August 31, 1991

YUGOSLAVIA: HUMAN RIGHTS ABUSES IN THE CROATIAN CONFLICT

Helsinki Watch is gravely concerned about the deteriorating human rights situation in Croatia. Since July, human rights abuses have been committed by the Serbs, the Croats and the Yugoslav People's Army. These abuses include using civilians as human shields, taking hostages, deliberately destroying civilian property, displacing civilians, beating prisoners, shooting at medical vehicles and personnel, firing employees because of their nationality, and failing to vigorously prosecute a killing.

Helsinki Watch calls on all parties to the conflict--Serbs, Croats, and the Yugoslav army--to call a halt to these abuses and to respect their obligations under international humanitarian law.

Introduction

Croatia, one of Yugoslavia's six republics, held its first democratic election in April and May 1990. The Croatian Democratic Union (Hrvatska Demokratska Zajednica--HDZ) won a majority in Parliament and thereafter elected HDZ president Franjo Tudjman president of Croatia. With Tudjman's election Croatian nationalism soared. The new Croatian government resurrected Croatian national symbols (including the traditional Croatian flag and national anthem) which had been banned by Yugoslavia's Communists for 45 years. With the election of Tudjman's HDZ party, many former communist bureaucrats--many of whom were Serbs--were replaced with Tudjman's appointees. A Croatian Interior Ministry strengthened the republican police force, hiring thousands of new recruits, the vast majority of whom were ethnic Croats. In May 1991, a National Guard was formed to serve as the republic's army.

However, with the rise of Croatian nationalism, the Serbs in Croatia became increasingly intolerant of, and frightened by, the new Croatian government, equating it with the puppet fascist government that existed during World War II. In June 1990, Croatia's Serbs demanded cultural autonomy. Tudjman acceded and drafted a plan for cultural autonomy for ethnic Serbs, the largest of Croatia's ethnic minorities. Thereafter, the Serbs demanded political autonomy, including control over local police stations in areas where Serbs constitute a majority; this, however, was unacceptable to the Croatian government. Since then, some Serbs have refused to recognize the new Croatian government or to participate in the Croatian Parliament as an opposition group.

Serbs constitute 11.5 percent (550,000) of the 4.5 million people in Croatia. Of Yugoslavia's 23.5 million people, Serbs (the largest ethnic group) account for 36 percent of the population while Croats (the second largest) account for 20 percent. Throughout 1990, Serbs developed their own institutions of government in some areas where they constitute a majority. In August 1990, in the predominantly Serbian town of Knin (population 15,000), Serbs held a referendum to proclaim an autonomous region, "Krajina." In subsequent months, other Serbian-populated areas of Croatia held similar referendums. These towns also declared themselves to be part of Krajina, now formally called the Independent and Autonomous Region of Krajina (Samostalna Autonomna Oblast Krajina--SAOK). Rejecting Croatian rule, the Serbs created their own institutions of government, including a police force and an army. Throughout Croatia, Serbs erected barricades and checkpoints on roads leading into their villages in an effort to assume control of the region and to prevent the Croatian authorities from exercising their jurisdiction.

Since August 1990, the Serbian protest against the Croatian government has become an armed insurrection. In March 1991, Serbian insurgents occupied the police station in Pakrac and tried to take over the Plitvice National Park in Croatia. In April through July, fighting between Serbian insurgents and Croatian police escalated in frequency and intensity.

Since coming to power, the Croatian government has moved toward greater independence from the Yugoslav federal government. Initially, Croatia advocated the transformation of Yugoslavia from a single federal entity to a union of sovereign states. In 1991, the impetus for complete independence intensified. In February 1991, the governments of Croatia and neighboring Slovenia declared that their respective republican laws took precedence over federal Yugoslav laws. On June 25, 1991, Slovenia and Croatia declared their independence. Since then, battles between Serbs and Croats have become commonplace in Croatia.

Since June 1991, militant Serbs have gone on the offensive to establish military control in areas which have substantial Croatian minorities. Croatian authorities have played a defensive role in most cases and resisted Serbian military advances. Differences between the Serbs and Croats have led to an
escalation in violence against civilians: displacement of thousands of people, abuse of humanitarian personnel, taking of hostages, use of human shields, brutal beatings, discrimination and other abuses.

In many cases, there is evidence pointing to army complicity on the side of the Serbian insurgents. The Yugoslav People's Army (Jugoslavenska Narodna Armija--JNA) was authorized to act as a buffer between the two sides

in order to prevent further bloodshed. However, the JNA, whose officer corps is predominantly Serbian and whose interests lie in the preservation of a Yugoslav state, has continued to intervene in the conflict apparently without authorization from its civilian commander-in-chief, the Yugoslav Presidency. These interventions have had the effect of preserving territorial gains made by the Serbs in Croatia.

This newsletter briefly highlights the main abuses currently being committed by both sides in the conflict in Croatia.[1]

Positions of the Serbs and the Croats

Although contemporary socio-economic and political problems divide the Serbs and Croats, a tumultuous and bloody history has left deep scars on the consciousness of both peoples. During World War II, while Yugoslavia was occupied by the Nazis and Italian fascists, a fierce civil war was waged among Croats, Serbs and communists. The Independent State of Croatia (Nezavisna Drzava Hrvatska--NDH) was a fascist state run by the Nazis and Italian fascists. Under the NDH, Croatian fascists (Ustasa) massacred thousands of Serbs, Jews, Gypsies and others. Similarly, Serbian Cetniks, a group loyal to the Serbian king in exile, massacred thousands of Croats, Muslims and others. The Cetniks advocated the creation of a "Greater Serbia," in which Serbia would annex most of Croatia and all of Macedonia, Montenegro and Bosnia-Hercegovina. Both the Cetniks and the Ustasa were defeated by Marshal Tito's communist partisans. After the war, Tito massacred thousands of civilians as part of a campaign to purge all "enemy elements" in the new-found communist Yugoslavia.

The atrocities committed during World War II have left bitter memories in both Serbs and Croats. Indeed, the war continues to be a subject of constant debate; memories of the war are among the many obstacles blocking reconciliation. Both sides stress that the current conflict is not an ethnic conflict but the result of rabid nationalist activities by the opposite side. Each is willing to believe gruesome tales of atrocities committed by the other, but such stories can rarely be substantiated. The Serbian and Croatian press exaggerate and often misrepresent the news, exacerbating the fears of both Serbs and Croats.

The Serbian Position

Serbs living in Croatia feel threatened by the resurrection of Croatian nationalism--both within the Croatian government and among the general populace. The Serbs claim that such fervent nationalism is a prelude to the resurrection of the World War II Nazi puppet state under which thousands of Serbs were killed. They believe that an independent Croatia would be a fascist state. They particularly object to the strengthening of the police force and the formation of the National Guard, which in their view are Croatian instruments of terror to be used against the Serbian population in Croatia. They do not want
to live in areas where the traditional Croatian flag flies, claiming that thousands of Serbs were massacred under that flag during World War II. They view traditional Croatian songs as fascist, anti-Serbian and anti-Yugoslav.

The Serbs, 11.5 percent of Croatia's population, do not want to be labeled as an ethnic minority in Croatia. They fear that, as an ethnic minority, they would be treated as second class citizens. In particular, the Serbs vehemently oppose the new Croatian constitution of December 1990 and its preamble which states that "...the Republic of Croatia

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[1] This newsletter documents violations investigated by Jemera Rone, Counsel to Human Rights Watch, and Ivana Nizich, Consultant to Helsinki Watch, during a mission to Yugoslavia from July 23 to August 14. Elliot Schrage, a New York attorney, participated in the mission from July 24 to August 1.

is comprised as the national state of the Croatian people and all minorities who are citizens of Croatia, including Serbs, Muslims, Slovenes, Czechs, Slovaks, Italians, Hungarians, Jews and others, for whom equality with those citizens of Croatian nationality is guaranteed, as is the realization of national rights in accordance with the democratic norms of the United Nations and all countries in the democratic world." The Serbs reject their relegation to minority status and have demanded that the preamble read as follows: "...the Republic of Croatia is comprised as the national state of the Croatian and Serbian peoples and all other nationalities and minorities who are citizens of Croatia, including Muslims, Slovenes, Czechs, Slovaks, Italians, Hungarians, Jews and others." According to the Serbs, such language would guarantee them equal status as a nationality.

Some Serbs claim that the Serbian people have contributed much to the freedom of the Croats because the Serbs "liberated" the Croats from the horrors of fascism during World War II. As "liberators," the Serbs believe that the Croats are indebted to them and that the relegation of Serbs to a minority status denigrates their contribution to Croatian society.

The Serbs claim to have been persecuted since the new Croatian government came to power. They claim that they do not have the right to use their Cyrillic alphabet and language throughout Croatia; they reject Croatian as the official language of Croatia and ask that both the Latin and Cyrillic alphabets be used throughout the republic, not just at the local level. While conceding that they held a disproportionate number of high-level positions while Croatia was under communist rule, they assert that they are now being dismissed from their jobs because of their national origin. Many Serbs have quit the Croatian police force and others claim that they were pressured to leave. Under the communist regime, Serbs made up the vast majority of the Croatian police force. Now they comprise less than 25 percent. Indeed, many Serbian police officers have joined the Krajina police force and insurgent army. Serbs also complain of ethnic harassment on the job and of being required to sign loyalty oaths to the Croatian government in the work place. Others claim that the Croatian government wants to create an "ethnically pure" state and, therefore, is trying to drive the Serbs from Croatia.

Politically, Serbs in Croatia and elsewhere call for the preservation of Yugoslavia as a strong federal state. The Serbs in Croatia have declared that they will secede from Croatia if Croatia secedes from Yugoslavia, and that they will take large areas of Croatia's land with them. The position of many Serbian insurgents is: "If the Croats want to secede from Yugoslavia, good riddance to them. But if they secede, they will not take one Serb, or any land on which a Serb lives, with them." Other Serbs have called for a "Greater Serbia," in which Serbia would rule all of present-day Yugoslavia, except for Zagreb (the Croatian capital) and its environs, and Slovenia.

The Croatian Position

The Croats seem bewildered by Serbian fears of the resurrection of Nazism in Croatia. "If we've lived together for forty-five years, why can't we do so now? What do we have to gain from killing thousands of Serbs who were our neighbors until yesterday?" is a frequent refrain among Croats. The Croats point to their December 1990 constitution which guarantees equal civil and political rights to all ethnic minorities. They note Article XXI of the Constitution, which expressly grants the right of the Serbian population to use both the Latin and Cyrillic alphabets in areas where Serbs constitute a majority.

Many Croats believe that the current Serbian insurrection is the creation of the federal government in Belgrade, whose aim is to bring about the fall of the Croatian government and to re-instate Serbian and communist control over its territory. They believe that Slobodan Milosevic, the president of the Republic of Serbia, is manipulating the cause of human rights to achieve an "imperialist" goal. A frequently cited example is Kosovo, where the Serbian government justified its repression of the majority ethnic Albanian population and suspension of Albania's political rights on the basis of purported human rights abuses by Albanians against local Serbs and Montenegrins.

Many Croats explain the resurrection of Croatian nationalism in the past year as a reaction to forty-five years of communist repression and Serbian hegemony. The Croats are particularly bitter about Tito's crackdown against nationalist Croats who called for greater autonomy from the central government in the early 1970s. They also feel that although they constituted a majority in their own republic, they had little control over their own fate and that Croatia was in fact a vassal of Belgrade. They say that Serbs held a disproportionate number of high-level government and commercial positions in Croatia during the previous communist regime, partially because the Serbs joined the League of Communists[2] in far greater numbers than did the Croats.

Many Croatian government officials have insisted that the current Serbian insurgency involves only a fraction of the Serbian population in Croatia. They claim that only 24 percent of the Serbs in Croatia live in areas controlled by the insurgents while the remaining 76 percent live side-by-side with Croats and are active participants in Croatia's political, cultural and professional communities. According to the Ministry of the Interior, of the 550,000 Serbs living in Croatia, only 10,000 to 15,000 have joined the insurgency.

The Croats do not regard the current fighting as an inter-ethnic conflict; they view it as a conflict between democratic forces that were legitimately elected and old-guard communist forces fearful of losing their privileges under a new regime. Croats assert that their democratically-elected government represents the forces of democracy, free market economics and restored Croatian pride. The vast majority of Croats support the present government and Croatian independence.

Conversely, many Croats consider the Serbian government of Slobodan Milosevic to be the real cause of the Serbian insurrection. Croats fear that Milosevic wants to preserve communist rule in Yugoslavia and to create a "Greater Serbia." For these reasons, Croats believe that Milosevic waved the banner of Serbian nationalism and planted the seed of fear of persecution among Croatia's Serbs through his propaganda, amplified by the Serbian media, claiming that an independent Croatia would be a reincarnation of the Nazi puppet state. Moreover, the Croats accuse the Serbian government and the Yugoslav People's Army of materially aiding the Serbian insurgents in Croatia with weapons, ammunition, fuel, and monetary support.

Croats are particularly angry at the JNA, which they view as a Serbian, rather than a Yugoslav, army. Croats claim that by acting as a "buffer" between the insurgents and the Croatian police, the JNA has in fact prevented the legitimate Croatian government from regaining control over territory it lost to the Serbian insurgents. They claim that the JNA supplies the Serbian insurgents with advanced weaponry and intelligence and provides them sanctuary and reinforcements when it appears that Serbian insurgents are losing a battle to the Croatian police and National Guard. The Croats claim that the JNA is now a party to the conflict. They accuse the army not only of actively fighting on the side of the Serbian insurgents but also of unilaterally assaulting Croatian security forces and innocent civilians.

International Law

Protocol II of 1977 to the 1949 Geneva Conventions governs the conduct of internal armed conflicts. Yugoslavia has ratified Protocol II. Its provisions apply not only to the conduct of the federal army but also to the republican armies and police forces that participate in hostilities, such as the Croatian National Guard and the Croatian police.

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[2] The official name for Yugoslavia's former ruling communist party.

The provisions of Protocol II apply equally to the conduct of the Serbian insurgents, regardless of their legal capacity to ratify the Protocol, because they qualify under Protocol II, Article 1 as "dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of ... territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol."

The Serbian resistance to the Croatian government is well-organized and well-armed. It extends to three different regions of Croatia, 1) the so-called "Krajina" region of eastern Dalmatia and Lika, 2) Banija and 3) Slavonija and Baranja. The Krajina region has been under Serbian control since mid-August 1990. Within a period of two months (June-August 1991), Serbian insurgents took over government buildings and gained substantial territory by force in Slavonija, Baranja, and Banija.

A Serbian-run government parallel to the Croatian government has existed since August 1990 in Krajina. The Serbian command thus is sufficiently well-organized and controls sufficient territory in Croatia to be held responsible for the conduct of Serbian combatants. This is true regardless of whether, as Croatian officials uniformly allege, they are funded and controlled by the government of the Republic of Serbia and receive arms from the Yugoslav Army.

Both Croatian and Serbian villagers set up armed patrols to protect their communities from attack from the opposite side. Both sides consistently refer to combatants who are villagers as "civilians," although when asked they concede that the "civilians" are armed, but only with "pistols and hunting rifles," and that they are only "defending the village."

Under the rules of war, those actively participating in hostilities lose their civilian status and become combatants during the period of their combat participation, which includes defensive, as well as offensive action.

Human Rights and Humanitarian Law Abuses

Human Shields

International humanitarian law forbids the use of human shields in warfare. "The presence of civilians...shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favor or impede military operations." (See Protocol I, Article 51 (7), to the 1949 Geneva Conventions.)

On July 26, Serbs organized an offensive from the town of Dvor (85.6 percent Serbian)[3] to dislodge the Croatian police in the village of Kozibrod (predominantly Croatian). En route to Kozibrod, the Serbs captured 30 to 50 villagers, including women and handicapped and elderly persons, from the Croatian villages of Struga and Zamlaca. The insurgents forced their captives to walk in a long column, shoulder-to-shoulder, with their hands held high, in front of the advancing Serbian insurgents. The villagers were used as human shields for approximately six hours until a village defender threw a hand grenade and the captured civilians scattered. One of the hostages, a 75-year-old woman, was killed. According to hostages interviewed a week after the assault, their houses were ransacked and robbed by the Serbian insurgents and several hostages were beaten, including a 20-year-old woman who lost three teeth. In addition, in front of the hostages, Serbian rebels abused and humiliated three Croatian police officers who surrendered, and then forced them to run, shooting and killing all three.

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[3] An effort will be made to identify the ethnic make-up of each area throughout this report. The figures cited reflect the results of Yugoslavia's April 1991 census or witnesses' recollections of their villages' demography. (Official census results were excerpted from "Popis Stanovnistva, Domacinstva, Stanova, i Poljoprivrednih Gospodarstvo u 1991. Godini; Pucanstvo Republike Hrvatske po Nacionalnom Sastavu, Vjerskoj Pripadnosti i Materinskom Jeziku," Zagreb: Republickog Zavoda za Statistiku Republike Hrvatske, Broj 21.4, 19.07.1991.)

One month before the attack, the Serbs in Dvor had erected barricades to control entrance and exit from their town. In response, the villagers in Struga had done the same, fearing a Serbian attack. On July 26, at approximately 9:30 a.m., the Serbs started to mortar Struga for 90 minutes and then proceeded to enter the village of Zamlaca, which is situated between Dvor and Struga. According to witnesses, two Serbs were manning light artillery on a truck. The Serbian insurgents entered each house, ransacked the premises and dragged the occupants out to the street. Helsinki Watch interviewed a woman and her daughter, both of whom had been used as human shields, as was their 75-year-old grandmother, who later was killed in the fighting. The mother described the assault on Zamlaca:

> The Serbs started pulling people out of the houses and lining them up as a buffer zone. People were taken at random; some managed to escape. Others hiding in the houses were not found when the Serbs searched them. . . The Serbs opened fire on our house and we ran out, scared.

The daughter added:

> We captured civilians were made to walk with our hands lifted in the air. We were not allowed to look back: we could only look straight ahead. We were made to stand in a long line, a phalanx, shoulder to shoulder, like cattle. Some 50 civilians, men and women, were rounded up in Zamlaca and made to walk toward Struga; we were used as human shields. The civilians included young and old women, including my 75-year-old grandmother and a mentally retarded woman who they refused to let go. We in the phalanx walked ahead with two Serbs pointing automatic weapons at us from behind. Behind those two, the truck with the artillery was being driven. Behind the truck were armed Serbs, I do not know how many. It looked like quite a lot.
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> It took us six hours to get through Zamlaca and halfway into Struga because they stopped in front of each Croatian house in Zamlaca and shot it up, forcing people to come out, then harassing them and making them join the line-up. This took a long time. We kept our hands above our heads the whole time and were not given food or water. We were not allowed to sit down.

During the assault, the Serbian insurgents beat their captives, including two women, cousins aged 19 and 20. The witnesses recounted the beatings:

> Visnja Blazevic was wearing a crucifix which they made her take off and throw to the floor. Then they demanded that she stomp on it. They beat her on the arms with rifle butts and now she has difficulty moving her fingers. I think her nerves have been damaged.
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> After they beat Visnja, they turned to the other girl, Milita Blazevic. Her brother was one of the men defending Struga and he had oil for a gun in their house. When the Serbs found the oil, they took her out of the column. They beat her because they found the gun oil in her house. We did not see the beating because we were not allowed to turn around, but we heard her screaming. Then they sent her back to the column. She was black and blue, her mouth was swollen and she could barely walk. They beat others as well during this ordeal.

Two young Croatian men (aged 23 and 27), on patrol in Struga at the time of the assault, confirmed the mother's and the daughter's stories:

> During the time they were taking hostages in Zamlaca, Struga was being attacked from the forest and we could not see what was happening in Zamlaca. However, when they entered Struga, we saw that they had captured people to use as human shields. They put the people in front of the truck, making them march ahead. There were about 30-40 people; I think 37 in all. They filled up the entire width of the street. They had their hands up in the air, although many had been beaten and could not keep their hands up.

> We [in Struga] did not know what to do. Some of our relatives were captured and used as shields. My mother and his sister [referring to his friend] were being used as shields. We could not shoot at our families. We retreated to the center of the village so we could consolidate our forces.

Both the mother and the daughter interviewed by Helsinki Watch claimed that they knew many of their assailants. They recounted the names of ten Serbs they recognized guarding, beating and harassing them that day. According to the hostages, after the Serbs finished beating the two women, one of the Serbs found three Croatian police officers in a house in Struga. According to the daughter, the Serbs

> made the Croatian police officers get down on their hands and knees while they rode on their backs. Then they made the three captives strip down to their underwear and told them to run. While they were running, they shot them and hit them. Then they laughed and said, "You see, we had to shoot. They were trying to escape!" After they were wounded, the Serbs shot at them again. They made us move on and we did not see the rest.

The two men defending Struga saw part of this ordeal as well:

> The Serbs encircled the house where three Croatian police officers were on the roof. These three saw that they did not stand a chance since they were vastly outnumbered. They went downstairs and surrendered. I saw the three police officers running through the fields. They [the Serbs] shot and killed them. We know the names of the dead police officers. They were all between 21 and 26 years old.

According to the witnesses and captives, the Serbian insurgents were shooting at houses and over the heads of the civilian shields. They received no return fire during this entire period. When the insurgents entered Struga, they continued their pillaging; a civilian, Manda Ulakovic, was shot in the shoulder.

The 23-year-old Struga defender continued to recount the advance into Struga:

> The Cetniks[4] continued their advance through the village, dragging women and children out of their homes, stopping to smash up houses and cars. Behind them, I saw cars and trucks that were carrying out televisions and other items from the houses.

As the Serbs advanced through Struga, they passed a wall behind which were hidden a Croatian police officer and a civilian from Struga. The 23-year-old continued:

> After the hostages passed the wall, the police officer and the villager jumped out from behind the wall and threw a grenade at the truck with the artillery. The hostages ran into the ravines and the Serbs shot at them but missed. The Croatian police opened fire after the hostages began running away and anarchy resulted.

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[4] During World War II, the Cetniks were a band of Serbian extremists engaged in the civil war against both the Ustasa and the communist partisans. The Croats commonly refer to the current Serbian insurgents as Cetniks because they equate their current actions with those committed against Croats and Muslims during World War II. Some of the Serbian insurgents Helsinki Watch interviewed vehemently reject the label of "Cetnik," claiming they are merely defenders of their land and not extremists. Others speak with praise of Vojislav Seselj, leader of the right-wing Serbian Cetnik Movement, which is gaining adherents, particularly among the young, in Serbia.

The villager who threw the grenade had three more grenades strapped around his waist and they exploded on his body. Both he and the police officer were killed. The mother and the daughter who had been used as human shields told Helsinki Watch that the villager had saved their lives. "The villager sacrificed himself for us. He was 37 years old with a wife and two children. The police officer who sacrificed himself was Zeljko Filipovic, a Serb. Both were very brave."

As the gunfight between the Croats and Serbs ensued, the 75-year-old grandmother was badly wounded in the leg. However, given the ferocity of the battle, no one could come to her aid and she died about one hour later, having bled to death. After about ninety minutes of fighting, the army intervened. The 23-year-old defender described the army's actions:

> The army had a post close to the village. Our side did not call the army in. It is quite ironic that the army did not intervene when the Serbs were pillaging the villages and using people as human shields but did get involved when it appeared that the Serbs were losing the fight to the Croats in Struga. Where was the army when they [the Serbian insurgents] were taking the civilians?

The Zamlaca villagers spent the night in Struga and returned to their village the next day to look at their homes.

> We found that everything had been wrecked; the door was broken, the windows were shattered, the mattresses and pillows on the couch were ripped, there were holes in the wall, the telephone and television were smashed and even the bird cage was destroyed and the birds were killed.
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> My neighbor came to tell me that my husband had been killed. People who managed to escape capture in the village spent the night in hiding in Zamlaca. At one point, they heard my husband say "You're not going to fire at me?" and then they heard shots. We think he knew his attacker.

The villagers believe that when the Serbs retreated from Struga to Dvor, passing Zamlaca en route, they killed one man and took five men and one child hostage. The whereabouts of the six were unknown at the time of our interview. The villagers returned to Struga but fled to Red Cross shelters shortly thereafter. The mother told Helsinki Watch what happened after they returned to Struga:

> The army took all our weapons and went off into the hills to negotiate with the bandits. They did not show us any compassion or offer any help, so we were afraid. Why were they constantly negotiating with the bandits if they were supposed to be protecting us? The army told us "If we hear one gunshot from within Struga, we will destroy the village." We left out of fear.

The mother added emphatically, "The Serbs are not refugees. They are fleeing to safety before they pick a fight. We are the refugees."

Taking of Hostages

Protocol II, Article 4 (2)(c) strictly forbids the taking of hostages. Hostages are defined by the International Committee of the Red Cross in its commentary on this article as "persons who are in the power of a party to the conflict or its agent, willingly or unwillingly, and who answer with their freedom, their physical integrity or their life for the execution of orders given by those in whose hands they have fallen, or for any hostile acts committed against them."[5]

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[5] Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949. International Committee of

Three categories of hostages are being held by the Serbs. The first is those captured after combat, such as the 16 Croatian police officers who surrendered when their police station in Glina was overrun by Serbian rebels on June 26. They were told they were being held for exchange. They were all taken to the Knin jail, where beatings administered to them and other prisoners, including electric shock, ceased a week before our visit, after complaints to the International Committee of the Red Cross.[6]

The second category of hostages is those captured at home or at insurgent checkpoints, including unarmed civilians and off-duty police officers.

The third category of hostages is those Croats who are not held in any jail but who are not permitted to leave old Tenja in Slavonija. At the time of Helsinki Watch's visit, these included elderly people and one Catholic priest. There may be 30 to 50 people who want to leave but have been refused permission by the Serbian insurgents. Some Croats living in old Tenja apparently remain voluntarily.

Prisoners Held for Exchange

As of August 12, 51 Croats were held in the Knin jail for exchange (some of whom were released the next day), and as of July 27, 13 were held in Borovo Selo, in Slavonija. During the July 26-29 fighting in the Banija region of Croatia, some 15 prisoners were held in a mountain base, all of whom were released (some in exchanges) by July 31. Others may be held in other locations. Although almost all Croatian hostages were exchanged for imprisoned Serbian insurgents between August 10 and 15, the insurgents resumed taking hostages almost immediately afterwards.

Judge Dozet, the criminal court judge of Knin, told Helsinki Watch on August 12 that none of the 51 prisoners held in the Knin jail had been charged with a crime, nor did they have defense attorneys. The judge said that because of the confused political situation in Krajina the Knin government is in the

process of expanding its court and deciding what law to apply, whether Croatian, Serbian or federal Yugoslav statutes. Helsinki Watch regards this as a pretext.

The Croatian prisoners held by the Serbs in Knin are, in most cases, treated as prisoners of war by their captors, with regular access to them by the International Committee of the Red Cross and Helsinki Watch. The Geneva Convention makes detailed provisions for prisoners of war in international armed conflict. But humanitarian law does not recognize such a status in an internal armed conflict, and the government is free to arrest and try rebels for common crimes who would be immune from prosecution if they were involved in an international armed conflict. Thus, the killing of combatants by rebels in the course of conflict is still murder under domestic law.

On the other side, Croatian authorities have not waived their right to try Serbian detainees as common criminals. They protest that there is a big difference between people held hostage by insurgents and persons held in regularly constituted jails in Croatia charged with violations of the criminal code and protected by all due process guarantees (none of which have been suspended). Their willingness to participate in these exchanges makes it likely, however, that the Serbs will continue to capture Croats for purposes of exchange.

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the Red Cross. Geneva: Cz Nijhoff Publishers 1987.

[6] Helsinki Watch interviewed some of the Knin prisoners privately in jail on August 12 and a prisoner released from Borovo Selo on July 30.

Hostages Confined in Old Tenja

Between 30 and 50 Croatian residents living in old Tenja, in Slavonija, want to leave the Serbian-controlled town but are not permitted to do so by the Serbs. They have been told that they are being held as hostages. At the time of our visit, the insurgents were holding hostage a Catholic priest, Tomislav Cvenic.[7] During Helsinki Watch's interview, the chief of police of Knin, capital of the SAO Krajina, and insurgents in old Tenja in Slavonija openly admitted that they have taken persons captive in order to exchange them for Serbs held in jail in Croatia. They also informed the prisoners that they are being held for exchange.

Tenja, a village of 8,500, six kilometers from the district capital of Osijek, is divided into two sections, the old and new sectors. New Tenja's 35 percent Croatian population evacuated the village in haste on June 29-30 after violence escalated. Some Croats living in predominantly Serbian old Tenja were prevented from leaving because the Serbs had set up barricades to defend against an anticipated attack. The attack came on July 7 from a combined force of Croatian police and National Guard and lasted five hours until the army intervened.[8] In the current stalemate, new Tenja remains uninhabited, separated by a one-and-a-half kilometer stretch of no-man's land from old Tenja, a garrison town with only defenders and support personnel. All of the children have been evacuated. Sporadic fighting continues from behind barricades on both sides, with casualties.

Old Tenja is isolated by mutual barricades only from Croatian-controlled territory. Serbs come and go by car through Serbian-controlled villages to the Republic of Serbia across the Danube, where we interviewed displaced persons who had taken this route before and after fighting broke out in their communities.

According to several different sources, Croats asked the Osijek chapter of the Red Cross to help their trapped relatives leave old Tenja. The Red Cross was allowed to contact many of these people on July 17, but the action was terminated by the Serbian insurgents and the Red Cross had to leave without without taking with them any Croats who wanted to be evacuated.

Helsinki Watch visited old Tenja on July 29, escorted everywhere by insurgent officials. Among other things, we asked and were permitted to interview, in private, the Catholic priest remaining in town, a Croat. The priest, Father Tomislav Cvenic, said:

> Those who wanted to leave have not been able to leave. I am sure you know this. They will not let me leave. My mother was living here and she is diabetic. The first time the Red Cross came [on July 10], they evacuated my mother. I thought that I could leave at the same time and that is when they told me that I was being held hostage.
>
> After the Red Cross arrived, I went out on the street. They had a gun. Then they told me, "Pastor, go back in the house." I could not leave. It was clear to me that I was a hostage. "We're not really savages," they told me. "Fine, then let me go. There's no point in me staying, all my parishioners have left," I said. "That might be true, but we have to use you as a hostage." Those were their exact words. They did not tell me why they were holding me hostage. I think that they are waiting for a situation to come up so that they can use me if they need me.

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[7] Cvenic was released on August 15.

[8] The army did not side with the elected republican government of Croatia to defeat an armed challenge to its authority but positioned itself between the two forces.

According to the priest, on the second visit of the Red Cross the local Serbian command accompanied the Red Cross on its interviews of those Croats who wanted to leave. "About 20 to 30 people got in the Red Cross bus to go. There was some misunderstanding and the Red Cross effort was cut off. No one left."

The priest has not been physically mistreated and neighbors bring him food.

> Their relations with me have been quite good. There has been no harassment. But they will not let me go anywhere. They do not say I am under house arrest but none of us can go outside because we are afraid of being shot because we are of the wrong ethnic group. All the Croatian phones except for mine have been taken away by the local Serbian command. All I can do is call Osijek. The command told me that my telephone would be take away soon.

He does not say mass at the church because all his parishioners are too afraid to attend.[9] "We cannot walk on the streets. We are afraid because all of them are armed. Since July 1, I have not been out of this house at all."

The Serbian spokesperson, a military advisor nicknamed "Djilas," said that they did not release the priest and other Croats in old Tenja because

> You have to remember, this is a war. We have to take precautions and we may take the priest's phone away. This is far different from beating and killing him, however. You have to remember that the Croatian Democratic Union (HDZ) started in this town in the Roman Catholic Church. This priest helped organize the HDZ with his sermons and homilies.

This suggests the priest is being held on account of his prior exercise of free speech.

According to "Djilas," Serbs were holding the Croats because 1) their release would result in bad publicity since they would denounce "Serb abuses" and 2) the release would jeopardize Serbian military security.

Destruction of Civilian Property

In Croatia, the destruction of civilian property has been used as a means of fear and intimidation. In many cases, the damage to civilian property is used as a method to drive people out of their village. On July 7, the village of Celije in Slavonija was burned and destroyed by Serbian insurgents. Celije, a Croatian village of 158 individuals, is surrounded by Serbian villages.

In May 1991, Serbs in the neighboring villages isolated Celije by putting up roadblocks and, in some cases, prevented the Croats from travelling to Vukovar or Osijek. The nearest commander in the neighboring Serbian village of Bobota (population 3,000) demanded that the Celije residents surrender their arms or face the consequences. Fifty members of the Croatian National Guard were sent to Celije to defend the village and they patrolled Celije with the local residents from June 25 to July 7, repelling sporadic attacks by Serbian insurgents in neighboring villages.

On July 7[10], a strong attack was launched against Celije. After fighting between the Croats in Celije and the

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[9] Our escort asked the priest to unlock the church to show us that Croatian publicity about the desecration of the Catholic church was a lie. It did not appear that any damage had been done to the interior portions of the church we saw, including the altar.

[10] This was the day of a concerted attack by the Croatian National Guard and police forces on the nearby Serbian-controlled village of old Tenja for the purpose of dislodging the Serbian barricades from the village and making it possible for those Croats who had fled to return to their homes. Tenja is approximately 6 kilometers from Osijek.

Serbian insurgents, the Croats fled the village under army escort. Two days later, those from Bobota burned 70 percent of the homes in Celije. Helsinki Watch reviewed photographs taken by a Spanish photographer in Celije. Houses were in fact burned and it appeared that explosives had blown off the roofs. Some walls were left standing and burn marks from the fire were visible. There was damage to cars, tractors, and the local church, whose altar had tumbled over. Graffiti was written on the school wall, which read "Ustasa[11], we will return and massacre you."

Serbian insurgents in Bobota admitted to outsiders that they burned the houses in Celije because the Croats refused to hand over their arms and because they claimed that the Croats were occupying Serbian land. In addition, they said that one of the Celije villagers arrived in Celije on foot through the fields after the evacuation. An outside observer was told by the Bobota insurgents that the victim "had a gun and shot at those from Bobota, who returned fire, thus killing him. They threw his dead body in his house and burned it all down."

In other regions, Croats have destroyed the homes of Serbs as a means of intimidating and driving them out. In the town of Trpolje, near Sibenik, Helsinki Watch representatives examined the remains of three apartment buildings which were severely damaged by explosives. Graffiti and derogatory remarks demanding that all Serbs, Muslims, Albanians and Gypsies leave the area were scrawled on the walls.

Explosions have become commonplace in Croatia and, in most cases, property is destroyed for revenge. For example, if a Serb destroys a Croatian house one evening, a Croat will destroy a Serbian house the next evening. In Knin, Croatian and Albanian homes and places of business have been systematically destroyed since August 1990. In Tenja, Helsinki Watch representatives saw an Albanian-owned kiosk which was burnt by a riot of Serbs celebrating the victory of the Serbian Red Star soccer team at the European championship games. In May 1991, after Franko Lisica, a Croatian police officer from the village of Bibinje, was killed, the Croatian villagers came to the nearby city of Zadar and, in a riot, destroyed places of business owned by Serbs and Serbian and Yugoslav firms, such as the Yugoslav Airlines (JAT) offices.

In most cases, the Croatian authorities have sent inspectors to the scene of the damage, but few perpetrators have been apprehended. The Croatian insurance company has agreed to cover the losses suffered by the Serbian places of business destroyed in Zadar. Despite these steps, Helsinki Watch is concerned that not enough is being done to prevent individual destruction of civilian property and calls upon respective authorities in Croatian- and Serbian-controlled regions to take measures to punish those found guilty of such crimes and to prevent such violence in the future.

Displacement of Persons

Protocol II, Article 17, forbids the forced displacement of civilians for reasons connected with the conflict, with two exceptions: their personal safety or imperative military reasons. It specifically states that "civilians shall not be compelled to leave their own territory for reasons connected with the conflict."

Using military means to force members of an ethnic group from their homes and villages as was done to the Croats in Banija and Slavonija is forbidden since it is done on a discriminatory basis and not on the basis of individual security. Furthermore, there is no imperative military reason that overrides prohibitions on such ethnic discrimination.

In Slavonija, the residents of Celije and new Tenja have been forcibly displaced. In Celije, the Croats were

[11] The Ustasa were Croatian fascists who killed thousands of Serbs during World War II. The term is considered to be derogatory and today's Croatia's nationalists vehemently deny that they are Ustasa sympathizers.

attacked repeatedly by people from surrounding Serbian villages between June 25 and July 7. After the assault on July 7, the residents of Celije fled and were prevented from returning to their homes because 70 percent of their homes had been burned on July 9 and a member of their village had been killed after he returned to the village. Of the 158 people who lived in Celije, 154 were placed by the Red Cross. Fifty-three families lived in Celije before the attack and now the village is deserted. Zlatko Kramaric, the mayor of Osijek, believes that the Serbian insurgents are trying to purge Croats from areas which are ethnically mixed. Kramaric told Helsinki Watch that "Celije was the first case of burning of a Croatian village. It appears that they [the Serbs] may try to do this in Banija as well, to ethnically purify the districts, so as to convince the United States and the European Community that they are fighting to keep what appears to be ethnically pure Serbian territory."

Also, in new Tenja, a series of shooting incidents and explosions forced the villagers to flee either to Osijek or Serbian-controlled old Tenja. In peacetime, Tenja's population totals 8,000. Of the 4,500 who live in the old part of Tenja, 90 percent are Serbian. Of the 3,500 people who lived in new Tenja, 60 percent were Serbian and 40 percent were Croatian. Of the 3,500 people who lived in new Tenja, 60 percent were Serbian and 40 percent were Croatian. Currently, 4,000 people live in Serbian-controlled old Tenja and only a Croatian police station operates in new Tenja. In late June, shootings throughout Tenja began to frighten the local population. The majority of the population of new Tenja fled on June 29. A Croatian reserve police officer interviewed by Helsinki Watch claimed that his house was hit by a rocket-propelled grenade (RPG) in late June:

> On June 26, for no reason, the Serbs opened fire at the houses on my street, which is predominantly Croatian. Although old Tenja is majority Serbian, there are two streets that are populated by Croatian families. From June 26 to 30, there was shooting at night,
> with only a few shots during the day. After June 30, there was shooting during the night and day. We could not sleep. Most of the Croats fled to Osijek out of fear.

In Banija, the residents of Struga and Zamlaca were forcibly displaced by a Serbian assault aimed at the village of Kozibrod.[12] Moreover, it appears that the army required that all the villagers of Struga and Zamlaca evacuate. Those who had been used as human shields returned to Zamlaca the next day, only to be told by the army that they could not remain in their village. According to the mother who had been used as a shield:

> We took some clothes and returned to Struga. We left everything behind. But we stayed in Struga for only two days because we were frightened. The army demanded that those in Struga surrender their weapons, which they did. The army then went to talk to the bandits in the hills and showed little interest in protecting us.

According to a Croatian defender of Struga during the Serbian assault:

> The army stayed in the village until the entire village evacuated, which happened three days later. We had no electricity and no water. In fact, there was a lot of pressure from the army to leave and so we left.

According to the Serbian Red Cross, as of August 19, 1991, 57,047 Serbs from Croatia have fled to Serbia. According to the Red Cross of Bosnia-Hercegovina, as of August 16, 1991, 14,922 people from Croatia (both Serbs and Croats) have fled to Bosnia-Hercegovina. According to the Croatian Red Cross and the Croatian Ministry of Labor and Social Security, as of August 19, 1991, 35,938 people have been internally displaced in Croatia; of this number, 96.5 percent are Croats, 2.3 percent are Serbs, and 1.5 percent are Hungarians, Italians, or others.

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[12] See above section concerning human shields.

Beating of Prisoners

Protocol II, Article 4 (2) (a), strictly prohibits "violence to the life, health and physical or mental well-being of persons, in particular...cruel treatment such as torture, mutilation or any form of corporal punishment." It also forbids "outrages upon personal dignity, in particular humiliating and degrading treatment." (Protocol II, Article 4 (2) (e))

Helsinki Watch has documented the following cases of prisoner beatings in recent weeks:

A. Elderly Croats and Albanian youths were beaten by Serbian insurgents in Borovo Selo jail, July 1991:

Ante Gudelj, a 72-year-old Croatian man,[13] was captured by Serbian rebels in Tenja on July 1. When interviewed, this elderly man still had many black and blue bruises covering large areas of his back, chest and arms. "The worst are the bruises on my back and kidneys. I was hit with police batons. They also hit me in the groin with their legs." According to the doctor, the patient's left lung was punctured and filling with water.

Gudelj was captured outside his house before noon on July 1 by masked men.[14] He and six other elderly Croatian captives (ranging in age from 58 to 72 years, all grandparents) were blindfolded and held in a dark basement in nearby Bobota for three days before being moved to Borovo Selo.

> There they started to beat us with everything they had. The room where we were held was dark. They would open the door, flash a light in our faces, and say, "Why don't you come over here." The light blinded us. In that direction three men were waiting for us, holding clubs. They hit me and the others. We were beaten for 10 days consecutively, mostly in the evening and at intervals throughout the day. The men beating us would say, "Ustasa murderers, you came to this land to kill. We will get Tudjman."

They were beaten by a group of three men who took turns, and questioned by another group. Each beating lasted approximately thirty minutes.

> Later five Albanians came, and they beat them terribly, almost killing them. I do not know what happened to them. The terror was much worse against them. They were younger men, about 18 and 20. They were not police but the Serbs did not believe that. They kept beating them to get them to admit that they were police officers.[15]

The jail is in the center of Borovo Selo, three doors to the left of a restaurant, which is across the street from the city council. According to Gudelj, they were held in "what looked like a storage room. On the door there was a window with bars. The door was of green steel. There were no other windows." The 15 were kept together in one room with no light, where they slept on the floor.

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[13] Gudelj was interviewed in the intensive care unit of the hospital in Osijek, Croatia, on July 30, 1991, three days after his release. The beatings required hospitalization, but he was in intensive care because of a serious prostate condition caused by age.

[14] Gudelj's son was manning a barricade where, shortly after learning of his father's capture, he opened fire on a negotiating team, killing three. (See section concerning failure to prosecute a killing.)

[15] The Serbian insurgent military advisor interviewed in old Tenja on July 29 said that they were holding "five Albanians who came from Kosovo to join the Croatian National Guard" and that they wanted an exchange, but the offer was refused.

He and a 58-year-old female prisoner (who was not beaten but was confined to the same one-room jail as the men) were evacuated by an army officer on July 27 in a civilian car with a white flag the Serbs provided. Seven Croats and five Albanians remained in jail.

B. Serbian prisoner beaten by Croatian National Guard, near Djakovo, July 7, 1991:

Djordje Rkman[16] was in charge of weapons inventory at the local territorial defense unit[17] for 15 years. He lived in the village of Sodolovni with his parents, wife and two children. While on vacation on July 7, at approximately 10:00 A.M., he was tending to chores in the fields when he heard fighting at the entrance to the village. He ran to the closest house, 300 meters away, for shelter. There were eight people inside the house, two grandmothers, one young woman, a boy, and four men. When they saw that the National Guard was shooting at the house, they ran upstairs for shelter.

There had been some men in the attic of this house with a machine gun who fled through the roof when the National Guard opened fire, he said, but he did not see them. The machine gun was abandoned in the room next to the civilians' hiding place.

Fifteen to twenty National Guards came into the attic, followed by a second group which beat the men.

> All were in uniforms, all were National Guards. I could not see who they were. I was on the floor while they were beating me. I heard the verbal harassment and threats. "Kill them now," one was saying.
>
> The beating was really hideous. They put a gun to my forehead and were yelling "Cetnik" at me. We were beaten for half an hour. We were then brought downstairs and they made us go out in the yard, where they made us lie down on our stomachs, hands on our heads. Then they randomly hit and kicked whoever they wanted. The women were not hit.
>
> About 20 to 30 National Guards hit us, kicking us too. I have not been to the doctor. It is hard for me to breathe. My lip and my head were cut and I cannot open my mouth very much.

His upper right lip had a white scar on it.

> While they were beating us, they were insulting us, saying we were Cetniks, although my father was a major officer in the partisans fighting against the Cetniks -- as if that made any difference to them.
>
> We were then made to walk one to two kilometers with our hands behind our heads to their cars, where they beat us again.

They were handcuffed and taken to Djakovo, where the women were released. In Djakovo, they were individually interrogated.

> When they saw I was beaten up, they took me to the hospital. While they were taking me down the

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[16] Rkman was interviewed in private in the Osijek jail on July 30, 1991. We requested to speak with him by name and the prison authorities complied.

[17] During Yugoslavia's communist era, territorial defense units consisted of a local reserve militia and armaments stored at the local level. See section concerning discrimination below for a description of territorial defense units and their significance in the current conflict.

> hall in the police station, some of the police were yelling "Cetnik" at me, kicking me in the sides as I went down the steps. It still hurts. I was also kicked in the courtyard of the hospital. But it was in the house where they broke my lip and my head. My left temple still hurts, as well as my ribs and back.
>
> At the first aid station [in the hospital] they gave me two injections and stitched my face. I got two stitches on my mouth, two on my head, and two on my left cheek.

At the Osijek jail, although he complained through his attorney that his ribs still hurt, he did not receive further medical attention. The four men arrested with him also remained in jail at the time of Helsinki Watch's visit.

C. Croatian prisoners beaten at the Serbian military base, Samarica Mountain, Banija, July 26-29:

Predrag Vucicevic, a 29-year-old attorney who was chief of police of Dubica, Croatia,[18] was ambushed returning to Dubica from Croatian Kostajnica[19] on July 26 and captured by Serbian insurgents, who beat him at their camp. At the time of the interview, he had extensive bruises on his body, left shoulder, face, neck, and torso, and his left eye was swollen and red. His neck also bore rope marks.

There were six armed men in the two ambushed cars, of whom four were injured in the ambush. Two were taken for medical care and a third, who received no medical attention, died en route to the base.[20] The fourth wounded man, the only one uniformed, was not captured or seen again.

The two not wounded were blindfolded and tied up: the police commander's hands were tied behind his back to a rope fastened around his neck. Vucicevic said, "I was badly beaten at their base, which is on Cavic Brdo in the Spomen Dom, in Samarica," a recreational area. They were held in a bowling alley, where the Serbian command post was also situated.

> I was kicked with their military boots. While I sat on a chair, they would kick me. I would fall to the floor, and then others would kick me. I could barely eat because I could not open my mouth. They had kicked out one tooth. My head was all beaten, too. I have bumps and scars on my head. It was not so much the physical pain because I am strong, but the psychological pressure that came from their constant threats to massacre us. They yelled that I was an Ustasa, that they would kill us all. When the armed civilians came back from the field, they would come in and kick us. Just for revenge.

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[18] Vucicevic was interviewed at the Sisak hospital on August 3, 1991.

[19] The following incident took place in Croatian, not Bosnian, Kostajnica. Croatian Kostajnica and Bosnian Kostajnica are two separate villages which lie within their respective republican borders and are separated by the Una river.

[20] Vucicevic reported, "One of the wounded died from excessive bleeding because he was not able to get medical attention. He was Srecko Kitonic, 27, single, an engineer of forestry. An artery in his leg was hit and he did not get any first aid. He lay dying next to me in the truck. I could not do anything. I do not know what they did with his body. It was left in the truck when we got out."

The Serbian insurgent police did not hit the prisoners but let others beat them. However, when their commanding officer came in one day, he

> saw how we looked and he started screaming that this was not supposed to happen, but things did not change. We were all beaten. I was beaten the worst, because I was the only police officer.
>
> They used electric shocks on me, on my feet and hands. They did this for torture. They gave me these shocks after questioning, when I did not know anything. Five or six of them were standing around laughing when I screamed. Each shock lasted three or four seconds. This all happened every day, two or three times a day, whenever they got bored.

One of a team of three medical workers, held at the same time, confirmed Vucicevic's account.[21] There were 13 to 15 prisoners in all who for two days and nights were kept sitting up in chairs, hands tied, blindfolded. They were questioned, beaten, and slept in the same room. The civilians were given electric shock once.

> The Croatian police commander [i.e. Vucicevic] got the worst of it. They were questioning and beating us. This questioning was conducted by a horde yelling at us, provoking us. One would interrupt the other, saying, "It's my turn to question him." They were getting a kick out of our screaming. It was just "Ustasa, go to Hell."
>
> The problem was that the armed men would come in from the field and be angered by a bad turn in the fighting. Then they would take out their anger on whoever was there, beating us all.

All the prisoners were released by Wednesday, July 31.

D. Beating and humiliation of three surrendered Croatian police officers by Serbian insurgents in Struga on July 26, and beating of two young women in Struga on July 26.[22]

Shooting at Medical Vehicles and Personnel, Denial of Treatment to the Wounded, and Holding Medical Personnel Hostage

Protocol II, Article 12, provides that the distinctive emblem of the Red Cross shall be displayed by medical personnel and on medical transports. It shall be respected in all circumstances. "Medical units and transports shall be respected and protected at all times and shall not be the object of attack" (Article 11 (1)). Moreover, "medical and religious personnel shall be respected and protected and shall be granted all available help for the performance of their duties " (Article 9 (1)).

These provisions of Protocol II to the Geneva Conventions were violated when Serbian insurgents ambushed and hit a clearly marked ambulance belonging to the medical center of Sisak in a village near Croatian Kostajnica in the Banija region, on July 26, 1991. The ambulance was carrying three wounded Croatian police officers and three hospital personnel--a doctor, a medical technician, and an ambulance driver--all long-time employees of the Sisak hospital.

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[21] This witness was separately interviewed on August 3 in Sisak. (See section concerning shootings at medical vehicles and personnel, denial of treatment to the wounded, and holding medical personnel hostage.)

[22] See section on human shields for detailed account of this incident.

The three medical personnel, who were wearing their white hospital uniforms, were held captive for five days in a mountain base where for two days Serbian insurgents returning from the field of battle took turns beating them. They were told that they were being held for exchange, that is, as hostages,[23] and were later released.

Protocol II also stipulates that the wounded shall be respected and protected, and that in all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition, and that no distinction shall be founded on any grounds other than medical ones (Article 7). Despite this provision, the three wounded persons being evacuated in the ambulance, one of whom was seriously wounded, were denied the medical care to which they were entitled under Protocol II. They were separated from the doctor providing them care and their emergency trip to the nearest hospital, in Croatian Kostajnica, was cut short by the ambush. They were removed in the ambulance to an unknown location. Whether they ever received further medical care is unknown.

The ambulance and all of its medical supplies were never returned to the hospital; this was the second ambulance the Serbian insurgents captured in the field from the Sisak hospital, which had 12 ambulances. This too violates the mandate of Protocol II that states that medical transports shall be respected and protected at all times.

Helsinki Watch interviewed one of the medical personnel who was ambushed and taken prisoner. He said that the three left Sisak hospital with a fully equipped ambulance on Wednesday, July 24. The white van had a red cross on the door next to the driver and was prominently marked "Medical Center of Sisak." The van flew a flag with the Red Cross emblem on it as well.

The hospital had established an arrangement by which hospital personnel would spend three-day shifts in one of the small villages between Dvor (held by Serbian insurgents) and Kostajnica (then held by the Croats) to supply medical aid to all the villages between the two towns, all of which had been isolated. The three medical personnel arrived on July 24 and relieved their colleagues, who had completed their three-day shift and were now returning to Sisak. On July 26, at approximately 10:15 A.M., mortars were fired for nearly 90 minutes.

During a 10 to 20 minute pause in the fighting,

> two wounded civilians came in cars to the medical outpost and received first aid. They had both been injured in their lower legs, by shrapnel from a mortar, not serious injuries. They were cousins and had not been defending the village. One was hiding in the basement when the mortar fell on the asphalt outside the house; the other was making a call to Sisak during the lull in the fighting; the phone was opposite the police station. He was injured by the same mortar.

The medical personnel also set the broken arm of a 20-year-old Croatian police officer. Another police officer was brought in, already dead.

At about 3:00 P.M., when the shooting had stopped, a column of tanks, heading in the direction of Dvor, passed through the village. The ambulance driver ran out, waiving the Red Cross flag as a sign for the tanks to stop. He wanted to ask them what the medics should do. The column passed by quickly, without stopping.

The villagers came to tell the medical unit that there were two badly wounded police officers in the village in the direction of Dvor. The ambulance arrived and found the two men inside a house to which the villagers had moved them.

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[23] The holding of hostages, a separate violation of Protocol II, Article 4 (2) (c), was explained in the relevant section above.

> The one on the bed had severe wounds to the head and chest. He was not coherent but he could see us. The other was injured but capable of walking. We put them in the ambulance. We were very careful that they did not put any guns in the ambulance and that the wounded did not have on their uniforms.

Two medical personnel sat in the back with the patients, giving transfusions and cleaning the wounds. They passed by their post and picked up the 20-year-old Croatian police officer with the broken arm, without his uniform or gun.

> We all had on white Red Cross uniforms, including the driver. The Red Cross flag was flying on a stick as we drove out to Kostajnica. The driver turned on the lights and the siren, trying to draw attention to the fact that we were a medical emergency vehicle. We got about 500 meters to one kilometer from the police station when the other side opened fire on us.
>
> The shooting smashed all the windows of the ambulance, and the two medical personnel in the back hit the floor with the two patients to avoid being shot. Bullet holes were all over the ambulance. The windows were hit, as was the driver's seat.

The ambulance driver, a veteran of the emergency ward, continued to drive quickly past the open cornfield from which they were ambushed and came to a stop next to some houses. The driver, medical technician, and the Croatian police officer with the broken arm ran out and took cover near the houses. The doctor and two patients stayed in the back of the ambulance.

After about 15 minutes, they were called on to surrender and were captured by about ten men in yellow camouflage uniforms, with no patch or insignia. The three medical personnel, in their white uniforms, were "ordered to lie down on the ground, face down and hands stretched out."

> They took away the ambulance with the two wounded inside. I think they put the police officer with the broken arm in there too. That was the last time we saw the three wounded men. We could not say anything. Our captor kept telling us to keep quiet. That was the last time we saw the ambulance, too, on July 26. They kept it.

All of the medical supplies in the ambulance were confiscated as well.

> We got very scared when we saw that we were prisoners despite the fact that we were medical personnel. They did not believe that we were medical workers. They thought that we were Croatian police officers.

The three were blindfolded and their hands were tied behind their backs. "There was the normal amount of kicking in that situation," the victim added.

> When we asked later why they opened fire, they said, "Croatian police officers had used the Red Cross before, and we thought that you were one." We asked, "Why didn't you put up a barricade if you wanted us to stop? You shouldn't have opened fire, even if we were suspicious."

After changing vehicles once, they were driven several hours to their destination, an insurgent base in a mountainous area, where they were put in a large room with several other prisoners, perhaps 15 in all. They were beaten by groups of armed men. "The problem was that the armed men would come in from the field and be angry at

the way the fighting was going. Then they would take it out on whoever was there."[24]

They were released on July 31 at 3:00 P.M. Although no one would confirm this, it appears that they were indeed exchanged for Serbian prisoners held by the Croatian authorities.

Discrimination

Yugoslavia, including Croatia, is in economic crisis. In recent months, many workers of different nationalities have lost their jobs for economic reasons, while thousands continue to work without pay or receive their pay one to four months late. Given the insolvency of many firms, closures and layoffs are becoming commonplace throughout Yugoslavia. However, many claim that they have lost their jobs for ethnic, as opposed to economic, reasons.

Helsinki Watch has received reports of discrimination in the work place in Croatia. Much of the discrimination is not government-sponsored, but privately organized. For example, individual Croats, particularly in the coastal cities of Split and Sibenik, have authored and organized the signing of "loyalty oaths" to the Croatian government. The loyalty oaths are typically written by Croatian workers and presented either to all employees or only to Serbian workers for signatures. Those who refuse to sign -- mostly Serbs -- are threatened with dismissal or are, in fact, fired from their jobs.

The "loyalty oath" campaign originated with Croats who claimed that Serbian colleagues who worked with them were the same individuals who fought on the side of the Serbian insurgents, particularly in Knin. They accused their Serbian colleagues of manning barricades and shooting at Croats in the evening and then coming to work the next day with the same Croats at whom they shot the night before. One man told Helsinki Watch:

> How can someone who is breaking the law, shooting at me and at my children in the evening, expect to be treated as a common worker? Our government has done little to arrest these people and I refuse to work with them. Yes, we organized the signing of loyalty oaths to separate the bandits from the honest workers. If they want to work for the bandits, let [Krajina president Milan] Babic give them a paycheck.

The Croatian Ministry of Labor and Social Security has documented cases of loyalty oath signature campaigns in ten enterprises throughout Croatia, including the TEF (Tvornica elektroda i ferolegura) and TLM (Tvornica lakih metala) plants in Sibenik, the ship-building factory in Split, the Slavija enterprise in Zagreb. Helsinki Watch has also received reports of such campaigns in the Zadranka firm in Zadar and at the Jadrantours enterprise in Split.

The Croatian government and the Parliamentary Committee for the Protection of Human Rights has condemned the signing of loyalty oaths and has required the reinstatement of those who have lost their jobs because they refused to sign the loyalty oaths. Helsinki Watch welcomes the condemnation of loyalty oaths by the Croatian government. We also urge the authorities to take disciplinary actions against those who have required the signing of loyalty oaths and to take steps -- at the republican and local
levels-- to prevent similar campaigns in the future. Dismissing a worker because of his or her failure to sign a loyalty oath to a government violates the right to freedom of expression. Moreover, using loyalty oaths to weed out "dishonest Serbs" is discriminatory. If individuals are engaged in illegal activity, the authorities should conduct an investigation, rather than firing an individual because he or she is suspected of supporting Serbian insurgents. In addition, Serbs and Croats have lost jobs because of their ethnic origins. Croats have been dismissed from their jobs in Knin, the

[24] See above section concerning the beating of prisoners.

Krajina "capital." Knin is predominantly Serbian, and Croats comprise only 8.6 percent of Knin's population. According to the Croatian Ministry of Labor and Social Security, Croats have been dismissed from the hospital, steel plant and TVIK (Tvornica vijaka Knin) factory in Knin. In other areas of the Krajina region, Croats have reportedly lost their jobs, specifically in the Gracac hospital and in Glina, where 175 Croats were dismissed from administrative positions at the local city council and elementary school. Helsinki Watch condemns the use of nationality as a criterion for job dismissal and urges Serbian leaders to refrain from, and to punish, such actions.

Similarly, Helsinki Watch is concerned that ethnic criteria are applied by the Croatian Ministry of the Interior to hire and dismiss Serbian police officers. During the communist era, the vast majority of the police officers in Croatia were Serbian. According to the Croatian Ministry of the Interior, Serbs accounted for approximately 75 percent of the Croatian police force despite the fact that they comprised only 11.5 percent of the republic's population. Since the new Croatian government has taken power, the police forces have been greatly enlarged and the ratio between police officers of Serbian and Croatian origin has been reversed. Whereas Serbs comprised approximately 75 percent of the Croatian police force during the communist regime, they now constitute approximately 23 percent.

The Croatian Ministry of the Interior contends that the numbers have not been reversed because Serbs were fired from their jobs but because more Croats were recruited. Slavko Degoricija and Milan Brezak, both Deputy Interior Ministers, told Helsinki Watch that no one has been fired from police jobs simply because of their nationality. They contend that three factors have influenced the reversal in the composition of the police. First, after the new Croatian government decided to change the insignia on the police uniform from a communist red star to the traditional Croatian coat of arms, many Serbs quit claiming that they would not wear the new insignia because they equated the coat of arms with the fascist period during World War II. Second, according to Brezak and Degoricija, some Serbs quit the Croatian police force to fight on the side of the Serbian insurgents in Croatia. Third, when the Croatian police force was being augmented, an effort was made to rectify the disproportionate representation in the police forces by establishing "national parity and equal representation" in the police force.

Indeed, in the past year, the Croatian police force has been greatly enlarged. The Croatian government justifies the increase in their security forces by pointing to the Serbian insurgency, the Serbian bias of the Yugoslav People's Army and the Army's dismantling of Croatia's territorial defense units. In 1990, the Yugoslav Army confiscated most of the weapons which were part of Croatia's territorial defense (teritorijalna obrana - TO), a local defense force separate from the federal army. After World War II and during Tito's reign, the official Yugoslav communist position was that Yugoslavia was surrounded by external enemies, such as NATO to the west and the Warsaw Pact to the east. In light of these "threats," Yugoslavia had to be prepared to fight for its "territorial integrity, unity and independence."

In preparation for possible attacks from "outside enemies," weapons for the general population were stored at the local level. The weapons were bought by individual firms and kept in various storage areas throughout a respective locality. Each republic maintained a territorial defense structure, including a civilian security force (civilna zastita), a local reserve militia. All former soldiers who served in the army could be called up to serve as reserve police officers for the republican police force of civilian security forces for the local territorial defense unit. The TO's weapons could be distributed by the republican government, in consultation with the federal army and government.

When the federal and republican governments were communist, it was clear that the territorial defense units were controlled by the Communist Party. However, a few weeks before Slovenia and Croatia voted out their communist regimes in 1990, the Yugoslav Army made efforts to confiscate weapons which were part of Slovenia's and Croatia's territorial defense units. In April 1990, just prior to the Croatian elections, the army confiscated most of the republic's weapons. It was less successful in Slovenia, where the local population blocked such action. After the army depleted Croatia's territorial defense arsenal, the Croatian government tried to buy new weapons for the government-owned armaments plant but was refused permission by the federal army, who had to approve all weapons purchases. During the summer of 1990, the Croatian government bought weapons on the international market. In justifying such purchases, the Croatian government claimed that while all republics had maintained their territorial defense units,

Croatia had been depleted of its weapons at a time when the Serbian insurgency was beginning. Also, with the election of a non-communist government, the Croats feared reprisals by the army or other republics whose interests lie in the preservation of a communist Yugoslavia.

Similarly, the new Croatian government undertook efforts to strengthen both the active and reserve police units. Within the active police units, a special division was created. At the time, these distinct police units were commonly referred to as "specials" (specijalci), and were meant to serve anti-terrorist, S.W.A.T.-type functions. Most of the "special" police forces have now been incorporated into the Croatian National Guard. According to Milan Brezak, Croatia's security forces currently number approximately 25,000 active police officers, 30,000 armed reserve police officers and 15,000 National Guard members.[25]

Although Helsinki Watch does not dispute the Croatian government's right to increase and strengthen its police force, it is concerned that Serbs are being excluded and dismissed because of their nationality. Helsinki Watch interviewed several insurgents who admitted that they had quit their jobs with the Croatian police to join the Serbian insurgency. However, it is difficult to believe the Ministry of the Interior's assertion that of the 11,000 Serbs who worked for the Croatian police during the communist regime, 6,000 left of their own accord. Helsinki Watch believes that potential recruits should not be excluded on the basis of national origin or political affiliation. Moreover, Helsinki Watch is concerned that Serbian police officers have been dismissed from their jobs because they were suspected of being supporters of the Serbian insurgency.

Failure to Prosecute a Killing

On July 1, the Chief of Police of Osijek, Josip Reichl Kir (a Croat), and two elected officials (one Serb and one Croat) were killed. One other Serbian official was wounded by a Croatian reserve police officer.[26] This officer, Antun Gudelj, was known to be a Croatian extremist. He shot at the officials' car from behind a police barricade in Tenja. Although many reserve and regular police officers were at the scene, no one detained the killer, who is still at large. The victims, seen as moderates, were trying to negotiate a peaceful settlement to the violent Tenja disputes.

Background to the Killing. After the HDZ won a majority in the republic-wide elections in 1990, local HDZ representatives in Tenja reportedly became aggressive. According to a young Serbian displaced woman, "About three times each week, Croatian nationalists would come around waving flags and provoking Serbs with threats, dragging their fingers across their throats."

A military advisor to the Serbian insurgents[27] said:

> Those who joined the HDZ were exclusively Croats. The HDZ had more rights than others. They had

[25] The National Guard is not part of the Croatian police force and, therefore, is not under the control of the Ministry of the Interior. Rather, the National Guard, formed approximately three months ago, serves as the Croatian army and is responsible to the Croatian Defense Ministry. However, during the course of battles with Serbian insurgents, the National Guard and the Croatian police operate jointly.

[26] Those killed with the Chief of Police were Goran Zopundzija (a Croat), vice-president of the executive branch of Osijek's government, and Milan Knezevic (a Serb), president of Tenja's town council and member of Osijek's district council. Wounded at the same time was Mirko Tubic (a Serb), a member of Tenja's town council.

[27] Serbian military advisor, nicknamed "Djilas," interviewed in old Tenja on July 29, 1991.

> special identification papers that allowed them to become part of the police force. They were armed civilians. They made changes in the major enterprises and factories. The Croats took over the best positions and the Serbs were not allowed into management positions. When it came to making promotions of directors, the Serbs were excluded.[28]

Old Tenja is currently controlled by Serbian insurgents, whose press attache, Milan Trbojevic,[29] claimed that a few months before this "war" started, harassment of Serbs increased.

> The Serbian people were being arrested for small things. The entrances and exits to Tenja were tightly controlled and Serbian cars and people were constantly searched.

After Gudelj's election as HDZ president in old Tenja, inter-ethnic tensions rose dramatically; these tensions continued to worsen even after Gudelj was removed from his position. The mayor and police chief of Osijek came to Tenja to hold monthly town meetings to air disputes and resolve conflicts. The Croatian mayor of Osijek, Zlatko Kramaric[30] said:

> Tenja? Everything has happened there. Tenja is 70 percent Serbian and 30 percent Croatian. But it is part of the larger picture, in which Serbia has not relinquished its role as a mini-imperialist power. Croatia has a 12 percent Serbian population and the 14 districts of eastern Slavonija are 30 percent Serbian. In the three districts around Osijek, their population is only 35,000 and they occupy a lot of territory with few people. Although none of their villages are 100 percent Serbian, the Serbs are pressuring the Croats to leave in order to create a pure Serbian zone for use as a bargaining chip to justify the amputation of Croatia.

The Osijek mayor continued:

> I thought everything would work out but the Serbs were arming quickly and provoking the Croats in Tenja. The Croats there were emotional and took the bait and got into tiny conflicts here and there.
>
> One night, a Serbian house was blown up. The next, five Croatian houses were burned in retaliation. Because of this type of problem, the 3,000 Croats in new Tenja evacuated.

A Croatian mother from new Tenja said:

> I do not remember when, some time near Easter, the Serbs put up their barricades and their flag and announced that they were part of Serbia. We were astounded because that was such a stupid thing to do, on a piece of land in a tiny village.
>
> They posted signs on the walls. They held meetings for three days proclaiming their union with Serbia. There was a barricade in the center of old Tenja made up of tractors around the city council

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[28] This claim is part of a republic-wide dispute over the Croatian government's policy of restoring ethnic parity. (See section concerning discrimination.)

[29] Interviewed in old Tenja on July 29, 1991.

[30] Kramaric was interviewed in his office on July 29, 1991. He is a university professor and member of the Croatian Liberal Party, not the majority HDZ.

and other buildings.

The Croatian police called up the reservists in Tenja on June 27 and the next day they received weapons and were posted near Osijek, according to the wife of one reservist.

> That Saturday, June 29, it was very tense in new Tenja because the people were saying that they would not accept the declaration that old Tenja had joined with Serbia. A man from the Croatian police force rushed into town and told his mother she had to get ready to leave, since something evil was about to happen.
>
> It was really pitiful to watch Croats run away from the village like rabbits. Between 3:00 and 6:00 P.M. on Saturday [June 29], the entire village of new Tenja left.

The Serbs say the armed conflict started with an assault by seven armed Croatian HDZ men on one Serbian house at 7:45 P.M. on June 29, occupied by two couples. The armed men, allegedly looking for "Cetniks" and weapons, "opened fire through the windows and doors at the Serbs in the house," who shot back while other Serbs joined in. After this event, new Tenja was evacuated; the Serbian residents fled to Serbian-controlled old Tenja and the Croats retreated to Osijek.

According to Osijek mayor Kramaric,

> The Serbs asked for a meeting with Kir, but Kir did not use his political acumen when he agreed to talk to the Serbs in Tenja [on July 1]. The Croats there, who are pretty radical, would view that as aiding the Serbs.
>
> The man who shot Kir, Antun Gudelj, had just had his house burned and his father captured on that day[31] and he was psychologically unstable. One can understand but not exonerate his anger.

During Kir's visit, three barricades had been erected in Tenja: one was manned by the active Croatian police, another by the Croatian reserve police, most of whom were HDZ members, and a third was controlled by the Serbian insurgents. Kir and his colleagues passed through these barricades without difficulty on their way to Tenja. While Kir was at the Serbs' headquarters, he was reportedly warned of an impending attack by the Croatian police. Kir, claiming he had no knowledge of this, agreed to return to talk to his men. He was reportedly told that no attack was planned.

On his way back to deliver this reassuring message to the Serbs, as he passed again through the HDZ-controlled barricade, Kir and two others were shot dead.

The Mayor of Osijek said:

> Gudelj knew who he was shooting at. He has not been arrested. You have to talk to the police about this. These are times when the police do not have control over such things.

A Croatian reserve police officer[32] said:

> I was there on July 1 when Kir was shot and I saw the bodies. I was about 100 meters away on patrol. I

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[31] See section concerning the beating of prisoners.

[32] Interviewed on July 30, 1991, in Osijek.

did not have a good view of the scene but I heard the shooting and ran over.

Kir was killed at the entrance to new Tenja. A reserve police officer killed them because the Cetnik driver refused to stop the car. Many others were there and saw it, including the Croatian police.

The investigating magistrates of the district court in Osijek have reported that a warrant is out for Gudelj's arrest but that the police have not forwarded any investigation in this case nor had an arrest been made as of July 30.

The Croatian government has a duty to investigate crimes such as the killings of Police Chief Kir and the other two officials. It has a duty to apprehend and charge those responsible. Because they called up and armed reserve police officers, they have a heightened duty to prosecute acts allegedly committed by these officers.

Helsinki Watch calls on Croatian officials to vigorously prosecute the killer of Chief Kir, Goran Zopundzija and Milan Knezevic.

Conclusion

The current conflict in Croatia between Croats, Serbs and the Yugoslav army has resulted in many civilian deaths and human rights abuses. The majority of abuses committed by the Croats involve discrimination against Serbs: the Croats' beating of prisoners in police custody and their failure to rigorously prosecute a killing are also serious violations. The abuses committed by the Serbs involve physical maltreatment -- including the beating and use of electric shocks against prisoners-- and egregious abuses against civilians and medical personnel, including the use of human shields and the taking of hostages. The Yugoslav army is also committing serious human rights violations by attacking civilian targets in coordination with the Serbian insurgents. Recent examples of such attacks occurred during the week of August 19th, when the Yugoslav army indiscriminately attacked civilian targets in Osijek and Vukovar.

The current conflict is spreading from the countryside to the major cities in Croatia, heightening concern that more civilians will be killed and more abuses will be committed. Helsinki Watch condemns such abuses and urges all sides to refrain from committing further violations of international humanitarian law. Helsinki Watch calls upon all parties to the conflict -- Croats, Serbs, and the Yugoslav army -- to respect their obligations under the Geneva Conventions of 1949 and the Second Protocol of 1977.

This report was written by Ivana Nizich and Jemera Rone.

News From Helsinki Watch is a publication of Helsinki Watch, an independent organization created in 1978 to monitor domestic and international compliance with the human rights provisions of the 1975 Helsinki Accords. The Chair is Robert L. Bernstein; Vice Chairs, Jonathan Fanton and Alice H. Henkin; Executive Director, Jeri Laber; Deputy Director, Lois Whitman; Washington Representative, Catherine Cosman; Staff Counsel, Holly Cartner; Staff Consultant, Ivana Nizich; Orville Schell Fellow, Robert Kushen; Associates, Sarai Brachman, Pamela Cox, Mia Nitchun and Elizabeth Socolow.

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