 October 1992)

309. There should be temporary provision of havens abroad to protect those most in danger. European States should offer asylum and temporary refuge to as many persons under threat from the conflict in Bosnia and Herzegovina as possible.^{2/}

Follow-up

310. The Special Rapporteur is not aware of any resolution in which this idea has been pursued.

Comment

311. There has been growing resistance in many European States to the acceptance of further refugee flows. Although European States have accepted

refugees and temporary asylum seekers, strong restrictions have gradually been imposed against immigration and refugee movement within Europe.

312. This attitude can be exemplified by the situation which happened after an agreement was reached between the parties in November 1992 to release detainees on condition that they could be placed outside of the former Yugoslavia. However, initially, there was not sufficient support from European States for receiving the detainees and their release was therefore aborted.

E. Prisoners and detainees

Recommendations concerning Red Cross access to detention camps (E/CN.4/1992/S-1/9, para. 64, 28 August 1992)

313. The International Committee of the Red Cross (ICRC) should be granted full access to all detention camps and centres so as to administer aid to prisoners and detainees. This should be regardless of the size of the camp.

Follow-up

314. The Security Council in its resolution 770 (1992) of 13 August 1992 (para.4), demanded unimpeded access to all detention camps for ICRC and other humanitarian agencies for the provision of aid to those interned. See also resolutions of General Assembly 46/242 of 25 August 1992 (para. 9) and 47/147 of 18 December 1992 (para. 11).

Comment

315. Although access has been allowed to many detention camps, there continue to be a considerable number of delays and denials which impede the work of the humanitarian agencies. Conditions in the camps remain deplorable and include summary executions, severe beating, rape and torture, in addition to inadequate food, clothing, shelter and conditions of hygiene.

Recommendation concerning the release of detainees (E/CN.4/1992/S-1/9, para. 65, 28 August 1992)

316. All detainees should be released from the internment camps immediately.^{12/}

Follow-up

317. The Co-chairmen of the Steering Committee of ICFY called for the immediate release of all prisoners (see S/25050, Annex II, January 1993). See also document S/25221, of 2 February 1993 (para.5)

318. And the General Assembly, in its resolution 47/147 of 18 December 1992 (para.12), called upon all parties to close immediately all detention camps not in compliance with the Geneva Conventions and to release immediately all persons arbitrarily or illegally detained.

Comment

319. Some camps have been closed but many thousands of persons remain prisoners or detainees. Furthermore, in contravention of the Fourth Geneva Convention and specific commitments made between the parties themselves, the release of prisoners and civilian detainees has in many cases been made conditional upon the exchange of prisoners (E/CN.4/1992/S-1/9 para. 23, 28 August 1992).

F. Rape victims

Recommendation concerning the Special care of rape victims (E/CN.4/1993/50, para. 269 (I)(d), 10 February 1993)

320. Victims of systematic rape must be given special access to sympathetic medical and psychological care.

Follow-up

321. In its resolution 798 (1992) of 18 December 1992 (paras. 1-5), the Security Council gave its full support to the despatch of a European Council delegation to examine the question of the rape of women in Bosnia and Herzegovina. See also the report of the team of experts on their mission to investigate allegations of rape in the territory of the former Yugoslavia (E/CN.4/1993/50, Annex II, 10 February 1993); Commission resolution 1993/8, of 23 February 1993; Report of the Secretary-General on the rape and abuse of women in the territory of the former Yugoslavia (E/CN.4/1994/5, 30 June 1993).

Comment

322. There has been considerable investigation of the situation with regard to rape. At present an investigation is being carried out by the Commission of Experts. Nevertheless the incidents of rape have been reported with varying intensity during the whole period of the Special Rapporteur's mandate. Many of the recommendations made by the Special Rapporteur have been echoed by the agencies concerned with the rehabilitation of victims of trauma and are reflected in their activities.

G. War Crimes

Recommendation to establish a commission of experts
(E/CN.4/1992/S-1/9, para. 69-70, 28 August 1992)

323. The Special Rapporteur recommended that a commission of experts be established to investigate evidence of breaches of international humanitarian law. ^{11/}

Follow-up

324. The Security Council in its resolution 771 (1992) of 13 August 1992 (paras. 5 and 6), has called upon States to collect and transmit to the Secretary-General, evidence of violations of international humanitarian law. The Security Council, in its resolution 780 (1992) of 6 October 1992 (paras. 1-4), established the Commission of Experts for the purposes suggested by the Special Rapporteur. Security Council resolution 787 (1992) of 16 November 1992 (para. 8) was also adopted on this issue.

Comment

325. The Commission was established and has operated as suggested by the Special Rapporteur. It cannot be claimed, however, that the Commission has always been given adequate financial and organizational support. The structure of the Commission and the means at its disposal have placed limits on its activities. Moreover, the parties are creating various difficulties in order to prevent objective investigation being carried out. The Commission will finish its activities at the end of April 1994. It is indispensable that the material gathered by it is properly used in future investigations of crimes, including war crimes, committed in the territories of the former Yugoslavia.

Recommendation concerning the liability of authorities for war crimes
(E/CN.4/1992/S-1/9, para. 60, 28 August 1992)

326. The United Nations should warn the various authorities in Bosnia and Herzegovina that they may face international prosecution for atrocities which they have committed themselves or atrocities which they have condoned or tolerated. ^{12/}

Follow-up

327. The Security Council in its resolution 787 (1992) of 16 November 1992 (para.7), reaffirmed the individual responsibility of those who violate international humanitarian law.^{13/}

Comment

328. There has been strong international support for the principle of individual responsibility for breaches of international humanitarian law. However, there are various difficulties that may seriously hamper the implementation of any process in that regard. Parties to the conflict, in particular the Bosnian Serbs, consistently reject the concept of international liability.

Recommendation concerning the prosecution of breaches of international humanitarian law

(E/CN.4/1992/S-1/9, para. 60 and 69, 28 August 1992)

329. Violators of international humanitarian law should be prosecuted.^{14/}

Follow-up

330. The Security Council in its resolution 808 (1993) of 22 February 1993 (para.1), decided that an international tribunal should be established for prosecution of persons responsible for serious violations of humanitarian law committed in the territory of the former Yugoslavia since 1991. See also Security Council resolution 827 (1993) of 25 May 1993 (paras. 1-2); Secretary-General's report approved and Tribunal established "for the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia ..."; and General Assembly resolution 48/153 of 20 December 1993 (para.8) and 121 of 18 December 1992 (para.10).

Comment

331. The international tribunal is currently being established. The Special Rapporteur urges that all the necessary support should be offered to it by relevant United Nations bodies and all Member States in order to assure the effective implementation of its mandate.

H. Disarmament

Recommendation concerning withdrawal of heavy weaponry

(E/CN.4/1992/S-1/9, paras. 58-59, 28 August 1992)

332. Heavy weaponry Bosnia and Herzegovina should be placed under the supervision of UNPROFOR or otherwise neutralized. Local authorities should disarm the irregular and civilian forces.^{15/}

Follow-up

333. Agreement was reached as part of ICFY negotiations for the placement of heavy arms (12.7 mm calibre and above) to be placed under UNPROFOR supervision (S/25403 Annex I, 12 March 1993).

334. Following the 5 February shelling incident in Sarajevo, the International Community has taken steps towards the removal of heavy weapons from the outskirts of Sarajevo.

Comment

335. As a result of lack of implementation of this recommendation, heavy weaponry has been constantly used, inter-alia in order to terrorize the civilian population, in particular in Sarajevo. At the time of writing the recent decision has already led to an improvement in the situation.

I. UNPROFOR

Recommendation to the expand Mandate of UNPROFOR to cover all of Bosnia and Herzegovina

(E/CN.4/1992/S-1/9, para. 63, 28 August 1992

336. UNPROFOR's mandate should be expanded to: (i) cover the entire territory of Bosnia and Herzegovina; (ii) collect information on human rights abuses the territory of Bosnia and Herzegovina.

Follow-up

337. The Security Council in its resolution 776 (1992) of 14 September 1992, (para.2) strengthened the mandate of UNPROFOR, including for the protection of released detainees if requested by ICRC, in accordance with the Secretary General's report of 10 September 1992 (S/24540). See also Security Council Resolution 786 1992 of 10 November 1992 (paras. 1 and 5) concerning the strengthening of UNPROFOR and deployment to airfields; 807 (1993) of 19 February (1993) (para.8); and 824 (1993) of 6 May 1993 (para.6)..

Comment

338. There has been a significant increase in the size of the UNPROFOR forces in Bosnia and Herzegovina. In addition, UNPROFOR forces have been placed along the border with the former Yugoslav Republic of Macedonia (Security Council resolution 795 (1992) of 11 December 1992, para. 2-3). However, large areas of Bosnia and Herzegovina remain unsupervised and beyond the protective capabilities of UNPROFOR. The decision to send UNPROFOR forces to Banja Luka was not implemented owing to fierce resistance from the local Bosnian Serb authorities.

339. UNPROFOR has been able to collect various types of evidence concerning human rights violations and violations of humanitarian law. At the early stage of his activities the Special Rapporteur was disappointed by the reluctance, in particular on the part of the civilian branch of UNPROFOR, to cooperate with him and to share information on human rights violations. However, UNPROFOR has considerably increased its cooperation as far as information sharing with the Special Rapporteur is concerned. It also gave full support to the establishment of two field offices of the Centre for Human Rights.

Recommendation that UNPROFOR be given the right to intervene

(E/CN.4/1992/S-1/9, para. 63, 28 August 1992

340. UNPROFOR should have the right to intervene to protect against human rights violations.^{16/}

Follow-up

341. The Security Council in its resolution 781 (1992) of 6 October 1992 (para.1) decided to establish a ban on military flight in the airspace of Bosnia and Herzegovina. In its resolution 816 (1993) of 31 March 1993 (para. 4) the Council authorized all necessary measures to ensure the ban on flights; and resolution (1993) 836 of 4 June 1993 (para.5) the expansion of UNPROFOR's mandate to "deter attacks against the safe areas" and to deter bombardment against them.

Comment

342. UNPROFOR forces have not been effectively empowered to intervene to protect against human rights violations as they occur and have been forced to observe passively many serious breaches of international humanitarian law owing to the inadequacy of their mandate and resources.

J. Human rights in the peace process

Recommendation on coordination with the International Conference on the Former Yugoslavia
(E/CN.4/1992/S-1/9, para. 71, 28 August 1992)

343. There is a need to coordinate international humanitarian and human rights efforts with the activities of ICFY.^{17/}

Follow-up

344. The General Assembly in its resolution 47/147 of 18 December 1992 (para.20) called upon those bodies concerned with the situation in the territory of the former Yugoslavia to coordinate closely with the Special Rapporteur and the Commission of Experts.

- The Co-Chairmen of the Steering Committee of the ICFY acknowledged the continued contact with the Special Rapporteur. S/25221, Annex 1 para. 13, 2 February 1993,

Comment

345. In spite of Special Rapporteur's efforts few meetings were held with the Co-Chairmen of the Steering Committee of ICFY. Meaningful cooperation has never been established. On one or two occasions he was not invited to participate in the meetings of the Steering Committee. He managed, however, to establish channels for the exchange of information with some working groups of ICFY.

Recommendation that parties be judged on their human rights record
(E/CN.4/1993/50, para. 269 (2), 10 February 1993)

346. The credibility of the parties to the conflict should be measured by their proven commitment to the observation of human rights standards. In particular attention should be given to whether the parties release all detainees, allow the establishment of security zones, lift blockades and open humanitarian relief corridors.^{18/}

Implementation and comment

347. Very carefully elaborated and comprehensive provisions for the protection of human rights were included in the constitutional principles agreed by the parties to the conflict. It is obvious, however, that these principles do not appear to have had any lasting effect upon the negotiating process with regards to territorial gain by force and other human rights violations, including breaches of international humanitarian law. The Special Rapporteur requested that human rights concerns should have priority in the peace process, and pointed out that peace negotiations should not have been conducted without ensuring the cessation of massive and gross human rights violations.

K. Additional recommendations

Recommendation that an impartial information agency be established
(E/CN.4/1992/S-1/9, para. 68, 28 August 1992)

348. There is a need to establish a United Nations information agency, to be based in Belgrade, Zagreb and Sarajevo, with guaranteed access to television and radio, so as to counter the biased misinformation produced by partisan news agencies the former Yugoslavia.^{19/}

Follow-up and comment

Rapporteur acknowledges with appreciation the establishment of the Alternative Information Network with the purpose of exchanging articles and information throughout the territory of the former Yugoslavia to prepare the ground for the creation of independent media, and to provide an information service for the media, institutions, and NGOs outside the former Yugoslavia. Their efforts, however, have not been successful in breaking the information blockade existing in the region.

Recommendation concerning support for democratic movements
(A/47/666, para. 146, 17 November 1992)

350. There should be international support for democratically oriented groups in Serbia and other areas of the former Yugoslavia.^{20/}

Follow-up

351. The Special Rapporteur is not aware of any resolution in which this idea has been pursued.

Comment

352. This appears to have been a low priority of the international community following the December election for the Serbian Presidency. The beating and detention of the Serbian opposition leader Vuk Draskovic was indicative of the political conditions in Serbia. The democratic opposition has never received adequate support the peace negotiating process.

Recommendation that human rights monitors be placed in Kosovo, Sandzak and Voivodina
(E/CN.4/1992/S-1/9, para. 62, 28 August 1992)

353. There is a need to create an international monitoring mechanism to observe the human rights situation in Kosovo, Sandzak and Voivodina.^{21/}

Follow-up

354. The Committee of Senior Officials of the Conference on Security and Cooperation in Europe (CSCE) established missions of long duration to monitor human rights conditions in Kosovo, Sandzak and Voivodina. The authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) subsequently withdrew their consent and the missions have ended. In its resolution 844 (1993) of 9 August (paras. 2-3), the Security Council called on the authorities in the Federal Republic of Yugoslavia (Serbia and Montenegro) to reconsider their refusal to allow the continuation of the activities of the CSCE missions.

Recommendation concerning the situation in Sarajevo
(E/CN.4/1994/6 para. 45 (c), (d), 26 August 1993)

355. The following interim steps inter alia must be taken in connection with the dramatic situation in Sarajevo: (a) the central hospital in Sarajevo should be placed immediately under international protection; (b) a speedy evacuation procedure should be created for the seriously wounded and sick.

Follow-up and Comment

356. The problem of medical evacuation has been to a large extent solved. Nevertheless, there is a need to facilitate the process with offers of hospital in Sarajevo places abroad. The Kosevo hospital in Sarajevo has not been placed under UNPROFOR protection and has been shelled on numerous occasions.

L. Concluding observations

357. The Commission on Human Rights in its relevant resolutions has expressed full support for all the recommendations of the Special Rapporteur.

358. The activities of the Special Rapporteur have not been limited to preparation of reports. He has intervened whenever the situation required and has engaged in dialogue with the authorities concerned. The Special Rapporteur decided to concentrate on victims of human rights violations and to contribute to solving the existing crisis. One of his priorities was also to persuade world public opinion of the extent of the human rights drama in the former Yugoslavia. Undoubtedly, as it has been shown above, his reports contributed to the adoption of a number of resolutions by various United Nations bodies. Some of his recommendations have been partly implemented, usually with considerable delay. In that context, mention should be made of the establishment of safe areas - unsatisfactory though they are, the creation of the Commission of Experts and the International Criminal Tribunal and the development of human rights monitoring activities. He has been invited to present his findings at meetings of the Security Council and his reports have been widely distributed. His interventions, in various instances undoubtedly contributed to the improvement of the situation of various persons or groups of persons. He has received an encouraging number of communications from all parts of the former Yugoslavia indicating support for his activities.

359. Nevertheless, he has not been able to achieve his main objectives of offering effective assistance to victims and of reducing the massive scale of the violations of human rights. His failure should be partly attributed to the inherent weakness of the mechanism which he represents. The mandates of Special Rapporteurs are very limited. Consequently his position vis-à-vis other actors, both international and internal, has proved to be rather weak.

360. The conflicts in the former Yugoslavia and in particular in Bosnia and Herzegovina have once again proved that human rights only play a secondary role in the context of international politics. A number of formal steps which have been undertaken may be considered as a substitute or excuse for political inertia. The enormous efforts and sacrifices of the field officers of the various international agencies have not compensated for that policy. The international community has, de facto, tolerated massive violations of human rights and international humanitarian law. Such a policy undermines some of the most fundamental principles upon which international law and the system of human rights protection have been built.

Annex I

FIELD OPERATION

1. In his first report, issued on 28 August 1992, the Special Rapporteur recommended the appointment of field staff in the territory of the former Yugoslavia. Similar recommendations made by the Special Rapporteur are to be found in his reports dated 17 November 1992 (A/47/666, para. 148) and 10 February 1993 (E/CN.4/1993/50, para. 268). Subsequently, the Commission on Human Rights, in its resolution 1993/7 requested the Secretary-General to provide for the appointment of field staff in the territory of the former Yugoslavia to provide first-hand, timely reports on observance or violations of human rights in their area of assignment. The field operation was also endorsed by the General Assembly in its resolution 1993/147 of 18 December 1993.
2. The field operation was established by the Centre for Human Rights in March 1993. Funding is primarily by means of voluntary contributions from governmental and non-governmental sources.
3. The Special Rapporteur requested the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Croatia and the Former Yugoslav Republic of Macedonia for their consent to the establishment of field offices in each State. The federal Republic of Yugoslavia (Serbia and Montenegro) refused permission. Affirmative replies were received from Croatia and from the Former Yugoslav Republic of Macedonia. A field office was established in Zagreb in March 1993 and in Skopje in December 1993. Should the Special Rapporteur's mandate be renewed, and if the security situation permits, it would be envisaged that Governmental permission be sought to open a field office in Bosnia and Herzegovina.
4. The Zagreb office is currently staffed by five Professional officers and one secretary/translator. The Skopje office has one Professional officer and one secretary/translator. These offices service the field operation of the Special Rapporteur throughout the former Yugoslavia.
5. The precise role of field officers is to assist the Special Rapporteur in collecting, verifying and assessing information on human rights violations; alerting him to issues and trends concerning human rights; advising him as to the perceived need for and the appropriate form of urgent intervention; and facilitating his frequent missions to the field. The field officers carry out their responsibilities by means of, inter alia, on-site investigations, interviews with witnesses and victims of alleged human rights violations, maintenance of contact with local, regional, governmental and military authorities, and close cooperation with the various international intergovernmental and non-governmental actors active in the former Yugoslavia.
6. The field officers have conducted a large number of on-site investigations and field missions to various parts of the former Yugoslavia. To date they have conducted the following missions: 12 in Bosnia and Herzegovina, 20 in Croatia (including 12 in the United Nations Protected Areas), 3 in Macedonia and 4 in the Federal Republic of Yugoslavia (Serbia and Montenegro). On a number of occasions the field officers were able to gain access to areas then considered inaccessible by other international actors, such as east Mostar in July 1993 and, in October 1993, the village of Maljine (site of an alleged massacre) and the Stari Vitez muslim pocket within the Bosnian Croat Lasve Valley enclave. In some instances, the field staff have conducted the first international investigations of alleged gross violations of human rights, such as throughout eastern Bosnia during March 1993, at Ahmici in April 1993 and in the Medak pocket during September 1993. In December 1993, the field operation conducted the first international investigation of the situation concerning human rights in the Bihac area.

7. The gathering of testimonies and the interviewing of witnesses has proved an important source of information both as regards particular instances of abuse and patterns of violations of human rights. Such activity is conducted during field missions and at the offices in Zagreb and Skopje.
8. Contact with all levels of local and central governmental authorities, as well as military leaders, serves as an important means of gathering information as to official policy and practices, and facilitates an analysis of the extent of institutional support for the protection of human rights. Enquiries to such authorities concerning particular human rights violations have also occasionally appeared to result in a reversal of the violations concerned.
9. The receipt of information from inter-governmental organizations is of particular significance for the effectiveness of the field operation in that it permits the channelling of large amounts of human rights information which might not otherwise be properly addressed. To assist such bodies in the gathering of human rights information, the Centre for Human Rights has prepared guidelines for reporting on human rights issues. These have been distributed to international organizations operating in the former Yugoslavia. The guidelines have since been largely incorporated into the UNPROFOR standing orders for troops investigating alleged war crimes in Bosnia and Herzegovina.
10. The receipt of information from and dialogue with non-governmental organisations is of the utmost importance. It has, for instance, frequently drawn attention to incidents of alleged human rights violations and prompted the undertaking of field investigations.
11. Other activities of the field operation include the facilitation of missions and activities of United Nations human rights mechanisms other than the Special Rapporteur. Thus, it assisted in the carrying out of missions to the former Yugoslavia on behalf of the Working Group on Disappearances and the Committee on the Elimination of Racial Discrimination. Also, at the invitation of the civil affairs component of UNPROFOR the field office in Zagreb organized a workshop for civil police station heads and other police staff in Sector North. The workshop, which dealt with the law of human rights and human rights monitoring, was a noteworthy instance of interagency cooperation. Finally, the Zagreb office has been able to assist relatives of disappeared persons by translating appropriate United Nations query forms, making them available for completion, and then forwarding them to the Working Group on Disappearances.
12. The Special Rapporteur acknowledges his debt of gratitude to UNPROFOR for the manner in which it assists the field operation in the former Yugoslavia. In particular he notes the provision of accommodation and other services, the facilitation of field missions and the provision of access to the findings of UNPROFOR human rights related investigations. He also draws grateful attention to the working relationship established by the field officers with the European Community Monitoring Missions, The Office of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and other international actors in the area.

- 1/ This article may be contrasted with the coverage of previous incidents of a sensitive nature by Viesnik (see E/CN.4/1994/47, para. 137).
- 2 Similar recommendations made by the Special Rapporteur are to be found in:
 - E/CN.4/1992/S-1/10, paragraph 25 (a), 27 October 1992;
 - A/47/666, paragraph 144, 17 November 1992;
 - E/CN.4/1993/50, paragraph 269 (3), 10 February 1993;
 - Memorandum to the Secretary-General, paragraph 19, 4 September 1992.
- 3/ See other resolutions of the Security Council:
 - 819 (1993) of 16 April 1993, preamble
 - 836 (1993) of 4 June 1993, paragraph 6
 - 859 (1993) of 24 August 1993, paragraph 6 (c)-(d)and of the General Assembly:
 - 46/242 of 25 August 1992, paragraph 8
 - 47/147 of 18 December 1992, paragraph 11
- 4/ See also S/25403 of 12 March 1993, paragraph 4 and S/25479 of 26 March 1993, Annex I.H.
- 5/ Similar recommendations made by the Special Rapporteur are to be found in:
 - A/47/666, paragraph 142, 17 November 1992
 - E/CN.4/1993/50, paragraph 269 (1)(b), 10 February 1993
 - E/CN.4/1994/3, paragraph 94, 5 May 1993.
- 6/ Similar recommendations made by the Special Rapporteur are to be found in:
 - E/CN.4/1993/50, paragraph 269 (1), 10 February 1993
 - E/CN.4/1994/3, paragraph 96, 5 May 1993
 - E/CN.4/1994/47, paragraph 226, 17 November 1993 - "He also urges the international community to respond generously and speedily to the needs of Bosnia and Herzegovina by providing humanitarian aid to the extent and in the forms required. The Special Rapporteur cannot over-emphasize that people will die without international humanitarian assistance".
- 7/ Similar recommendations made by the Special Rapporteur are to be found in:
 - A/47/666, paragraph 145, 17 November 1992
 - E/CN.4/1993/50, paragraph 269 (1)(b), 10 February 1993
 - "The Special Rapporteur accordingly strongly condemns all actions which block, interfere with or in any way delay the distribution of all forms of humanitarian aid."
- 8/ A Similar recommendation made by the Special Rapporteur is to be found in E/CN.4/1993/50, paragraph 269 (1)(d), 10 February 1993.
- 9/ Similar recommendations made by the Special Rapporteur are to be found in:
 - A/47/666, paragraphs 143 and 145, 17 November 1992
 - E/CN.4/1994/3, paragraph 94(c), 5 May 1993
 - E/CN.4/1993/50, paragraph 269 (1)(f), 10 February 1993.

- 10/ Similar recommendations made by the Special Rapporteur are to be found in:
A/47/666, paragraph 143, 17 November 1992
E/CN.4/1993/50, paragraph 269 (1) (a), 10 February 1993
E/CN.4/1994/3, paragraph 94, 5 May 1993
Memorandum to the Secretary-General, paragraph 22, 4 September 1992.
- 11/ Similar recommendations made by the Special Rapporteur are to be found in:
E/CN.4/1993/50, paragraph 269 (4), 10 February 1993
A/47/666, paragraph 140, 17 November 1992
Memorandum to the Secretary-General, paragraph 24, 4 September 1992.
- 12/ Similar recommendation made by the Special Rapporteur is to be found in
E/CN.4/1993/50, paragraph 269 (4).
- 13/ See also the following resolutions of the Security Council:
819 (1993) of 16 April 1993, paragraph 7
820 (1993) of 17 April 1993, paragraph 7
and General Assembly:
46/242 of 25 August 1993, paragraph 7
47/80 of 16 December 1992, paragraph 4
47/147 of 18 December 1992, paragraph 11
and of the World Conference on Human Rights:
A/Conf/157/L.2
- 14/ Similar recommendations made by the Special Rapporteur are to be found in E/CN.4/1994/47, paragraph 230, 17 November 1993: "The Special Rapporteur reiterates his conviction that the perpetrators of violations of human rights and humanitarian law must be held accountable in law and punished. He expects that the international community will do all that is required of it in order to ensure that the International Tribunal to prosecute violations of humanitarian law in the former Yugoslavia can achieve its goals speedily and effectively."
- 15/ A Similar recommendation made by the Special Rapporteur is to be found in his memorandum to the Secretary-General of 4 September 1992, paragraph 18.
- 16/ Similar recommendations made by the Special Rapporteur are to be found in
E/CN.4/1993/50, paragraph 269 (1) (e), 10 February 1993
E/CN.4/1994/3, paragraph 195, 5 May 1993.
Memorandum to the Secretary-General, paragraph 21, 4 September 1992.
- 17/ Similar recommendations made by the Special Rapporteur are to be found in:
E/CN.4/1993/50, paragraph 269, 10 February 1993
Memorandum to the Secretary-General, paragraph 2 (b), 4 September 1992.

- 18/ A Similar recommendation made by the Special Rapporteur is to be found in E/CN.4/1994/3, paragraph 94, 5 May 1993.
- 19/ Similar recommendations made by the Special Rapporteur are to be found in:
A/47/666, paragraph 147, 17 November 1992
Memorandum to the Secretary-General, 4 September 1992, paragraph 17.
- 20/ A Similar recommendation made by the Special Rapporteur is to be found in E/CN.4/1993/50, of 10 February 1993, paragraph 269(1)(g).
- 21/ A Similar recommendation made by the Special Rapporteur is to be found in Memorandum to the Secretary-General, paragraph 20, 4 September 1992.