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Human Rights in Kosovo

January to December 1999

Introduction

The violation of human rights was both the cause and consequence of the conflict in Kosovo. OSCE guiding principles are respect for human rights and fundamental freedoms, democracy and the rule of law as essential components of security. Yugoslav and Serbian security forces² flouted these principles in the first six months of 1999. Escalating human rights violations in Kosovo led to a breakdown in security which in turn produced a human rights and humanitarian catastrophe with violations on a massive scale. The NATO air campaign, which began on 24 March 1999 and concluded in early June 1999, drove Yugoslav and Serbian security forces from Kosovo. During the eleven-week war an estimated 90 per cent of more than 1.45 million Kosovo Albanians were brutally forced out of their homes to neighbouring countries resulting in the worst humanitarian crisis in Europe in over 50 years.

Equal only to the swiftness of their forced expulsion, more than 800,000 Kosovo Albanian refugees flooded back into Kosovo as soon as the war ended and the Yugoslav and Serbian forces withdrew. Upon their return many refugees found the complete destruction of their villages, homes and communities. Throughout Kosovo, villages considered to be sympathetic to the now demilitarized Kosovo Liberation Army (*Ushtria Clirimtare E Kosoves*, UCK/KLA) were systematically cleared and destroyed by Yugoslav and Serb forces. Those returning to Kosovo were often further displaced to overly inflated and ill-equipped cities. In Peć, 55 per cent of which was destroyed and nearly deserted at the end of the war, the population swelled within weeks to more than 102,800 which was a 30 per cent increase over its

1 Sandra Mitchell served as the Head of the Human Rights Division for the OSCE Kosovo Verification Mission, the OSCE Task Forces for Kosovo and the OSCE Mission in Kosovo between December 1998 and April 2000. This summary is compiled from reports and personal notes and the two-volume report on the findings of the human rights missions published by the OSCE in December 1999 entitled "As Seen, As Told Parts I and II". The latter reports are relied on extensively herein and are available in their entirety on the OSCE's website <http://www.osce.org>.

2 This term as used herein refers broadly to the Armed Forces of Yugoslavia (*Vojska Jugoslavije*, VJ); the Ministry of Interior and their special units (*Ministarstvo Unutrasnjih Poslova*, MUP); the State Security Service (*Sluzba Drzavne Bezbednosti*, SDB); and paramilitary groups active in Kosovo. For a more detailed description of the different forces see: As Seen, As Told Part I, cited above (Note 1), pp. 21-30.

pre-war estimate.³ As Kosovo Albanians returned, the minority communities in the Province, particularly Kosovo Serbs and Roma, began their exodus fleeing acts of revenge and retaliations.

Whereas the first six months of 1999 in Kosovo are characterized by gross and atrocious human rights violations committed by Yugoslav and Serb security forces against the ethnic majority, the latter six months of 1999 are remembered for shocking, albeit on a lesser scale, human rights violations against ethnic minorities committed in the presence of international peacekeepers by returning Kosovo Albanians. Throughout these events, the OSCE fielded its largest ever human rights missions to Kosovo. This article attempts to further summarize the over 750 pages of human rights reporting already published by the OSCE in December 1999. A brief description of the different human rights missions in Kosovo during 1999 and an overview of the methodology and field practices used by the missions' Human Rights Division follow. Against this backdrop, the article then endeavours to summarize the human rights situation in Kosovo between January and December 1999.

OSCE Human Rights Field Missions in Kosovo

Between January and December 1999, the OSCE effectively fielded three human rights missions in Kosovo. The OSCE Kosovo Verification Mission (OSCE KVM)⁴ verified humanitarian law and human rights violations throughout Kosovo between November 1998 and March 1999. During this period the OSCE KVM enlarged its staff to more than 1,350 seconded international personnel of which the Human Rights Division comprised approximately 75. The OSCE KVM functioned in a state of armed conflict and was withdrawn from Kosovo amidst a rapidly deteriorating security situation on 20 March 1999. The NATO air campaign against Serbia began four days later on 24 March 1999. After the OSCE KVM was withdrawn, the Mission was scaled down from more than 1,350 international personnel to around 350. The remaining 350 internationals were re-deployed into OSCE Task Forces in Albania and the former Yugoslav Republic of Macedonia (FYROM) to assist in the humanitarian efforts and to continue the documentation of on-going human rights violations occurring in Kosovo. At this time the size of the Human Rights Division doubled to over 150 personnel. During the two phases of its deployment, the OSCE KVM Human Rights Division collected a mass of data on the prevailing human rights situation in Kosovo.

³ Cf. As Seen, As Told Part II, cited above (Note 1), p. 47

⁴ The OSCE Kosovo Verification Mission (OSCE KVM) was established in the "Agreement on the OSCE Kosovo Verification Mission" between the OSCE and the Federal Republic of Yugoslavia (FRY) on 16 October 1999. Under the terms of the Agreement the OSCE KVM was responsible for verifying that all parties in Kosovo complied with UN Security Council Resolution 1199 and the cease-fire. The OSCE KVM Human Rights Division was operational between December 1998 and June 1999

This included hundreds of individual case reports, daily and weekly reports compiled by human rights officers, all of which were removed when the Mission withdrew.

During the humanitarian crisis OSCE KVM human rights officers were deployed to the refugee camps of Albania and FYROM and collected nearly 2,800 victim and direct witness accounts of humanitarian law and human rights abuses from fleeing refugees. The speed with which the OSCE deployed its human rights staff enabled the OSCE to gather comprehensive first-hand information about the gross violations committed by Yugoslav and Serbian forces during the NATO air campaign in Kosovo. When the conflict ended, the OSCE promptly moved its human rights officers back to Kosovo⁵ this time as the pillar within the United Nations Mission in Kosovo (UNMIK) responsible for human rights monitoring. By the end of June the newly formed OSCE Mission in Kosovo (OSCE MIK) had full regional coverage as refugees returned. According to documentation collected by the OSCE MIK Human Rights Division the last six months of 1999 in Kosovo was a period characterized by acts of revenge against minorities and perceived collaborators. Sadly, and despite the presence of nearly 35,000 NATO peacekeepers and thousands of international civil servants, such revenge was committed in a climate of lawlessness and impunity.

Published Analysis of the Human Rights Findings of the OSCE Missions in Kosovo

On 6 December 1999, the OSCE released a two-volume human rights report that offers extensive documentation of violations in Kosovo during the previous twelve months. It was the first time the OSCE published the human rights findings of one of its missions on this scale. The first volume, entitled "As Seen, As Told", contains an analysis of the OSCE KVM findings and covers the period October 1998 to 9 June 1999 when the OSCE KVM was officially withdrawn. The second volume "As Seen, As Told Part II" documents the period of 14 June to 31 October 1999. The latter volume was prepared under

5 The third of the OSCE human rights field operations in Kosovo was established through OSCE Permanent Council (PC) Decision No. 305 of 1 July 1999, following the dissolution of the OSCE Kosovo Verification Mission (KVM) on 9 June 1999. PC Decision 305 determined that OSCE would constitute a distinct component or pillar within the overall framework of the United Nations Interim Administration Mission in Kosovo (UNMIK) and as such derive its legal authority from United Nations Security Council Resolution 1244 (1999). Despite a changeover from KVM to OSCE MIK, the human rights component ascribed to OSCE remained essentially unchanged throughout 1999. OSCE MIK assumed the lead role in matters relating to institution-building, democratization and monitoring, protecting and promoting human rights. OSCE MIK's human rights mandate includes "unhindered access to all parts of Kosovo to investigate human rights abuses and ensure that human rights protection and promotion concerns are addressed through the overall activities of the Mission". See also: Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, S/1999/779, 12 July 1999.

field conditions to complement the OSCE KVM report, which was prepared with the support of the OSCE Office for Democratic Institutions and Human Rights in Warsaw. Together the volumes total over 750 pages and provide an extensive insight into the tragic events that occurred in Kosovo during 1999. The reader is encouraged to review the two volume report in more detail in order to gain a better understanding of the atrocious human rights situation that existed in Kosovo throughout 1999 and the challenges that lay ahead.⁶

Human Rights Monitoring Standards and Methodology

The OSCE human rights field operations in Kosovo utilize international and domestic human rights and humanitarian law standards when monitoring, documenting and investigating allegations of human rights violations and abuses.⁷ The Human Rights Division adopted a methodology consisting of full documentation, strict confidentiality, security protocols, independence in investigations and centralized reporting procedures. The sheer number of human rights allegations received by the OSCE throughout 1999 approached 5,000 rendering it impossible to investigate each one thoroughly. Thus, accurate documentation became an essential component of the division. Standardized forms were used for incident reports, victim/witness statements, as well as missing person reports and related databases were developed. Some 30 categories of possible human rights violations were identified for classification. These included both civil and political rights as well as economic, social and cultural rights. Complaints from direct witnesses or victims of alleged human rights violations were given priority. Human rights officers sought supporting documentation from various sources including medical authorities, corroborating statements from other witnesses, etc. Videotapes of crime scenes, killing sites and mass graves were taken. Human rights officers monitored (and continue to do so) official investigations.

For the OSCE KVM Human Rights Division it was extremely difficult to plan a long-term strategy during the armed conflict and humanitarian crisis.

6 Both reports can be accessed in their entirety through the OSCE website, <http://www.osce.org>.

7 Standards and instruments used include: Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Elimination of All Forms of Discrimination Against Women; Convention on the Rights of the Child; International Convention on the Elimination of All Forms of Racial Discrimination; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Geneva Conventions and Additional Protocols (all UN instruments ratified by the Federal Republic of Yugoslavia); the standards and obligations of the Helsinki Final Act and the Charter of Paris for a New Europe, and applicable law. Although technically some of these standards may be only binding on a state that has ratified the instrument, they are used by the OSCE Human Rights Division for the purpose of human rights monitoring of those who exercise a degree of "effective control" over any part of Kosovo, or who hold themselves out as governmental authorities and provide official services to the population or demand compliance from them.

Instead the OSCE KVM identified core human rights tasks and priorities, which included monitoring/documenting the conduct of the armed forces, police, and investigative judges, allegations of humanitarian law violations (this took on a higher priority after investigators from the International Criminal Tribunal for the former Yugoslavia were prevented from entering Kosovo) and intervening with the Yugoslav and Serb security forces and UCK/KLA on individual cases. In terms of prioritizing which allegations of human rights violations would be investigated, the Human Rights Division focused on the right to life, right to liberty, rights related to detention and fair trials and issues relating to missing persons. During the collection of information in the refugee camps, human rights officers focused on gathering the experiences of victims and direct witnesses to human rights and humanitarian law violations. Efforts were made in the camp to collect information from both genders, all age groups (except children because field personnel were not properly trained to do so) and different socio-economic groups with geographic diversity.

Human rights tasking priorities changed during the post-conflict and reconstruction period that began in June 1999. These priorities included: the treatment of returnees and minorities; the conduct of self-styled authorities; discrimination in the access to vital services and employment; and the documentation of gravesites related to past human rights violations. The OSCE's work relating to minorities was done in close co-operation with the Office of the United Nations High Commissioner for Refugees (UNHCR), the NATO Kosovo Force (KFOR) and other pillars of UNMIK. Information related to mass graves and humanitarian law violations was shared with the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY). Co-ordination and co-operation between international organizations and non-governmental organizations on human rights issues in Kosovo during 1999 were an improvement over earlier experiences in Bosnia and Herzegovina.

Against this backdrop of the methodology used by the OSCE to document human rights abuses, the following is a broad overview of the human rights catastrophe that befell Kosovo in 1999.

January to March 1999

Conditions on the ground during the first three months of 1999 reflected the state of armed conflict that existed. Kosovo during the tenure of the OSCE KVM was a place of war, albeit restrained at times. Nevertheless, Yugoslav armed forces occupied the Province with tanks and heavy war equipment. Yugoslav and Serb security forces restricted the movement of civilians and at times fighting broke out with UCK/KLA forces. The majority of humanitarian law and human rights complaints received by the OSCE KVM involved:

extra-judicial killings, summary executions, disappearances and abductions; incommunicado detention; abuse by the police and security forces; the disproportionate use of force against the civilian population, the destruction of civilian property, pillaging, illegal property evictions; and restricted freedom of movement for Kosovo Albanians. Although the OSCE KVM verified human rights violations, its ability to report and intervene was hampered first by personnel shortages and later by the escalation in military activity ultimately leading to the withdrawal of the Mission on 20 March 1999.⁸

The arbitrary killing of unarmed civilians was a much reported occurrence in the first three months of 1999. There were killings by the Serbian security forces of Kosovo Albanians and killings by the UCK/KLA of Serbs as well as of Kosovo Albanians who were believed to be "collaborators" or sympathizers with the Serbian authorities. Despite a string of shocking massacres in Račak, Rogovo and Rakovina in January and February 1999, the more frequent occurrence in early 1999 were killings on an individual basis. With hindsight the massacres were more indicative of what was to follow in the period from late March to early June. The OSCE KVM dealt with many individual killings which appeared linked to the security crisis, or appeared to follow a given pattern but which could not be attributed to one party or the other. The effect of these very frequent incidents was to heighten fears and tensions in all communities. Events and facts as verified by the OSCE KVM indicated evidence of arbitrary detentions, extra-judicial killings and the mutilation of unarmed civilians by Yugoslav and Serb security forces.⁹

On 15 January 1999, the gravity of the deteriorating human rights situation in Kosovo was felt in Račak, a small village 30 kilometres outside of the Provisional capital of Priština. On that date, 45 Kosovo Albanian civilians were killed, including an 18-year-old woman and a twelve-year-old child. The Račak massacre provoked an international outcry. The killings were seen as a turning point regarding efforts to peacefully resolve the Kosovo conflict, as the international community recognized that human rights violations were at the conflict's core. The Office of the Prosecutor of ICTY was called upon by the OSCE KVM's Head of Mission Ambassador William Walker to investigate the killings. When the ICTY's Chief Prosecutor attempted to enter Kosovo to view the crime scene she was denied entry by Belgrade authorities. In the absence of the ICTY, OSCE KVM human rights officers documented the crime scene, obtained statements from survivors and witnesses and endeavoured to preserve forensic evidence until experts from Finland arrived.

The Račak killings and their aftermath had a major impact on the OSCE Mission insofar as they brought human rights violations firmly to the foreground, necessitating a shift of focus within the Mission towards the Human Rights

8 Cf. ODIHR, Report on the Human Rights Tasks of the KVM - The First 60 Days of the Mission (16 Oct.-15 Dec. 1998), Warsaw, 7 January 1999.

9 Cf. As Seen, As Told Part I, cited above (Note 1), p. 353; OSCE-KVM/HQ, Special Report "Massacre of Civilians in Racak", 17 January 1999.

Division. By mid-2000 it was still not possible to give a final and definitive account of the actual events in Račak on 15 January 1999. The case was under investigation by the Office of the Prosecutor of ICTY which has indicted top Federal Republic of Yugoslavia (FRY) officials including Slobodan Milošević for directing, encouraging or supporting forces of the FRY in committing a mass killing in Račak.¹⁰

Increasingly during the same period, arbitrary arrest and detention, and the violation of the right to a fair trial, were becoming systemized practices in the Serb controlled administration of justice, often resulting in the suppression of Kosovo Albanians' civil and political rights. The OSCE KVM received many complaints concerning torture and ill-treatment from the very beginning of its deployment. Many of these allegations were confirmed by medical records or first-hand evidence. Extensive photographic material exists of wounds and bruises inflicted on persons in police custody.¹¹ It appeared that violence was an essential element of the treatment of persons under arrest or in detention, and was applied as a general means of emphasizing the authority of the police over detainees. It was also used to extort "confessions" of criminal and "terrorist" activities, the signing of self-incriminatory statements, the naming of other suspects or a promise to co-operate in the future.

Systematic and repeated ill-treatment became even more prevalent after the OSCE KVM's withdrawal and the start of the NATO air campaign, with police powers extended significantly by wartime legislative changes in Belgrade. During the air campaign, Yugoslav and Serb security forces used various buildings throughout Kosovo as improvised detention facilities. Reports of torture and ill-treatment at such facilities are widespread. It is alleged that retreating Serb forces took more than 1,900 detainees with them to prisons throughout Serbia. Following the release of some detainees, a prison census conducted by the International Committee of the Red Cross revealed that at the end of 1999 approximately 1,800 Kosovo Albanians remained in Serbian prisons. The conditions of detention in Serbia proper are a serious concern, with widespread reports of ill-treatment and inadequate care. This issue remains one of the most painful and emotional issues for the families of the detained and missing and for international representatives who struggle to obtain their release.

Another priority task of the OSCE KVM while deployed in Kosovo was trial monitoring. Trials of people facing charges relating to "terrorism" or "subversive activity" were far from a new phenomenon in Kosovo. Such trials can be traced back as far as over ten years. The presence of OSCE KVM and other international monitors¹² at trials had some positive effects. According

10 Cf. As Seen, As Told Part I, cited above (Note 1), p. 355.

11 Cf. *ibid.*, pp. 46-47.

12 The Office of the United Nations High Commissioner for Human Rights, Amnesty International, Human Rights Watch, the Commission for Human Rights and Fundamental Freedoms and the Humanitarian Law Center all conducted some trial monitoring in Kosovo.

to some detainees and their families, the presence of an international observer reduced beatings and allowed the detainee some access, albeit limited, to legal counsel. Findings from the OSCE KVM indicate however that a large number of accused persons were convicted in proceedings that fell far short of international fair trial standards. Often physical evidence was scarce in "terrorism" cases, and when it was present, it rarely amounted to more than circumstantial evidence. Convictions were usually based on "confessions" which defendants were rarely able to exclude on the basis that they were obtained under duress or ill-treatment. Trials were conducted in the Serbian language often without translation into Albanian for the defendant. And in most trials monitored by the OSCE KVM, the presence of armed police in the courtroom and building was extensive. The group most at risk during this period and throughout the air campaign, for killings, arbitrary detention and torture were young Kosovo Albanian men of fighting age, every one of them perceived by Serb authorities as a potential "terrorist".

After the killings at Račak, the OSCE KVM's security situation deteriorated along with that of Kosovo's. Yugoslav and Serb security forces increased their presence throughout the Province and began asserting more and more control with a heavy use of force. Throughout this period OSCE KVM documented the tactics and strategies used against the Kosovo Albanians. This included the launch of Yugoslav army "winter exercises" which involved the shelling of villages and the forced expulsion of villagers in Vucitrn municipality in February and March 1999, a military and police offensive in Kacanik in February in which the tactic of burning and destroying civilian homes to clear the area of the UCK/KLA was employed, and a violent crack-down in an Albanian quarter of Priština in early March after the killing of two police officers. These events reveal patterns of grave abuses by Yugoslav and Serbian forces against the civilian population. Such patterns of abuse recurred on a more shocking scale after the withdrawal of the OSCE KVM on 20 March 1999.

OSCE Human Rights Field Missions in Kosovo, March to June 1999

After the OSCE KVM withdrew from Kosovo, the Human Rights Division continued to operate and monitor the human rights situation in Kosovo. Human rights officers collected first-hand information about the situation in Kosovo from refugees who were often victims and direct witnesses to grave human rights and humanitarian law violations prior to, and in the course of fleeing or being expelled to Albania and FYROM. In all, the OSCE KVM conducted 1,111 refugee interviews in Albania and 1,653 in FYROM. The scale on which human rights violations occurred during the eleven-week NATO air campaign is staggering. It has been estimated that more than 1.2 million Kosovo Albanians were displaced during the conflict. The death toll

has yet to be set, but by the end of 1999 thousands remained missing and unaccounted for. Throughout 1999 the OSCE Human Rights Division co-operated with ICTY and assisted in the documentation of graves. In November 1999, when exhumations of mass graves were suspended for the winter, the Chief Prosecutor of ICTY said that forensic teams had exhumed 2,108 bodies from mass graves in Kosovo. In total, however, the Prosecutor said only a third of the 529 reported gravesites were exhumed in 1999, and 11,334 deaths have been reported to ICTY.¹³ Some sites have yet to be discovered.

The violence meted out to Kosovo Albanians during the eleven-week war was extreme and appalling. Human rights findings of the OSCE KVM state that forced expulsion carried out by Yugoslav and Serbian forces took place on a massive scale, with evident strategic planning and in clear violation of the laws and customs of war. Expulsions were often accompanied by deliberate destruction of property, looting, extortion, beatings and killings. Such violations were reported in all areas where Kosovo Albanians lived. The onslaught of these violations could be inflicted on a community with little or no advance notice, with great speed and with great thoroughness. Such experiences were replicated in rural areas all across Kosovo and would be repeated if villagers attempted to return to their homes. Elsewhere, in the towns, Kosovo Albanian communities endured attacks over many days or weeks combining arbitrary violence and abuse with an overall approach that appeared highly organized and systematic. Everywhere attacks against Kosovo Albanians appear to have been dictated by strategy, not by a breakdown in command and control.

Opportunities for extortion of money were a prime motivator for Yugoslav and Serbian perpetrators of human rights and humanitarian law violations. Refugees were often beaten at police and border checkpoints and robbed of their belongings, money and identity documents. Thousands of refugees witnessed Yugoslav and Serb security forces looting houses and loading the goods onto trucks. OSCE monitors witnessed similar actions before the war and at the end of the war by the same security forces. Yugoslav and Serb forces seem to have made a point of destroying buildings of communal value (clinics, printing houses, cafes, schools) as well as religious and cultural sites. Another systematic practice was the contamination of wells and the killing of cattle and livestock in the rural areas.

Rape and other forms of sexual violence were applied sometimes as a weapon of war. Women were placed in positions of great vulnerability, and were specific objects of violence targeted at their gender. There is chilling evidence of the murderous targeting of children, with the aim of terrorizing and punishing adults and communities. Prominent, educated, wealthy or politically or socially active Kosovo Albanians were a prime target for killings.

13 Cf. United Nations, Remarks to the Security Council by Madame Carla Del Ponte, Prosecutor International Criminal Tribunal for the former Yugoslavia, New York, 10 November 1999.

Local staff of the OSCE KVM and others associated with the Mission were harassed or forcibly expelled and some killed. Many refugees also reported that they were used as human shields to protect Yugoslav and Serb forces from NATO attack. This included being forced to accompany the movement of military equipment, or to provide cover when villagers were being expelled.

The conclusions of human rights findings of the OSCE KVM are that clear strategies lay behind the human rights violations committed by Yugoslav and Serbian forces; that paramilitaries and, in some cases, armed civilians committed acts of extreme lawlessness with the tolerance and collusion of military and security forces whose own actions were generally highly organized and systematic; and that the violations inflicted on the Kosovo Albanian population on a massive scale after 20 March were a continuation of actions by Serbian forces that were well-rehearsed, insofar as they were taking place in many locations well before that date. While both parties to the conflict committed human rights violations, there was no balance or equivalence in the nature or scale of those violations - overwhelmingly it was the Kosovo Albanian population who suffered.

June to December 1999

In June, when the war ended, the OSCE quickly re-established its human rights monitoring mechanism and began documenting events from within Kosovo. Within weeks over 800,000 Kosovo Albanians returned to Kosovo where many found destruction, unemployment, and a general state of lawlessness. There was no effective law enforcement or functioning judicial system. The absence of domestic remedies for alleged human rights violations existed throughout 1999. This, coupled with the widely held view that remaining minorities, Kosovo Serbs, and Roma in particular, were collectively guilty for the war crimes and human rights violations of the past, contributed to a continued poor human rights situation.

June, July, August and September in Kosovo were characterized by acts of revenge committed in a climate of lawlessness and impunity. Kosovo Serbs, Roma, Muslim Slavs and others perceived to have collaborated with Yugoslav or Serb security forces, were targeted for killing, expulsion, harassment, intimidation, house burning and abduction. This led to an exodus of these communities from Kosovo. Before the war, Priština and its surrounding villages was home to an estimated 51,000 Kosovo Serbs, by the end of 1999 that number had fallen to less than 600, the majority leaving after the entry of the NATO Kosovo Force.¹⁴ When the OSCE returned to the Gnjilane region of eastern Kosovo on 20 June 1999 only one house in the town had been destroyed. By the end of October 280 houses had been burned or destroyed; 150

14 Cf. As Seen, As Told Part II, cited above (Note1), p. 68.

belonged to Kosovo Serbs and 130 to Roma.¹⁵ In the southern city of Prizren, more than 250 houses were destroyed during the same period, all belonging to minorities. The destruction of the Roma quarter, the rapid development of armed Serb neighbourhood "watches" and the large community of displaced Kosovo Albanians, left the town of Mitrovica a divided and segregated powder keg subject to violent street rioting.

On 23 July in Gračko, a small village south of Priština, 14 Kosovo Serb men between 15 and 60 years of age were shot in the fields they had just harvested. The massacre sent shockwaves across Kosovo. KFOR arrived on the scene moments after shots were fired and found 13 bodies grouped together. The group appeared to have been executed with gunshots to the head. Another body was found 150 meters away. Six farm vehicles belonging to the victims were found at the scene with their engines still running.

Violent grenade attacks against the homes and property of Kosovo Serbs and Roma were also common throughout Kosovo in June, July and August. Fatalities and related destruction often led to an exodus of the entire minority community from the area. In addition to leaving Kosovo, victims of such attacks and their community responded with roadblocks and barricades. While KFOR troops and UN personnel were often allowed through such barricades any other "outsider" was denied entry or travelled at their own peril. Kosovo Serb enclaves quickly formed during this period and in the cities, Roma, Kosovo Serb and other minorities sought protection in their own ethnic ghettos. Arrests of alleged war criminals and the disappearance of 15 Kosovo Serbs and six Roma from Orahovac in central Kosovo created a siege mentality throughout that municipality. Tensions were further heightened in the area and a blockade erected for more than 75 days by the Kosovo Albanians in protest of the proposed deployment of Russian KFOR troops.¹⁶ Hundreds of Kosovo Serbs, Roma and other minorities were reported killed or missing throughout Kosovo during the three months after the war.

While the desire for revenge is only human, the act of revenge itself is not acceptable and must be recorded and addressed. The effects on the Kosovo Albanian population of accumulated discrimination and humiliation over the past decade is documented and cannot be doubted. Neither can it be doubted that the "ethnic cleansing" during the war had a deeply traumatic impact on the Kosovo Albanian community, leaving virtually no family untouched. Given this stark backdrop to the post-war setting, only a strong law enforcement and judicial system could have restrained the climate of vindictiveness that perpetuates violence. The absence of a robust international response to the lawlessness contributed to the revenge and impunity that has pervaded post-war Kosovo. The presence of international police, investigators, prison

15 Cf. *ibid.*, p. 23.

16 Kosovo Albanians in Orahovac believe that during the war Russian mercenaries fought alongside the Yugoslav and Serb security forces that attacked the city and therefore opposed any Russian presence in the city.

officials and international judges during this period would have greatly aided the re-establishment of the rule of law.

In addition to the Kosovo Serbs, other particular victims of violence documented by OSCE MIK in the second half of 1999 were the Roma and Muslim Slavs. Many Kosovo Albanians labelled the Roma as collaborators: Accused of carrying out the dirty work, such as disposing of bodies, they were tainted by association with the regime in Belgrade. Human rights officers documented the decimation of the Roma community in many parts of Kosovo, driven from their homes in fear of their lives. The Muslim Slav community, largely concentrated in the west of Kosovo, may share the same faith as the Kosovo Albanians, but they are separated by language. To be a Serbo-Croat speaker in Kosovo is to be a suspect and can be enough in itself to incite violence. Other non-Albanians that are reported to be victims of human rights violations include the Turks and Croats. One of the most alarming trends documented by human rights officers was the participation of juveniles in human rights violations. Young children, some only ten or twelve years old, harassing, beating and threatening people, especially defenceless elderly Kosovo Serbs, solely because of their ethnicity. With the absence of a juvenile justice system, such children enjoyed *de facto* impunity for their crimes.

A disturbing theme documented at the end of 1999 was the intolerance, unknown before, that emerged within the Kosovo Albanian community. Rights of Kosovo Albanians to freedom of association, expression, thought and religion have all been challenged by other Kosovo Albanians. Opposition to the new order, particularly the (former) UCK's dominance of the self-styled municipal administrations, or simply a perceived lack of commitment to the UCK cause led to intimidation and harassment. A further aspect of inter-Kosovo Albanian intolerance were the challenges made in the Peć area to the rights of Catholic Albanians to express their religion.

Ethnically motivated violence that seemed to run rampant during June, July and August began declining in September and the remainder of the year. The increased presence and deployment of international police and KFOR troops contributed to an obvious improvement of the security situation. By the end of September, however, many of the minorities that remained after the war had left or had moved to enclaves or ghettos. By August, an emergency judicial system set up by UNMIK was moving cases forward. Re-establishing the judiciary in Kosovo however has been one of the greatest challenges for the international community. The basic material needs of running a court were largely absent after the war with damaged buildings and a shortage of equipment and supplies. There remains an insufficient number of judges and prosecutors and minorities refuse to participate because of security concerns. The payment of judges and others working in the judicial system were viewed by those involved as inordinately low with monthly stipends for judges amounting to 300-500 DM per month. OSCE MIK human rights monitors reported allegations of discrimination and bias by Kosovo Albanian

judges and prosecutors in cases involving ethnic minorities. Questions regarding the quality of the legal representation available for ethnic minorities were raised regularly. Confusion over the applicable law also hindered the start-up of the emergency judicial system. At the end of 1999, the absence of effective domestic remedies perpetuated systematic human rights violations affecting all in Kosovo.

Other human rights violations, such as denied access to public services, healthcare, education and employment were used as a tool by both the Kosovo Albanians and the Kosovo Serbs to prevent the integration of traditionally mixed institutions. Restricted access to education, with its long-term implications for the life-chances of those affected; poor healthcare; limited employment opportunities - these are the emerging elements that lock segments of the population into a cycle of poverty and divide communities both on ethnic and on economic grounds. They constitute on-going violations of civil, political, economic, social and cultural rights.

On 19 September 1999, the UCK/KLA officially disbanded and was demilitarized.¹⁷ Many UCK/KLA members applied for positions in the Kosovo Protection Corps (*Trupat e Mbrojtes se Kosoves*, TMK). Pursuant to UNMIK Regulation 8, the TMK is a civilian force with a mandate to provide emergency assistance and community services.¹⁸ The TMK has no legitimate law enforcement or defence mandate¹⁹ nor is it the "army" or the "UCK transformed". One of the more sensitive areas of OSCE MIK human rights reporting was the extent of UCK/KLA and TMK involvement in the abuse of human rights during the period from June to December 1999. Although many incidents in this period were disparate individual acts of revenge, others assumed a more systematic pattern and appear to have been organized. The evidence in part points to a careful targeting of victims and an underlying intention to expel. A consistent reporting feature was UCK/KLA presence and control of most "self styled" authorities that filled the law and order void left at the end of the war. More than 900 allegations of human rights violations were reported to the OSCE MIK in the latter half of 1999. These reports were littered with witness statements testifying to UCK/KLA involvement, both before and after the demilitarization deadline of 19 September ranging from reports of UCK/KLA "police" to accusations of intimidation by self-proclaimed members of the TMK. It is clear that the UCK/KLA stepped in to fill a law and order void, but this "policing" role was unrestrained by law and

17 Cf. United Nations Security Council Resolution No. 1244 and the Undertaking of demilitarisation and transformation by the UCK, signed on 20 June 1999.

18 "The Kosovo Protection Corps shall be established as a civilian emergency service agency, the tasks of which shall be to: (a) provide disaster response services; (b) perform search and rescue; (c) provide a capacity for humanitarian assistance in isolated areas; (d) assist in demining; and (e) contribute to rebuilding infrastructure and communities." Regulation No. 1999/8 On the Establishment of the Kosovo Protection Corps, UNMIK/REG/1999/8, 20 September 1999, para. 1.1.

19 "The Kosovo Protection Corps shall not have any role in law enforcement or the maintenance of law and order." *Ibid.*, para. 1.2.

without legitimacy. In Peć and Prizren, for example, there is compelling evidence that they operated "police stations" and called people in for what they term "informative talks". Undoubtedly, apart from the fact that they disregarded its own mandate, such activity gave the impression that the UCK/KLA or TMK had a legitimate role in law enforcement. This was particularly true in 1999 when UNMIK and local police were not fully operational. Throughout this period the highest levels of the former UCK/KLA leadership and current TMK hierarchy openly denied any connection of their members to the violence that occurred.

Discrimination in economic life and employment was barely restrained in 1999. Personnel shortages and financial shortfalls delayed the establishment of the UNMIK civil administration as was called for in UN Security Council Resolution 1244. Upon their return to Kosovo, local Kosovo Albanian leadership often influenced by the UCK/KLA set up "self-styled" authorities that named "directors" to companies, public utilities, hospitals and schools. In many places such appointments were influenced by corruption and nepotism. While there is much dissatisfaction among the workers because of such appointments, they are usually afraid to talk about it. Job opportunities for minorities in this public sector were nearly non-existent at the end of 1999. Given the pattern of appointments many Kosovo Serbs have not gone back to work. With no income, and no possibility of generating income, the pressure on them and their families to leave will only increase. As the UNMIK civil administration began to take hold such appointments could be reviewed and some changes made. Although there were numerous claims that overstretched UNMIK administrators were merely rubber-stamping the decisions of the self-styled authorities in some municipalities.

Also, in the closing months of 1999, the scope of the organized crime problem began to emerge. OSCE MIK human rights officers reported on the trafficking of women and UN International Police and KFOR increased efforts to combat smuggling, extortion of businesses and "gangster"-like behaviour of some groups. The year ended with KFOR and UNMIK reporting a decrease in ethnic violence and an increase in organized crime. It should be noted however that while organized crime for economic gain is unlikely to recognize ethnic distinctions, putting Kosovo Albanians equally at risk, this development is particularly worrying for ethnic minorities since crime tends to victimize the vulnerable and there is no doubt that ethnic minorities face heightened degrees of vulnerability.²⁰

1999 concluded with an agreement for the co-administration of Kosovo between UNMIK and the three leading Kosovo Albanian political parties. The agreement provided for the establishment of an Interim Administration Council (IAC) comprised of UN and Kosovo Albanian leadership. While the IAC provided for a Kosovo Serb representative the seat remained empty in

20 Cf. UNHCR/OSCE Third Assessment of the Situation of Ethnic Minorities in Kosovo, February 2000, p. 3.

1999 as a Serb protest to the establishment of the structure. In addition, the agreement provided for 14 administrative departments, which provide the public administration with the opportunity to implement the policy guidelines formulated in the IAC. The administrative departments will be jointly led by a Kosovo and an UNMIK Co-Head. In a further effort to foster minority involvement in the administration of Kosovo the Kosovo Transitional Council (a consultative body established after the war) was expanded to be more representative of Kosovo's ethnic composition and planned to include more women. One important pre-condition for the establishment of the joint administration was the dismantling of all self-styled authorities and parallel structures, namely Hashim Thaqi's "Provisional Government" and the "Presidency of the Republic of Kosovo". As far as possible, these structures were to be integrated into the joint administration. It is hoped this will further curb illegal policing and human rights abuses.

Conclusions

Conclusions about the human rights situation in Kosovo after the war must include recognition that deficiencies in the law enforcement capability provided by the international community and the lack of sufficient assistance in the administration of justice fostered the climate in which the human rights violations in the second half of 1999 occurred. Impunity for the acts committed resulted from failures to conduct serious investigations and this impunity, in turn, perpetuated the violence. Additional investigative resources must be ensured, including investigators and forensic teams and the facilities to enable them to function. The legal and judicial framework must be strengthened so that periods of pre-trial detention can be reduced and trials conducted in a timely manner. The infusion of more international police and international judicial experts would greatly assist in ending the cycle of impunity. Continued human rights monitoring by the OSCE and other organizations will assist in identifying on-going abuses and can provide guidance in promoting the protection of human rights in Kosovo. By identifying and denouncing the violations that have been committed to date, we are better positioned to construct a Kosovo that is founded on the principles of respect for human rights and fundamental freedoms.