

BOSNIA-HERCEGOVINA

A FAILURE IN THE MAKING Human Rights and the Dayton Agreement

INTRODUCTION	2
RECOMMENDATIONS.....	4
THE PARTIES' NON-COMPLIANCE WITH THE DAYTON AGREEMENT	7
Failure to Cooperate with the International Tribunal	7
Restrictions on Freedom of Movement	9
Restrictions on the Right to Return.....	13
The Right to Remain and Politically Motivated Resettlement	17
Failure to Ensure the Security and Liberty of Persons	20
Absence of the Conditions for Free and Fair Elections.....	26
THE FAILURE OF THE INTERNATIONAL COMMUNITY TO IMPLEMENT	
THE DAYTON AGREEMENT	29
The International Implementation Force.....	29
The International Police Task Force	31
The Office of the High Representative	34
The Organization on Security And Cooperation in Europe	35
CONCLUSIONS	36

INTRODUCTION

The failure of Dayton is in the making, and the U.S. and West European governments must bear responsibility, unless immediate and decisive steps are taken to enforce respect for human rights, ensure the right to return for refugees and displaced persons, establish the conditions necessary for free and fair elections, and bring to justice those responsible for war crimes.

Blindly ignoring the mounting evidence that the Bosnian parties to the Dayton peace accord have failed to create the conditions for free and fair elections, U.S. Secretary of State Warren Christopher stated on June 2 that the elections would go ahead this year. Christopher's statement was part of a growing campaign by the Clinton administration to ensure that the election in Bosnia take place this September, always arguing that, although the elections will not be perfect, they are still in the best interest of the Bosnian people. But they are wrong. While holding the elections in Bosnia may be in the best interest of Mr. Clinton's own reelection campaign, it is certainly not in the best interest of those who believe in a Bosnia that is not partitioned along ethnic lines, where the ethnic slaughter of thousands is not simply forgotten in an effort by foreign governments not to upset their own domestic political agendas.

Mr. Christopher seems to believe that elections, regardless of how flawed will "give all the people of Bosnia a chance to shape their future." It will be difficult indeed for many of the Bosnian people even to participate in the elections given that there is limited movement throughout the territory, the press is severely restricted along ethnic and political lines, refugees and displaced persons have not been able to return to their homes and indicted war criminals—in particular Bosnian Serb political leader Radovan Karadzic and military commander Gen. Ratko Mladic—maintain predominant political and military control. If the elections go forward under these conditions, the international community will become an accomplice to a lie. The message will be sent that compliance with the Dayton agreement is not necessary or even expected, and it is likely that interference and intimidation by hard-liners will result in a corrupt election, serving to undermine the entire peace process and to increase the likelihood of renewed conflict.

What is more, elections that are conducted under current conditions—where persons indicted for war crimes monopolize the media, using it for their own nationalistic goal; and those who would voice an alternative, multi-ethnic view of Bosnia and Hercegovina are silenced—will only consolidate the power of the extremists. These same extremists have pursued a policy of nationalism and ethnic hatred over the last four years, and they have not given up their goal of dividing Bosnia and Hercegovina into separate, ethnically pure states. The international community must send a clear message that it will hold war criminals accountable for their atrocities. The international community must also insist that the alternative voices in Bosnia have an opportunity to hear each other and to join in opposition to the current political forces. Without these guarantees, Bosnia and Hercegovina will be doomed to ongoing cycles of conflict and violent revenge based on the false assumptions of collective ethnic guilt.

Six months ago Bill Clinton said, "We have an obligation to carry forward the lessons of Nuremberg. Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried, and if found guilty, they must be held accountable...There must be peace for justice to prevail, but there must be justice when peace prevails." Today the Clinton administration has changed its tune, sending out the message that it is too much to expect indicted war criminals to be arrested before elections take place. Such "pristine, ideal conditions" will not be possible, according to U.S. State Department spokesperson Nicolas Burns, although the United States favors "creating the best possible conditions." If the Clinton administration and the rest of the international community are truly committed to creating the best possible conditions for free and fair elections, they can start by insisting that Karadzic and Mladic are turned over to the Hague. With 60,000 NATO troops in Bosnia, the means exist. But it is utter hypocrisy for the Clinton administration to speak of creating the conditions for free and fair elections, when it is unwilling to use the means at its disposal to do so.

The Dayton agreement six months ago gave the international community a chance to demonstrate its commitment to the principles of peace and justice. Midway into the implementation process, however, that opportunity is being squandered. As Admiral Leighton Smith, NATO commander, has said, "The military side will be okay, but if

the civilian side goes belly-up, the possibility of peace in here diminishes dramatically." Yet the resources and resolve applied to the civilian aspects of Dayton lag far behind those committed to the military (IFOR) component. And IFOR's scope of action has been tightly circumscribed to exclude pro-active protection of vulnerable civilians or arrests that would cause controversy.

The parties to the agreement have refused to comply with critical components of the accord. They have refused to allow people to return to their homes, have prevented free movement throughout Bosnia, and have convinced their own people to abandon their life-long homes, telling them it is not possible to coexist with people of different ethnicity. Most recently, in late May Bosniaks around the town of Teslic, in central Bosnia, were forced to flee their homes following a campaign of bombings, beatings, stone-throwing and threats by Bosnian Serb displaced persons. Local Republika Srpska police refused to offer protection or to stop the violence and expulsions. Political leaders have refused to cooperate with the International Criminal Tribunal for the Former Yugoslavia (hereinafter "tribunal" or "ICTY"), defying their obligation under the Dayton accord to arrest and turn over persons indicted for war crimes. The most important figures indicted, Radovan Karadzic and Gen. Ratko Mladic, who masterminded the slaughter of thousands of innocent civilians, remain in control of both political and military forces. Freedoms that are necessary to exercise political choice—such as freedom of assembly, association and the press—are systematically restricted.

The international community, for its part, has failed to use the means at its disposal to force compliance. On the most important issue—that of arresting persons suspected of war crimes—the international community has lacked the political will to carry out its mandate, and it appears increasingly willing to tolerate the status quo. Thus, rather than offer real protection to survivors and create the possibility of co-existence and fair political participation, the international community seems focused instead on creating an illusion.

This report is based on two, month-long fact-finding missions to Bosnia by Human Rights Watch/Helsinki researchers, during which interviews were conducted with victims of ongoing abuses, with local government officials in the Republika Srpska and the Bosniak-Croat Federation, and with representatives of numerous international organizations, including with field staff and political representatives of the Organization on Security and Cooperation in Europe (OSCE), the Office of the High Representative, the International Police Task Force (IPTF), and commanders and soldiers of the Implementation Forces (IFOR).

Human Rights Watch/Helsinki concludes that the parties to the Dayton accord have failed to comply with significant aspects of the Dayton civilian provisions. The parties have refused to allow civilians to move freely within the territory of Bosnia-Herzegovina and have obstructed the free movement of representatives of international organizations as well. Refugees and displaced persons have been threatened and mistreated when trying to exercise their right to return to their homes. Few if any refugees and displaced persons have been allowed to repossess their property in areas where they are now an ethnic minority.

Minority populations are still at risk of abuse. This report documents ethnically and politically motivated killings, arbitrary arrest and detention, physical mistreatment and harassment of minorities. There is little prospect for victims to obtain protection from local police and government authorities, who are themselves often complicit in such abuses. As mentioned above, during the violence and harassment of Bosniaks in villages around Teslic in late May, police refused to intervene to assist those ultimately forced to leave the area for Federation territory. In late April, police in Dugi Dio, in the Sapna thumb area where some 4,200 Bosniaks still live territory returned to the Republika Srpska under the Dayton agreement, severely beat five Bosniak men who were repairing the road to the village. Since the beatings, there have been other acts of violence and intimidation targeting Bosniaks in the areas, including a grenade thrown into the village and sniper fire. In May, several houses in Dugi Dio were blown up.

While international observers acknowledge that Dayton is likely to fail unless persons indicted for war crimes—especially Radovan Karadzic and Gen. Ratko Mladic—are removed from power, six months into the implementation process, 60,000 IFOR troops and the military and political leaders of the international community who determine their mandate stand by, unwilling to risk a confrontation with these two men. The international community

appears increasingly willing to tolerate the status quo, ignoring the legally binding obligations created by the Dayton accord and a host of U.N. Security Council resolutions.

The international community appears willing to accept the pretense of compliance, instead of demanding the real thing. This is clearly reflected in the impending decision by the OSCE to certify that the conditions exist in Bosnia for free and fair elections to be held in September. Yet, as this report documents and OSCE's own field staff admit, such conditions do not exist. The certification of elections at this time can only be a farce—a decision by the OSCE under intense pressure from the U.S. government to go forward with elections, regardless of the true conditions on the ground.

RECOMMENDATIONS

A demonstrated respect for human rights and the rule of law by the political leaders from all three sides is a prerequisite to the successful implementation of Dayton. The international community must insist that the highest standards of human rights be upheld by the parties as a precondition to any economic aid or assistance. In particular, the Security Council has noted in resolution 1022 that “compliance with the requests and orders of the International Tribunal for the Former Yugoslavia constitutes an essential aspect of implementing the Peace Agreement.” The foundations of a functioning and lasting peace will only take place when all those who committed war crimes are turned over to the Tribunal and all of its citizens—irrespective of their nationality and ethnicity—are guaranteed their civil and political rights in Serb-majority, Croat-majority and Bosniak-majority areas. Human Rights Watch/Helsinki calls on the international community to take the following steps with regard to their role in the Dayton peace process:

Elections

- The OSCE Chairman-in-Office, who is charged with certifying conditions for fair and free elections should present a public report on the parties' compliance with the criteria set out by the Dayton Accord and by the OSCE for holding fair and free elections, in particular:
 - * establishment of a politically neutral environment
 - * ensuring freedom of movement
 - * allowing and encouraging freedom of association
 - * ensuring freedom of expression and access to the media for all wishing to participate in the electoral process
 - * (no indicted persons are allowed to hold political office - de jure or de facto)
- The OSCE Chairman-in-Office, should make it clear that he will not certify the elections until conditions exist for them to be free and fair;
- The OSCE Chairman-in-Office and the High Representative should as a matter of urgency reconvene the parties in order to make clear that full and immediate compliance with the Dayton Accord is expected, pointing to the specific obstacles for holding free and fair elections in terms of non-compliance, outlining the specific steps the parties must take, creating a specific timetable for compliance, making it clear that non-compliance will be met with immediate punitive measures in the form of withholding economic aid and/or reactivating sanctions;

Respect for Human Rights, Minority Rights and the Right to Return Home of all Refugees and Displaced Persons

- Both the international military and civilian representatives must have a clearly articulated duty to expose human rights abuses. Any international representative who witnesses human rights abuses should be required to inform IFOR and IPTF field personnel so that they can intervene to prevent and/or stop such abuses. There

should be a clear duty to report abuses in the field. Precise guidelines should be created and made known to all representatives of intergovernmental organization, as well as IFOR personnel, about how and to whom to report;

- Human rights operations by intergovernmental organizations (IGOs) must, contrary to the current situation, be transparent. While sources and other information must obviously be protected, reports of human rights abuses should not be withheld from the public for political reasons, and disclosure should be timely. Public reports should, for the remainder of 1996, be issued monthly by each of the IGOs for NGO and media use, or one IGO should be charged with the specific task of issuing a monthly report on the general human rights situation, including information about specific incidents, the reaction of local and government authorities and the international community "sur place". Issues of particular importance might include disappearances, attacks upon returnees or minorities (especially by police or soldiers, including reports of rape), any forcible displacement or relocation, bureaucratic/administrative and/or legal persecution, arbitrary arrest or detention, interference with freedom of movement, association, assembly, expression and interference with election procedures;
- IFOR should become increasingly engaged in guaranteeing and protecting the security, safety and human rights of displaced persons and refugees wishing to return to their place of origin;
- IFOR and IPTF should increase patrols in cities, towns, villages and hamlets with vulnerable minority populations in an effort to prevent attacks against minorities. The absence of such "robust" patrols at this time provides opportunities for local hard-line authorities, police and unruly extremists to carry out human rights violations with impunity, generating an environment of abuse and fear;
- IFOR should increase its effort to ensure complete freedom of movement throughout Bosnia-Herzegovina. Despite the fact that all checkpoints were to be dismantled and are forbidden under the terms of the Dayton Accord, freedom of movement still remains a serious problem and obstacle to carry out free and fair elections. Ad hoc checkpoints continue to spring up in territories controlled by all three sides where local police officers continue to harass members of other ethnic groups traveling through the respective area;
- IPTF's presence at such temporary checkpoints, until they are dismantled, should be increased. Local police should be discouraged from stopping vehicles for identity checks;
- The United States and the European Union should demand that the Bosnian government immediately cease its interference with the rights of Bosnian Serbs and Bosnian Croats to return to their places of origin, hold police accountable for abuses in Federation territory and stop pressuring persons to join the ruling SDA party. The European Union should remind the Bosnian government that, in accordance with the conclusions of the General Affairs Council decision of October 30-31, 1995, long term economic assistance to Bosnia-Herzegovina is among others conditioned on the government's respect for "human rights, minority rights and the right to return of all the refugees and displaced persons".
- The European Union should also remind the government of Croatia that a continued failure to exert sufficient pressure on the Bosnian Croat authorities to respect the rule of law in Mostar and other towns in the Federation and to reintegrate the so-called entity of Herceg-Bosna into the Federation and into the whole of Bosnia-Herzegovina constitutes a serious violation of the Dayton Accord and thus affects long term economic assistance from the European Union to Croatia;
- The European Union should maintain its decision not to admit Croatia as a member of the Council of Europe until Croatia shows its willingness to comply with the human rights provisions set forth in the Dayton Accord;

- The United States, the European Union, the Council of Europe and the OSCE should be engaged in a coordinated effort to ensure true freedom of the press and information in Bosnia-Herzegovina by:

- * supplying the already existing independent media with proper material and equipment so as to facilitate information exchange that is not controlled by the three ethnically-based political parties;

- * facilitating the establishment of joint television, radio and newspaper projects to be run by non-nationalist Bosnians so as to counter the ongoing propaganda and hate speech from all sides that promotes the idea that co-existence is not possible;

International Tribunal for the Former Yugoslavia

- The U.N. Security Council, the High Representative and the OSCE should reaffirm that compliance with the request and orders of the International Tribunal for the Former Yugoslavia constitutes an essential aspect of implementing the Dayton Peace Agreement (as noted in U.N. Security Council resolution 1022 of November 22, 1995);
- The High Representative should without further delay, in accordance with his mandate set forth in Security Council resolution 1022, inform the Security Council via the Secretary General that the Federal Republic of Yugoslavia and the Bosnian Serb authorities are failing significantly to meet their obligations under the Dayton Accord, recommending that the suspension of sanctions be terminated;
- The United States and the European Union should take due note of the government of Croatia's failure to act upon the provisions of the Dayton Accord to exert sufficient pressure on the Bosnian Croat authorities to apprehend and turn over to the tribunal persons indicted for war crimes;
- The European Union should, in accordance with the conclusions of the EU General Affairs Council of October 30-31, 1995 withhold economic assistance to the governments of Croatia, the Federal Republic of Yugoslavia and the Bosnian Serb authorities, due to their failure to fully cooperate with the tribunal;
- The International Community should recognize the obligation of IFOR to facilitate the arrests and turn over to the tribunal of persons indicted for war crimes. Pursuant to Security Council resolution 1022, IFOR must cooperate with the tribunal by:
 - issuing clear orders to all IFOR troops that they are to arrest any indicted war criminals whom they encounter
 - ensuring that all IFOR troops are adequately educated so they will recognize those under indictment and know the procedure for their arrest when encountered
 - undertake an active intelligence effort to identify the location of persons indicted for war crimes, then deploy adequately armed troops in the vicinity, not to conduct search and seizure operations

Reconstruction Aid, Other than Humanitarian Aid

- The international community should reaffirm the principle of conditioning international economic assistance in compliance with commitments made in the Dayton Accord, including full cooperation with the tribunal, as reaffirmed previously by the parties in London and Brussels and its readiness to respond firmly to non-compliance;
- The High Representative should act upon the call made to him on March 4-5, 1996 (Bosnia Round Table organized by the Austrian Foreign Ministry) and present a report on economic assistance, identifying areas or projects to which conditionality should appropriately apply, as well as outlining the specific steps the parties must undertake to receive assistance and the conducts that would trigger reduction or termination of assistance.

Human Rights Watch/Helsinki continues to call on all three parties in Bosnia-Herzegovina to:

- Apprehend and turn over all persons indicted for war crimes to the Tribunal;
- Identify the fate of all Bosnian Croats, Bosnian Serbs and Bosniaks - both civilians and combatants - killed or disappeared during the war. The authorities of all three sides are obligated to count and identify each corpse, provide information to the families through the ICRC or other means, and facilitate a dignified burial in graves properly marked so that they can be found;
- Investigate and prosecute those responsible for previous and most importantly - continued - abuses against and harassment of Bosniaks, Bosnian Croats and Bosnian Serb returnees and/or minorities. Take immediate steps to prevent future abuse;
- Allow independent observers from both governmental and nongovernmental human rights entities, complete and unrestricted access to all areas of, and persons, residing in the territories of Bosnia-Herzegovina (i.e. the Bosniak-Croat Federation and the Republika Srpska).

THE PARTIES' NON-COMPLIANCE WITH THE DAYTON AGREEMENT

In the General Framework Agreement reached in Dayton, the parties committed themselves to implement all provisions of the peace settlement, including in particular those provisions pertaining to the civilian (non-military) aspects of the agreement. Specifically, the parties agreed to adhere to international human rights standards and obligations; to cooperate fully with the tribunal; and to guarantee freedom of movement, the right to return, and a host of other rights that would create a safe and secure environment for the people of Bosnia, as well as the conditions for free and fair elections. None of the parties has lived up to these obligations.

Failure to Cooperate with the International Tribunal

The Dayton accord requires all parties to "cooperate fully" with the "investigation and prosecution of war crimes and other violations of international humanitarian law" (General Framework Agreement, Article IX). Article 29 of the statute for the tribunal imposes a similar duty on all members of the international community to "comply without further delay" in the "arrest or detention" of persons indicted for war crimes and "the surrender or transfer of the accused to the International Tribunal." The parties, especially the Serbs, have not cooperated with the Tribunal, failing to turn over Karadzic and Mladic or to enforce arrest warrants for others indicted by the tribunal. Only the Bosnian government in Sarajevo has turned over indicted persons to the tribunal.

In a letter dated April 24, 1996 to the president of the U.N. Security Council, Antonio Cassese, president of the tribunal, stated:

The cooperation of the States of the former Yugoslavia is particularly imperative: without such cooperation, few accused would ever be delivered to the Hague to stand trial. To this day, however, the Federal Republic of Yugoslavia has not executed a single arrest warrant addressed to it.¹

Further, Cassese quoted the prosecutor's final submission of the case involving accused persons from the Federal Republic of Yugoslavia (FRY):

¹ Letter from Antonio Cassese, president of the International Tribunal for the Former Yugoslavia, to the president of the U.N. Security Council, April 24, 1996.

[The FRY has] promoted, supported and continued to pay an indicted war criminal [Veselin Sljivancanin] and to maintain him as a senior officer in their army, and if [...] reports are correct, they now even have him training officer cadets. Can there be any more flagrant way of showing their disregard and even contempt for their obligations as a Member State of the United Nations, obligations they recently affirmed by entering into the Dayton accords?²

Despite Cassese's clear statement that the Bosnian Serbs are not cooperating with the tribunal and his appeal for support for the tribunal's historic work, the international community has not insisted on the parties' immediate cooperation with the tribunal, and the parties have continued to obstruct all efforts at accountability.

- The Federal Republic of Yugoslavia continues to refuse to apprehend persons indicted for war crimes, including three Yugoslav army officers who participated in the execution of Croats in Eastern Slavonia in 1991.
- Several mass graves in Bosnian Serb territory appear to have been tampered with. In April, *The New York Times* reported that "an independent visit today to one of the most important suspected mass graves on [the itinerary of war crimes investigators] showed indications of massive tampering . . . The strongest evidence that the site [near Lazete] has been extensively tampered with comes from the testimony of a reporter who visited the site today. The reporter, David Rohde of *The Christian Science Monitor*, also inspected the area in October, and said that the ground covering about 70 percent of the area had been dug up since he had seen it last."³ The mass graves were alleged to be the burial place of thousands of Bosniaks slaughtered by Serb forces when they overran Srebrenica during the summer of 1995.
- Radovan Karadzic continues to exert political control in the Republika Srpska, and Ratko Mladic exerts control over the Bosnian Serb military. Both appear in public without any apparent fear of being arrested. For example, General Mladic was seen on the ski slopes of Sarajevo in March. Looking "tanned and relaxed", Mladic gave interviews to the local press and expressed no concern about the possibility of being arrested.⁴

The failure of the parties to cooperate with the tribunal and to turn over indicted persons to the tribunal for trial jeopardizes a lasting and makes it impossible to create the "politically neutral environment" necessary for free and fair elections. Such obstruction by the Bosnian Serbs should be viewed as "significant non-compliance" with the Dayton agreement and should trigger the immediate call by High Representative Carl Bildt and the international community for reimposition of sanctions, as well as the denial of all non-humanitarian aid to the Republika Srpska.

Restrictions on Freedom of Movement

² Ibid., quoting transcript of the hearing of the final submission of the prosecutor's case, The Hague, March 27, 1996, pp. 45-6.

³ Mike O'Connor, "In Bosnian Field, Disturbed Dirt at Suspect Site," *The New York Times*, April 2, 1996. On tampering with evidence of war crimes, see also, Chris Hedges, "Bosnia: Evidence of 'ethnic cleansing'," *The New York Times*, January 12, 1996; Jonathan Landlay, "Bosnia's Killing Fields," *Christian Science Monitor*, January 19, 1996.

⁴ Associated Press, March 10, 1996.

The right to liberty of movement and residence is a fundamental freedom recognized in international human rights documents.⁵ The parties to the Dayton agreement committed themselves to secure "the right to liberty of movement and residence" to all persons within their jurisdiction (Annex 6, Ch. 1, Art. I (13)), "without discrimination on any ground such as . . . religion, political or other opinion, national or social origin, association with a national minority . . ." (Annex 6, Ch. 1, Art. I (14)). Freedom of movement has been recognized by the parties as an important pre-condition to organizing free and fair elections (Annex 3, Art. I (1)).

The international community has repeatedly placed a high priority on freedom of movement. U.S. State Department spokesman Nicholas Burns stated, "There is no element of the accord more central to the civilians in Bosnia and Hercegovina than freedom of movement." Similarly, the Council of Europe, in its Parliamentary Assembly meeting on April 26 stated, "The Assembly considers that freedom of movement throughout the territory is an essential prerequisite for the elections."⁶

Although IFOR and the IPTF have made significant efforts to remove fixed checkpoints throughout Bosnia and Hercegovina, real freedom of movement does not exist. In many towns, local police have set up temporary or mobile checkpoints, although under IFOR's operating regulations, checkpoints are only allowed for traffic control or normal police duties. However, they are routinely used to conduct identity checks and interfere with freedom of movement. The IPTF information officer in Banja Luka confirmed that police do not have the right to stop persons for identity checks, but acknowledged that there was a great deal of resistance from the police. The deputy police chief in Banja Luka, for example, said, "The police will not give up. We want to know how many Muslims are entering our area."⁷

Local authorities refuse to comply with their obligations under Dayton to allow free movement and continue to create new barriers to civilians who would try to exercise this right. Throughout Bosnia, people told Human Rights Watch/Helsinki representatives that they fear for their safety, especially when crossing the inter-entity boundary line (IEBL), but also when entering areas controlled by a different ethnic group.

- In Prijedor, Human Rights Watch/Helsinki received numerous reports from Bosniaks, that they would continue to fear crossing the IEBL even if the checkpoints were removed, because the police watch the roads and state security often "invites" persons crossing over for the familiar "informative talks." In other areas, individuals are forced to pay unauthorized tolls in order to cross the IEBL.
- Shortly after the signing of the Dayton accord, the Republika Srpska seized sixteen civilians in Sarajevo in retaliation for the arrest of two Serbs in October 1995. The Bosnian government complained they had requested assistance from NATO for days following the incident without reaction. Finally, the U.S. stepped in, issuing stern warnings to the Bosnian Serbs and issuing a protest to President Milosevic. The sixteen were released.

⁵ See e.g. International Covenant on Civil and Political Rights, Article 12.

⁶ See Council of Europe, Parliamentary Assembly Recommendation 1297 (1996) on the implementation of the Dayton agreements for peace in Bosnia-Hercegovina, document 1403-25/4/96-20-E.

⁷ Human Rights Watch/Helsinki interview, Banja Luka, April 2, 1996.

- Three persons were killed and ten injured when Bosnian Serbs attacked Bosniaks attempting to visit graves in the village of Sjenina, near Doboj on April 29. The next day, Serbs armed with sticks blocked Bosniaks from entering Celic. Bosnian officials and police managed to push the crowd back, and no one was hurt. The Serb police, in the meantime, walked away when international monitors encouraged them to talk with Bosniak official. The same day, another group was turned back by Bosnian Serbs who built barricades on the road between Gorazde and Kopaci.⁸
- On May 9, an angry Bosnian Serb crowd, which was waiting for Bosniaks hoping to visit their former homes near Maglaj, attacked returnees, journalists, and IPTF officers in nearby Rjecica Donja. Two shots were fired, and an international police truck was damaged. According to IPTF, the deputy police chief from Doboj was present but did not take action to control the mob. Two Bosniaks present, however, claimed the Bosnian Serb police did take some action to quell the violence.
- In yet another incident, on April 19, a Czech IFOR platoon fired warning shots when Serbs blocked a group of Bosniaks who wanted to visit their homes near Otoka.
- According to international monitors in Prijedor, the infamous police chief, Simo Drljaca, who rounded up Bosniaks in Prijedor and placed them in concentration camps during 1992, has been handing out guns to the local population and encouraging them to "defend" themselves against Bosniaks who want to cross the IEBL.
- On May 18, hundreds of Bosnian Serbs formed a human chain to prevent Bosniaks from entering the Republika Srpska. Several hours of negotiations with Prijedor officials failed to procure permission for the Bosniaks to enter the territory. The Bosnian Serbs stated that the Bosniaks would only be let in if there were a reciprocal agreement for Serbs to visit grave sites in Sanski Most.⁹
- In Prijedor, "authorities will not allow free movement out of Prijedor", Human Rights Watch/Helsinki was told by a Bosnian Serb married to a Bosniak. "No one has been punished for crossing, but anyone who goes will have to face an interview by state security when they return. At the Ostra Luka checkpoint, they often take documents from people. A lot of people who were on work obligations [in forced labor] and whose families were expelled want to travel to be reunited. They have to have official permission."¹⁰
- Authorities in the Republika Srpska have made it quite clear that they do not intend to allow non-Serbs to move freely within their jurisdiction. As of May 20, the Karadzic-designated "Prime Minister" Klikovac said he would "discourage local Serb cooperation in allowing Bosniaks and Croats to visit their former homes in what is now the Republika Srpska."¹¹
- On the weekend of May 25-26, Bosniak women trying to visit the town of Kozarac, near Prijedor, to plant a "tree of peace" were prevented from entering the Republika Srpska by a group of about 250 Serbs, who attacked them with stones and clubs, injuring two women. The Bosnian Serb police set up

⁸ "Serbs Block Hundreds of Muslim Refugees," Associated Press, May 1, 1996.

⁹ "Bosnian Serbs Form Human Chain to Prevent Muslim Visits," Reuter, May 18, 1996.

¹⁰ Human Rights Watch/Helsinki interview, Prijedor, April 1996. Many non-Serb men were rounded up by Bosnian Serb civil and military forces (aided by Serb paramilitaries) as forced laborers during the last months of the conflict, and their family members were expelled into Central Bosnia. Many of those men had still not been reunited with their families many weeks after the signing of the Dayton accord, and there are still thought to be more than forty persons in forced labor. See Human Rights Watch/Helsinki, "Northwestern Bosnia: Human Rights Abuses During a Cease-Fire and Peace Negotiations," *A Human Rights Watch Short Report*, vol. 8, no. 1, February 1996.

¹¹ UPI report, May 20, 1996.

roadblocks to prevent the women from entering. This was the fifth time that returnees had been blocked from entering the Prijedor area.

Although to date the more serious incidents have occurred when non-Serbs attempted to cross into the Republika Srpska, ethnic Serbs have been prevented from visiting their homes in the Federation as well.

- On May 9, Bosniak youths prevented Bosnian Serbs from visiting grave sites in Hadzici, a Sarajevo suburb. Police described the incident as retaliatory harassment for a Serb nationalist attack on Bosniaks attempting to visit grave sites the previous day in Parnica, a town in Republika Srpska territory.¹²
- Following the incident near Doboj, Bosniaks in Bosanski Petrovac burned the homes of three Serb families following an attempted visit by about 200 Serb displaced persons. The incident also prompted federal police to set up a checkpoint in Trnovo to watch for cars with Serb license plates. The police commander reportedly said that Serbs would not be allowed freedom of movement and that police would place roadblocks and cut off telephone lines in the area.
- On April 14, two Serbs crossing the IEBL at Lukavac were met by a group of hostile civilians. One Serb ran, chased by men, into the zone of separation, while the other was surrounded in his car. IFOR intervened to assist him, and the crowd then prevented IFOR from leaving the area by lying down in front of the armored personnel carrier. An IFOR soldier was then stabbed in the back. Finally, the two Serbs were handed over to the Federation authorities for questioning, but were released after several hours of interrogation.
- IFOR reported to Human Rights Watch/Helsinki that, as of mid-April, "Any Serb persons coming through the zone of separation are being detained."¹³ On or about March 13, four Serbs were arrested by Bosniak Federation authorities in the zone of separation and transferred to Bihac. Approximately two weeks later, they were released. IFOR investigators went to the scene of the arrests and found an abandoned tractor and other evidence supporting the statements of the men.¹⁴

¹² "Serbs Try to Stop Another Group of Bosniaks from Visiting Graves," ONASA, May 9, 1996.

¹³ Human Rights Watch/Helsinki interview with IFOR Major Pedro van der Ent, Sanski Most, April 5, 1996.

¹⁴ *Ibid.*

- In Mostar, draft-age males who attempt to cross from one side of Mostar to the other risk serious harassment or beatings. Women living on the east side of Mostar (controlled by Bosniaks) reported to Human Rights Watch/Helsinki that they must conduct most necessary business in West Mostar (controlled by Bosnian Croats) because it is too dangerous for the men to cross, yet they feel extremely anxious about crossing themselves. A Bosniak woman explained, "If we have to go, we go, but we hurry back." Local police in West Mostar wait at temporary checkpoints for cars with license plates issued by the Sarajevo government or persons believed to be Bosniak in order to harass them. On April 15, a Human Rights Watch/Helsinki representative observed this happening at a roundabout in the middle of Mostar and was herself stopped and questioned in the central zone, in violation of checkpoint rules established by the West European Union (WEU) police.¹⁵
- The second week in May, a municipal bus service started taking people from East to West Mostar, but was stopped after West Mostar police turned one bus back. The service recommenced shortly thereafter, but a human rights monitor reported, "Buses have been going with heavy police escort and no or few passengers."¹⁶
- Bosniaks were told by Croat authorities that they would not be welcome to enter Stolac to attend a meeting on freedom of movement in Stolac on May 19. The irony probably did not strike them.¹⁷
- On May 27, Bosnian Croats in Stolac again prevented a group of 200 Bosniaks from visiting their home town. "We regret that the Croats are preventing the Bosniaks from Stolac to go and visit their houses, while under the Dayton accord they have not only freedom of movement, but also the right to return to their homes. There is no freedom of movement and the fact that today's visit has been cancelled is a major step backwards," said U.N. spokeswoman Ariane Quentier.¹⁸
- On May 28, Croats "under instructions from city officials" blocked a group of Bosniaks wanting to return to their homes in Croat-controlled Stolac, UNHCR reported. "The returnees were kept under very tight surveillance, with police making sure they didn't approach their old homes, enter their own homes or try to speak with the Croats living in them," UNHCR representative Randolph Ryan told UPI.¹⁹ Agence France Press and Onasa reported that Radoslav Lavric, an official of the so-called Croat Republic of Herceg Bosna, said the Croatian authorities had already allowed some 600 Bosniak refugees to visit the town, "which was more than agreed." Later, the Croatian authorities in Stolac said that the visits were "officially completed", and denied more visits because "it is not clear how long they will take."²⁰
- In a village just outside Jajce, a Bosniak man told Human Rights Watch/Helsinki that Bosniaks were only allowed to enter the town for three hours, and were under threat of arrest if they stayed any longer.²¹

¹⁵ The central zone is an area in the center of Mostar that is to be shared by Bosniaks and Croats, the size of which was to be determined in binding arbitration by the European Union Administrator for Mostar.

¹⁶ Confidential Source, Mostar.

¹⁷ "Croat Obstructions in Stolac," Press TWRA, May 19, 1996. *See also* "Croats Prevent Bosniak Refugees from Returning Home," ONASA, May 20, 1996.

¹⁸ "Bosnian Croats Block Muslim Refugees Returning to Stolac," Reuters, May 28, 1996.

¹⁹ UPI, May 29, 1996.

²⁰ "UNHCR Disappointed Bosniaks Could Not Visit Homes in Stolac," Onasa, May 28, 1996.

²¹ Human Rights Watch/Helsinki interview, Jajce, March 21, 1996.

Representatives of international organizations have not been immune to restrictions on freedom of movement.

- On Orthodox Easter Sunday, two relief workers traveling from Mostar to Sarajevo via an alternate route because the main road was closed were stopped by Serbs because they had a car with Croat plates (their own car had been stolen by Croats who mobbed and ransacked their offices in Mostar). The Serb police took the two women to the police station and interrogated them. Six male policemen surrounded them in a room and asked repeatedly why they had a Croat car. When the women explained why they had the car, they were told "Do you know you could be taken to prison for this?" Finally, another man came, asked them the same questions, and then ordered their release.²²
- Two OSCE monitors arrested at a checkpoint between Olovo and Lkadanj in March, were finally released after vehicle and body searches, and then arrested again at the next checkpoint.
- A Human Rights Watch/Helsinki representative was stopped illegally by local Croat police in the central zone of Mostar on April 15, very near the WEU police station, while police sent in from Croatia stood by.
- On May 24, Croat police in Drvar banned a UNICEF team from filming a historic cave. The chief of police inspector from Drvar showed up at the cave and told the UNICEF team that the cave was a military site. There was no military activity and no sign indicating that the area was off limits. The UNICEF team was then escorted to the police station, where five of its members were questioned for two hours. A Japanese film crew accompanying the team was kept in their bus for three more hours. Their film and bus were confiscated.²³
- On May 29, the UNHCR reported that the Bosnian Serbs had banned UNHCR buses from crossing inter-ethnic boundaries. "The Bosnian Serbs have banned our bus from [Serb] Banja Luka to [Bosniak] Zenica, just like they did with our bus in the Sarajevo area," UNHCR spokesman Kris Janowski told Reuters.²⁴

There have been some successes. A group of Serb displaced persons from Drvar were able to visit cemeteries in their hometown without incident in April. Bosniaks were able to complete a peaceful visit to family grave sites in Breko, thanks to the cooperation of the Serb mayor of the town. Croats displaced persons from Gradacac were also able to visit graves in the northern part of Republika Srpska. Further, many NGOs and IGOs continue to sponsor very important programs that facilitate inter-ethnic discussion and cooperation.

Restrictions on the Right to Return

Annex 7 of the Dayton agreement sets out the parties' obligations with respect to the return of refugees and displaced persons. Among other things, the parties agreed that "all refugees and displaced persons have the right freely to return to their homes of origin" (Article I (1)). Furthermore, "The parties shall ensure that refugees and displaced persons are permitted to return in safety, without risk of harassment, intimidation, persecution, or discrimination, particularly on account of their ethnic origin, religious belief, or political opinion" (Article I (2)).

²² Human Rights Watch/Helsinki interview, Mostar, April 12, 1996.

²³ "Croats Stop UNICEF Team in Drvar," ONASA, May 25, 1996.

²⁴ "Bosnian Serbs on 'Ethnic Cleansing' Campaign in Teslic, Over 100 Non-Serbs Forced to Leave their Homes," Reuter, May 29, 1996.

Despite the clear commitment of the parties, to date there has been little progress in repatriation. Of the more than two million people displaced from their homes during the conflict in Bosnia, very few have been able to return across the inter-entity line separating the Republika Srpska and the Bosniak-Croat Federation. In fact, U.N. officials trying to organize the return of refugees and displaced persons fear that as many as two-thirds of all displaced persons may never go home.²⁵

While there have been some visits to homes and to graveyards, as yet there has been no significant return to areas where returnees are of a minority ethnic group. Approximately 50,000 people have returned spontaneously--Bosnians and Croats to majority areas in Federation territory and Bosnian Serbs to the "anvil."²⁶ However, government authorities are "resettling" many of these persons in an effort to affect the ethnic composition of the resettled areas.

Bosnian Serb leaders have stated that the return of Bosniak refugees and displaced persons will be contingent on the ability of ethnic Serbs from the Krajina region of Croatia to return to their homes. While Human Rights Watch/Helsinki condemns the Croatian government's failure to facilitate the return of Krajina Serbs to Croatia, this cannot justify the Bosnian Serb authorities' refusal to uphold their obligations under the Dayton agreement. Krajina Serbs in Banja Luka have also threatened to physically prevent the return of refugees and displaced persons to northern Bosnia. The Bosnian Serb authorities are obligated to take the steps necessary so that refugees and displaced persons can return to Republika Srpska territory in security and safety.

The Dayton agreement identified several towns as sites for pilot projects for the return of refugees and displaced persons. Only one of these pilot projects—in the Bosniak-controlled town of Travnik—has been a complete success, thanks to the cooperation of the town's authorities and its history of tolerance. In most of these towns, local authorities have obstructed all efforts of refugees and displaced persons to return, even for short visits. As one UNHCR repatriation officer told Human Rights Watch/Helsinki, "With rare exceptions, every request to mayors for informal visits has been met by a response that permission from above is necessary."

- 117 Bosniak families have been allowed to return to the Bosnian Croat-controlled town of Jajce, which had a pre-war Bosniak population of approximately 17,000. While the return of these families represents significant progress, Bosniaks in and around Jajce continue to report difficulties with freedom of movement.
- Five months of negotiations have failed to produce significant results in Croat-controlled Stolac (located in Hercegovina), a UNHCR representative in Mostar told Human Rights Watch/Helsinki. The repatriation effort included a reconstruction plan that may end up paying the Croats to rebuild the very houses they destroyed--and with no guarantees that Bosniaks will ever live in them. "There has to be some benefit to the Croat community to get their cooperation," a UNHCR representative explained to Human Rights Watch/Helsinki.

²⁵ "Millions of Displaced War Victims May Never Go Home Again," Reuters, May 12, 1996.

²⁶ The "anvil" is a triangular area of northwestern Bosnia which was under Serb control until the fall of 1995. After a joint HVO-ABiH offensive, it fell under Federation control but it was returned to the Bosnian Serbs under the Dayton peace accord.
Human Rights Watch/Helsinki 14 June 1996, Vol. 8, No. 8 (D)

For return visits to Stolac, permission must be obtained from Slobodan Bozic, a high-level official of the so-called Croatian Community of Herceg-Bosna.²⁷ Although Bozic initially said that Bosniaks did not need clearance to visit Stolac, when they tried to visit graveyards, "everything was stopped," according to one international relief worker.²⁸ It was only after the Bosniaks staged sit-ins that IFOR, IPTF, journalists and others escorted them in convoys to visit the graves of their families.

When Bosniaks paid a return visit to Stolac, groups of young Croats met their buses and threatened them. IPTF and IFOR troops were present but did not react, according to a person who was on the bus. An IPTF officer who had been present at the scene said:

The young men were putting the Ustase symbol on the bus, drawing in the dirt with their fingers.²⁹ The hate I saw from these young men was frightening. There were twenty-five or so of them. The local police knew these guys. The police tried to tell them to go away. They were very threatening. They were spitting at the driver of the bus. A few kilometers from Stolac there was an informal checkpoint, where anyone with license plates issued by the Sarajevo government is turned back by police. IFOR told one international organization that the police were simply doing their job as traffic cops.³⁰

- A Bosniak woman from Capljina told Human Rights Watch/Helsinki:

I was gone from my home for three years, and one organized visit was the only time it was possible for me to go. We went with three buses. Twice before we tried to go and the buses were blocked. We were at the checkpoint for four or five hours and then had to turn back. The second time we parked the bus in the middle of the road and refused to move. The people stood in front. But not even IFOR was allowed to pass [through the checkpoint]. There were many Croat police. The Herceg-Bosna police were the same policemen who had taken us to concentration camps [during the war]. It was a terrible thing to meet eye-to-eye the same people who traumatized us and who expelled us from our houses. We were not allowed to see our houses when we went back to see the graves. When we asked to see our houses and graves it was hard to get permission to see even the graves--but it was not possible to see our houses. When we got to the graveyard, the police formed two lines and we had to pass between them. Next to the cemetery there is a field which belongs to my family, and I tried to pass to just stand on my own land. They told me I could not go. As far as I know, there is no permission to go back again. A list has to be prepared first and sent to the police station in

²⁷ The western Hercegovina branch of the Croatian Democratic Community (Hrvatska Demokratika Zajednice, HDZ) had strong links with the HDZ party in Zagreb, led by President Franjo Tudjman of Croatia. On July 3, 1992, Croats in western Hercegovina proclaimed the state of Herceg-Bosna. Croats in "Herceg-Bosna" had already been given dual citizenship in Croatia in 1990, with the right to vote in Croatian elections. The Croats in Hercegovina adopted the Croatian state symbol for their flag (with a slight difference), the police wear the same blue uniforms, license plates bear the same symbol, and the currency (the Kuna) is the same as is used in Croatia. The self-proclaimed entity of Herceg-Bosna is not recognized as a legitimate government by the international community, and was to be reunited with the Bosniak-controlled areas of Bosnia after the Washington Framework Agreement on March 1, 1994, which created a joint Bosniak-Croat Federation.

²⁸ Human Rights Watch/Helsinki interview, Mostar, April 13, 1996.

²⁹ During World War II, Croatian fascists (known as Ustasas) established the puppet state of the Independent State of Croatia with the backing of the Nazi and Italian fascist governments. Under the Ustasa regime, thousands of Serbs, Jews, Gypsies and others were killed between 1941 and 1945.

³⁰ Human Rights Watch/Helsinki interview, Mostar, April 10, 1996.

Capljina, and they decide who can go and who cannot. I cannot describe the feelings I had going past my house. And the place where the mosque stood is completely empty--there is nothing left. Still, it was a step forward to be able to go at all.³¹

³¹ Human Rights Watch/Helsinki interview, Mostar, April 10, 1996.

Changes in the formerly ethnically mixed town of Capljina proved telling. The conference room in the impressive municipal building where Human Rights Watch/Helsinki representatives waited for the mayor, Krunoslav Kordic, was decorated with a huge HVO³² poster, a statue of the Virgin Mary, a photograph of Franjo Tudjman, and a new city flag—featuring St. Francis of Assisi. The city map downstairs in the entrance hall was new and showed that all the city's streets had been re-named for famous Croatians—one of them the extreme-nationalist figure Ante Starcevic.³³ The mayor explained why the so-called entity of Herceg Bosna could not be dismantled.

If there was no Herceg-Bosna, then we would not be able to defend ourselves—and Bosnia and Hercegovina would not exist . . . It is the question of whether the Federation is possible or not. In the Washington Agreement, there were no mixed cantons, and all of the sudden in Vienna they put them in. So in the end they will step by step try to make it an Islamic state. It won't be easy for America to make an Islamic state here. In 1878 we were freed from the Turkish Empire, so we know what it was like to live under Islamic law. Wishes are one thing, reality is another.

Capljina was evidently not a place eager to reincorporate its Bosniak population.

- In Bugojno, SDA³⁴ authorities blocked the return of 200 Croat families, in contravention of the agreement reached in Dayton, and have mistreated the few Croat residents remaining in the town. In February, Carl Bildt's deputy, Christian Klein, sent a letter to the mayor of the town, calling him to make a test return of the families by end of the month, but results never materialized. Given this intransigence, Bildt later called for the town to be denied reconstruction aid—along with several other towns: Capljina, Stolac, and Vares.
- In Mostar, return of Bosniaks to West Mostar is blocked. The official reason is that no housing is available. The European Union Administration (EUAM) Housing Authority, created to address problems of return related to housing, is powerless to do more than monitor the situation. "We have no executive power," a representative of the EUAM Housing Commission explained to Human Rights Watch/Helsinki. "We are a coordinating office. A legal system does not exist here. We hoped to find a local judge or lawyer who would work with us, but no one wanted the job."³⁵ On the east side, local officials say, the return of Bosnian Croats cannot take place without the return of Bosniaks to the west side. Such linkage is a common tactic in post-war Bosnia.
- In Drvar, the mayor told European Community Monitoring Mission (ECMM) monitors that all persons currently living in the town have one-year tenancy rights guaranteed by the Croat authorities, meaning that anyone who wishes to return must wait for this period to make a property claim. Drvar, which once had a large Serb population, is now 100 percent Croat.³⁶

The Right to Remain and Politically Motivated Resettlement

³² Croatian Defense Council (Hrvatsko Vijeće Obrane).

³³ Ante Starcevic was founder of the Party of Right (Stranka Prava). The party called for "Great Croatia," a reborn Croatian state, and believed in the inviolable right of Croats to reconstruct their national state in historic Croat lands. They regarded Serbs as an "unclean, servile race", and Slovenes were referred to as "mountain Croats." The Party of Right has its headquarters in Mostar and still celebrates "the founding of the independent state of Croatia," the fascist state formed in 1941.

³⁴ Bosniak Party of Democratic Action (Stranka Demokratske Akcije).

³⁵ Human Rights Watch/Helsinki interview, Mostar, April 13, 1996.

³⁶ ECMM report 14/96, March 29-April 4, 1996.

Ironically, the Dayton agreement fails to mention the right to remain, although this right is clearly encompassed in the general right freely to choose one's residence.³⁷ During the peace negotiations and following the signing of the Dayton accords, more than 370,000 additional people were displaced in the region (from May to November 1995).³⁸ These mass movements were viewed as inevitable by many observers, and as necessary by those who subscribed to the cynical view that peace would come only when each entity was made "ethnically pure."

The signing of the Dayton agreement did not end population movements. Those remaining in pockets of minority citizens have continued to come under pressure to leave their homes.

- By March 24, the last Bosniak left Drvar, which is now full of displaced Croats who have been promised a land of plenty by the HDZ.³⁹ Advertisements targeting displaced Croats promise them housing and jobs if they go to towns like Drvar or Glamoc.
- According to UNHCR, hard-line Bosnian Serbs have expelled dozens of families from the Teslic area in central Bosnia through a campaign of harassment during the latter part of May 1996.⁴⁰
- In mid-May, several empty homes once owned by Bosniak families, one of which had just been repaired, were blown up in the village of Dugi Dio, a Bosniak town in Republika Srpska where some Bosniaks still live. Bosnian Serb police subsequently accused local Bosniaks of blowing up the houses. International investigators stated that the job was "professional".

In some cases, minority populations have come under pressure from their own ethnic leaders to leave their homes. These politically motivated resettlements have been orchestrated by political leaders who claim that different ethnic groups cannot live together peacefully and want no examples to the contrary. As noted below, these same leaders frequently try to resettle such groups in areas where the authorities are trying to assert political control by increasing the ethnic representation in the population.

The Serbs Leave Sarajevo

During the transfer of authority in the suburbs of Sarajevo from Bosnian Serb control to Federation control in February/March, rogue Bosnian Serb elements forced Bosnian Serbs out of the suburbs, usually burning houses left behind, and in some cases killing those who refused to leave. In addition, Bosniak-Croat authorities failed to provide adequate assurances to the Bosnian Serb populations that they would not suffer abuse at the hands of the federation, thus causing them to leave their homes out of fear.

The Serb exodus from Sarajevo was the first real test of the new international presence in Bosnia following the signing of the Dayton accords. Many more Serbs might have opted to stay in Sarajevo had they trusted the willingness or ability of the international community to protect them. Actions by the High Representative were too little and too late to make a difference, and his belief in the sincerity of the Serb authorities who appeared with him in the suburbs to convince people to stay was, at best, naive. IPTF statements to the press, such as "We can't guarantee anyone's security" did not help to reassure the population. Approximately ten days before the transition of authority, Bosnian Serb police from other areas of Bosnia arrived in the Sarajevo suburbs. There were some reports of special forces in the area. One woman told Human Rights Watch/Helsinki:

³⁷ International Covenant on Civil and Political Rights, Article 12.

³⁸ This figure, which is based on estimates from the ICRC, includes Serb refugees who fled Croatia during May and August offensives in the Krajina region.

³⁹ Croatian Democratic Union (Hrvatska Demokratska Zajednica).

⁴⁰ "Bosnian Serbs on 'Ethnic Cleansing', Campaign in Teslic; Over 100 Non-Serbs Forced to Leave Their Homes," Reuter, May 29, 1996.

We were not sure if they were police or some special forces--some kind of spies. Everything was very well-organized--there were phases--maybe one month before the transition, people started taking things apart. Bildt came and promised everyone that everything would be saved--that we could stay. The [local] Serb authorities obeyed Momcilo Krajsnik, speaker of the Bosnian Serb Parliament, though, and gave instructions on dismantling everything. Mr. Steiner [deputy to the high representative] tried to get people to stay, but it was very clear that the Serb authorities were offending [lying to] him.⁴¹

For its part, the Sarajevo government did little to encourage Serb residents to stay, delaying enactment of an amnesty which might have reassured some draft-age males to stay. The presence of Black Swans, an elite unit of the Bosnia-Herzegovina Army (ABH) in Ilidza, served to intimidate Serb residents and may well discourage the return of others. The Sarajevo government has also been accused of encouraging displaced persons from Zepa and Srebrenica to live in the formerly Serb-held areas of Sarajevo.

After the transfer of Ilidza, Bosniak gangs from Sarajevo continued the harassment and looting started by Serb gangs. Despite the events in Ilidza, the international community failed to boost the presence of IFOR and IPTF sufficiently in Grbavica, the last suburb to be transferred to Federation control, to prevent a repetition of the same destruction. While there were positive reports of IFOR's assistance in removing mines, providing protection of a safe house set up by UNHCR, and rescuing people from burning buildings, the consensus of aid workers present in Grbavica, including a Human Rights Watch/Helsinki representative on the scene, was that IFOR did too little, too late, and that NGOs and human rights monitors often had to persuade IFOR into patrolling or taking other actions. One journalist reported that she stopped IFOR vehicles three times one evening to ask troops for action to stop looters and to assist in the rescue of people from burning buildings—each time, they said "Okay" and then left. Finally, several Bosnian Serb policemen appeared, complaining to aid workers that no one cared about the Serbs. They threatened the local people, who were terribly frightened, and then shouted at them, "Anyone who wants to stay is our enemy, and your apartment can burn."⁴²

Journalists and aid workers were so appalled by what they saw going on that, under very dangerous conditions, they took it upon themselves to stay overnight with elderly residents in Grbavica to protect them from thugs. Initially, IFOR refused to go into buildings which had been set on fire to warn elderly residents to get out, and Human Rights Watch/Helsinki received testimony of absurd levels of IFOR passivity. In one case, an IFOR soldier stood watching an elderly man out on his balcony, who was apparently unaware that his building was in flames, yet failed to warn the man or get him out. Individual IFOR soldiers did at times feel compelled to intervene: in one case, Serb men were seen pushing elderly people out of a bread line, and IFOR intervened immediately. But for the most part, IFOR offered little to no protection.

Croats Leave Majdan

⁴¹ Human Rights Watch/Helsinki interview, Sarajevo, March 21, 1996.

⁴² Told to Human Rights Watch/Helsinki, Sarajevo, March 24, 1996.

Croat displaced persons interviewed in the town of Glamoc reported they were told by their leaders that they had to leave their homes in Majdan, near Mrkonjic Grad, once it was transferred to Bosnian Serb authority, because they would not be protected from human rights abuses and would not be able to live normal lives among the Serbs. As one of the villagers explained, "We would have no jobs there under the Serbs--we did not have electricity or telephone lines."⁴³ IFOR did establish a contingent of soldiers in the town before the transition, but the villagers had no confidence in IFOR's ability to protect them. "Besides", said one villager, "IFOR is going to leave. Who would protect us then?"⁴⁴

The villagers stated that the mayor of Majdan, who was a member of the HVO, informed them they had several choices about where they could go to live: Jajce, Drvar, Grahovo, or Glamoc. All of these are towns where the HDZ has a strong interest in bolstering the Croat population in order to consolidate territory and prevent Serbs from returning. Asked how they felt about life in Glamoc, all the villagers interviewed said they did not like it in Glamoc and would like to return to their homes, but as one villager stated, "only if our village is not under Serbian control. We were afraid, and we felt we had to go. If the Serbian people were angry with us, we would have no protection."⁴⁵ The villagers were not aware that under the Dayton agreement they could choose where they wished to live. "We did not want to come to Glamoc," said one woman. "It is very cold and bad here. There is no work. We had information that it was the best out of the four places." "Our mayor went to Jajce," she added, "but Jajce is surrounded by Muslims, and we wanted to be in a place with an exit to Croatia in case there is more war. We live from one day to the next--we don't know what will happen. The Serbs there are not living in destroyed houses--they are living in our houses while we are living in destroyed houses here."⁴⁶

Another man from Majdan told Human Rights Watch/Helsinki that Luka Culic had come from the SDS⁴⁷ during the transition period and informed them that it was Serb territory and they must leave. "IFOR said they could not guarantee our security. We don't like Glamoc at all, but we came here to be safe and to be sure we have an escape route. They [the HVO] had trucks organized to bring us and our things here."⁴⁸

Serbs in Federation Territory Rounded Up

On March 31, Human Rights Watch/Helsinki interviewed a group of twenty-eight Serbian civilians being held in informal detention in a house outside of Bosanska Krupa. The twenty-eight claimed that the Sanski Most police had rounded them up shortly after the town fell to Bosnian government forces in October 1995, and had taken their identity documents. The Serb civilians had been denied the right to return to their homes in Sanski Most or Bosanska Krupa or the right to travel to Republika Srpska to join relatives.⁴⁹ OSCE, following up on a Human Rights Watch/Helsinki report on the situation, confirmed the allegations. Local police admitted that the Serb residents are not permitted outside a perimeter around the village to which they have been moved. Recently, thanks to the intervention of OSCE human rights monitors, Federation authorities agreed to return these persons' documents and permit them to visit their homes.

⁴³ Human Rights Watch/Helsinki interview, Glamoc, April 9, 1996.

⁴⁴ Ibid.

⁴⁵ Human Rights Watch/Helsinki interview, Glamoc, April 9, 1996.

⁴⁶ Ibid.

⁴⁷ Serbian Democratic Party (Srpska Demokratska Stranka).

⁴⁸ Human Rights Watch/Helsinki interview, Glamoc, April 9, 1996.

⁴⁹ See Human Rights Watch/Helsinki press release dated April 3, 1996, "Violations of the Dayton Accords: Bosnian Serb Civilians Denied the Right to Remain in or Return to Federation Territory."

Failure to Ensure the Security and Liberty of Persons

Politically or Ethnically Motivated Killing

Although it is difficult to say with any certainty how many politically or ethnically motivated killings have occurred since the signing of the Dayton agreement in December 1995, the number appears to have been limited. For the families of these victims, the loss of loved ones is, nevertheless, devastating.

- On January 9, a mine-launcher projectile hit a tram in the center of Sarajevo, killing one woman and injuring nineteen other persons, including three children. IFOR confirmed that the projectile was fired from the Serb suburb of Grbavica. In a letter from Momcilo Krajisnik to Carl Bildt shortly after the incident, Krajisnik demanded the extension of the deadline for the transfer of the suburbs to Federation authority and warned of other possible terrorist attacks by "dissatisfied Serbs".⁵⁰
- There have been eighteen murders of Bosniaks on Mostar's west side since the signing of the Washington agreement, but not a single person has been brought to justice. In one case examined by Human Rights Watch/Helsinki, a Bosniak woman was killed on a Friday and the Croat police decided the investigation could wait until Monday. When a WEU investigator expressed interest in going to the crime scene immediately, he was told he was not permitted to go.
- On April 29, three Bosniaks died when attacked by a Serb "mob" while trying to visit their homes in the small village of Sjenina, near Doboje.

Arbitrary Arrest and Detention

Arbitrary arrest and detention, which were elements of an overall state campaign of "ethnic cleansing" against minorities during the war, are still means that are used to intimidate and harass those individuals who still remain in areas where they are not the ethnic majority. In fact, many of those who incited ethnic and nationalist hatred and were responsible for the massive atrocities committed during the war in Bosnia and Hercegovina remain in power, increasing the chances that arbitrary arrest, detention, and other abuses against minorities will continue.

- Almost immediately following the signing of the Dayton agreement, sixteen Bosniaks traveling to Kiseljak were arrested and detained by Republika Srpska authorities, and were released only after vigorous international intervention.
- On February 8, the Bosnian Serb authorities arrested Bosnian photographer Hidajet Delic, in retaliation for the arrest by Sarajevo authorities of Serb military officers. Delic was kept for weeks in a shipping container without windows or a toilet, and was reported to be under terrible strain. His captors did not beat him, but threatened to kill him. Finally, OSCE's Chief of Mission William Stuebner negotiated his release.
- On April 16, Croat civil police in Jajce arrested two officers of the ABH 5th Corps. As of April 19, both men were still missing, and IPTF and the ICRC had begun an investigation into the men's fate.
- In Mostar on May 1, several men were reportedly arrested when they were unable to pay the police passage money. They were taken to the police station and forced to strip naked in order to humiliate and intimidate them.

⁵⁰ "One Dead and Nineteen Injured Persons". Press TWRA, January 10, 1996.

- On April 15, in West Mostar, police arrested three young Bosniak men who were participating in an East-West youth meeting with the NGO "Mladi Most." The police told the young men that they were "looking for drugs", but when they entered the Mladi Most house, they asked which youths had come from the east side. The director of the organization, who was present at the time of the arrests, told human rights monitors that she had to push the WEU police to go to the station to find out what had happened to the youths. In an apparent effort to intimidate the members, the police also began check identification cards at the entrance of the house where the NGO conducts its activities.⁵¹

Beatings/Rape/Inhumane Treatment and Torture

- Dozens of returnees to the Velika Kladusa area who were formerly supporters of Fikret Abdic⁵² have reported being beaten by Bosnian authorities and others.
- A Bosnian Serb man interviewed by Human Rights Watch/Helsinki in the hospital in Prijedor reported that he was severely beaten by Federation police in Sanski Most. The man's injuries were consistent with his description of the beating. He reported being beaten by more than ten ABH soldiers while in police custody, then forced to sign a confession; his injuries included fractures of his vertebrae and ribs, severe bruising of his torso, especially on his lower back where the kidneys are located, and intra-abdominal bleeding. Ten days prior to this incident, the man's brother had also been beaten.⁵³
- On March 29, according to an ECMM report, a Catholic priest and three nuns were stopped by Republika Srpska police in the village of Tramosnica Gornja on their way to prepare for Easter Sunday. The priest was beaten, and 550 German marks were stolen from him. The police reportedly said to him, "This is Serb land—what do you want here?" IFOR allegedly refused to intervene, stating that was the job of the IPTF. IFOR did later promise to provide security during Easter Mass.
- On May 22 in Mostar, a Bosniak man was severely beaten by seven or eight youths right around the corner from the Hotel Ero, home of the EUAM, in full view of the WEU, and West Mostar and East Mostar police, who did nothing. After the youths stole the victim's car, they asked him, "Why did you come to this side, anyway?"
- In early April, an elderly Bosniak woman and her daughter reported they were raped by men in Serb uniforms in Prnjavor. No investigation by the local authorities was initiated following the report.

Forced Labor

⁵¹ Reported to Human Rights Watch/Helsinki by a credible, confidential source on April 15, 1996.

⁵² Fikret Abdic is the leader of the self-proclaimed Autonomous Region of Western Bosnia who had a pact with Serbs in the Krajina region of Croatia. He organized fighting against the Bosnian Army in the Bihac pocket and was defeated by the 5th Corps of the Bosnian Army in August 1995. Abdic's followers fled into the Krajina area of Croatia, where they have lived ever since in terrible conditions in a refugee camp called "Kuplensko", denied refugee status by Croatia and prohibited from leaving the camp except to return to the area around Velika Kladusa.

⁵³ Human Rights Watch/Helsinki interview, Prijedor, March 31, 1996. Ten days prior to this incident, the man's brother had also been beaten. Sanski Most police admitted to having had them in custody. Shortly after the second brother's release, either the police or soldiers approached the father of the two men, again in the zone of separation. Terrified of the men, given what had happened to his sons, the father pulled the pin of a grenade and fell on it, killing himself. The sitting judge in Sanski Most told ECMM that military police were probably involved in the case and that he did not have the authority to intervene.

The General Framework Agreement specifies that "all detained non-combatants will be released immediately from work brigades, detention sites or other formal or informal custody, as required by U.N. Security Council Resolution 1019 of November 9, 1995."⁵⁴ The agreement also specifies that the ICRC should be permitted to register any persons detained against their will, and to have access to any site it deems important.

By February 1996, according to the ICRC, many Bosniak and Bosnian Croat civilians performing forced labor had been released, but the ICRC confirmed that there were still some persons in forced labor, which they referred to as "working obligations," a term the Serbs used to justify compulsory labor of minorities.⁵⁵ The ICRC stated that they had been in recent contact with about 700 persons in forced labor, but that some other men reportedly taken from their homes in the fall of 1995 were still unaccounted for. On February 14, the ICRC confirmed that about half of the 700 men registered by the ICRC under "working obligation" had been released, but admitted that the men may have problems being reunited with their families because of restrictions on inter-entity movement. Many of the men had been forcibly separated from their families four or five months before, during special actions by Bosnian Serb and Serbian paramilitary forces in the Sanski Most, Prijedor, and Banja Luka areas. The figures used by the ICRC do not include persons hidden from the organization or those working in remote areas and not yet located by the ICRC. According to *The New York Times*, relief agency officials confirmed that sometimes those holding men in forced labor demanded money in exchange for their release. "We think the only way we are going to get some of these people home is when their families, who are usually refugees, find a way to come up with one thousand dollars or so," said one official involved in negotiations for their release.⁵⁶ Human Rights Watch/Helsinki believes that the vast majority of men were ultimately released, but has received information that dozens of men still remain in force labor. As of April 1996, several had not yet been reunited with their families.

- On February 13, a *New York Times* reporter interviewed a fifteen-year-old boy who showed his "working obligation" papers and said, "They [the Bosnian Serb authorities] just came to my house and told me I would have to get firewood for the soldiers. They have guns, and can do what they want. If you don't work, they will beat you--we all know that."⁵⁷
- In April 1995, Human Rights Watch/Helsinki obtained documentation proving that the Bosnian Serb military authorities were continuing to order minorities in the Banja Luka area to report for "working obligations." The documentation established that in about one dozen cases, minorities were being held in forced labor against their will at several sites in the area. This information was passed on to OSCE human rights monitors and others for action. Since then, Human Rights Watch/Helsinki has received reports of as many as forty-four persons under "working obligation" in Republika Srpska.

Evictions/Expulsions/Appropriation of Property

Expulsions, now often referred to as "ethnic cleansing", were the hallmark of the conflict in Bosnia and Hercegovina. Ethnically motivated evictions continue to occur throughout the territory of Bosnia and Hercegovina. The problem has been particularly severe in West Mostar and in Banja Luka.

- In Banja Luka, more than fifty families have been evicted since the signing of the Dayton agreement.

⁵⁴ Forced or compulsory labor is also prohibited under Annex 6 of the Dayton accord, Article I (3).

⁵⁵ The use of civilians as forced laborers to dig trenches on the front lines was widespread during the conflict, especially on the Bosnian Serb side, where every non-Serb male was subject to forced labor if he refused to join the Bosnian Serb army. Non-Serb men and women were not paid for their labor and were often severely mistreated and humiliated in work brigades. Bosniaks and Croats were frequently taken off the streets or taken from their homes without notification of family members and were held in forced labor camps for weeks or months at a time. Non-Serb laborers were used in both public and private enterprises.

⁵⁶ Mike O'Connor, "Bosnian Serbs Said To Hold Forced Laborers," *The New York Times*, February 9, 1996.

⁵⁷ "Serbs Still Hold Bosnians for Slave Labor," *New York Times*, February 13, 1996.

- In the town of Dubrava, near Banja Luka, the property of fifteen Bosniak families was reinstated to them by court order. When three of the families attempted to move back in, however, a demonstration of Serb displaced persons prevented the families from moving occupying their property, approximately six additional families were evicted, and a number of Bosniaks were beaten.
- In Jajce, Bosniak displaced persons were evicted during the third week in March, under orders from the chief of police, according to the mayor.⁵⁸
- An estimated 150 Bosniaks living in villages around the town of Teslic in central Bosnia have been forced to flee their homes due to a campaign of bombings, beatings, stone-throwing, threats and other harassment carried out by Bosnian Serb displaced persons living in the area. Villagers from Gornji Rankovic, Gornji Teslic, Gomjenica, Bardaci and Ruzevic have to leave without their belongings and had to pay DM 10 to leave the Republika Srpska territory. Local Republika Srpska police have refused to intervene to stop the expulsions and harassment. One of the villages, Gornji Rankovic, is now almost completely empty. The IPTF has no presence in the villages.⁵⁹

Throughout Bosnia and Hercegovina, the local police often claim that forcible evictions are not a police matter but a problem for the municipality or for the courts, and refuse to intervene.

- In West Mostar, there has been a series of ongoing expulsions according to human rights monitors. In some cases, persons have gone out for short periods of time and returned to find their houses occupied and the locks changed. Evicted persons were not even permitted to return for their personal documents, and the new residents had "certificates of ownership" issued by the municipal authorities--which in some cases pre-dated the evictions. The EU administrator for the Housing Commission stated that he was unaware of evicted residents going to the courts for assistance—"They are too afraid."⁶⁰
- There are widespread reports of evictions of non-Bosniaks from their homes in Sarajevo. Human rights monitors received a complaint from an elderly Serb woman in Vogosca (one of the Sarajevo suburbs) that she had been evicted from her apartment by the nephew of the pre-war occupant of the flat. The "Commission of Accommodations" in Vogosca refused to help the woman find accommodations. The police suggested that she share the apartment with the new occupants. When a similar incident occurred in Grbavica, however, the Federation authorities, including the police, intervened on behalf of the evicted person.
- In Banja Luka, a Bosniak woman complained to a human rights monitor that her cafe had been appropriated and given away. The cafe was apparently ceded by the Municipal Executive Council of Banja Luka; a document awarding ownership was signed by Rajko Kasagic, touted as a moderate by international mediators.

Harassment and Discrimination Toward Minorities

- In late April, police in Dugi Dio severely beat five Bosniak men who were repairing the road to the village. Since the beatings, there have been other acts of violence and intimidation targeting Bosniaks in the areas, including a grenade thrown into the village and sniper fire. Dugi Dio is located in the Sapna thumb area, a region returned to the Republika Srpska on March 21, 1996, pursuant to the Dayton agreement. Human Rights Watch/Helsinki is concerned about the safety of the estimated 4,200 Bosniaks still living in this territory, which is within the Zvornik municipality where seven Bosniak men were severely beaten by Bosnian Serb police on May 10, 1996. The situation in the area remains tense.

⁵⁸ ECMM report, 14/96, March 29-April 4, 1996.

⁵⁹ Human Rights Watch/Helsinki investigation, Teslic area, June 1, 1996.

⁶⁰ Human Rights Watch/Helsinki interview, Mostar, April 13, 1996.

- On the evening of March 13-14, bombs exploded on the doorsteps of four Bosniak, one Serb (a doctor who treats Bosniaks) and one Croat house in Prnjavor. No one was injured, but the houses were damaged.
- Federation authorities in Ilidza fired Serb teachers following the transfer of authority there. Forty-two Serb women employed at the Hotel Serbia in Ilidza were fired immediately after the transfer.
- Elderly Serbs attempting to collect social welfare allowances have been repeatedly harassed by young Bosniak males in Lukavica.
- In the Republika Srpska, the self-appointed, Serbian Red Cross—headed by Ljiljana Karadzic, wife of Radovan Karadzic—has been accused many times of discriminatory behavior toward non-Serbs. Allegations have been made that only SDS members are permitted to distribute humanitarian aid or to be employed in warehouses.⁶¹
- Persons in mixed marriages have reported harassment and dismissal from work in Bosanska Gradiska. In April, IFOR troops in this area reported receiving many complaints of threats and harassment.
- In Bugojno, only about 1,000 Croats remain out of a pre-war population of about 15,000. According to a displaced person from Bugojno interviewed by Human Rights Watch/Helsinki in Livno, "Only about fifteen Croats have jobs. The churches in the villages [in Bugojno municipality] have been destroyed. It is forbidden to take pictures without permission. The people who work are verbally harassed—they are called 'Ustase'. When expelled Croats go to Bugojno, they are only allowed to stay for one week, but are not allowed to go into their own houses, because Muslim refugees are living there."⁶²
- In Konjic, Catholic clergy attending funeral services had their vehicles vandalized and one stolen on May 3. A credible Bosniak source told human rights monitors that the attack had been planned in advance by members of the Bosniak community. In Dastansko village and Vares, Croats have reportedly been regarded as illegal and have not received any humanitarian aid. Investigations of attacks upon Croats have been delayed or, as was the case in an attack upon a Catholic priest in Vares, not investigated at all.⁶³

Failure to Release Prisoners and Clarify Fate of Missing Persons

The Dayton agreement obligates the parties to "release and transfer without delay all combatants and civilians held in relation to the conflict," and in any case "no later than thirty(30) days after the Transfer of Authority" on December 15, 1995. Nevertheless, the parties continued to hold prisoners after the January 19 deadline. By mid-March, there were still dozens of prisoners registered by the ICRC who had not been released, and none of the entities had submitted alleged war crimes cases for review to the International Tribunal for the Former Yugoslavia.

As a result of the international community's growing concern about wavering commitment to implement Dayton, the parties were called for a summit in Rome on February 17-18, 1996. While in Rome, the parties agreed that March 23 would be the absolute deadline for the release of prisoners, and it was agreed that if all prisoners not under review by the tribunal had not been released by the time of the Vienna meeting on reconstruction aid scheduled to begin on April 12, the conference would be canceled.

On April 3, the ICRC publicly criticized the continued detention of some prisoners by all three parties. Prisoner releases, which were supposed to be unconditional, continued to be conducted through prisoner exchanges.

⁶¹ The "Serb Red Cross" was involved in extortion of large sums of money from non-Serbs seeking to leave Serb-controlled area during the war. Because no other escape route was available to them, many non-Serbs paid the Red Cross for each family member for permission to leave and for transportation fees for a one-way trip to the border.

⁶² Human Rights Watch/Helsinki interview, Livno, April 9, 1996.

⁶³ ECMM Report 11/96, covering 8-14 March, 1996.

According to the ICRC, the parties often brought prisoners for exchange and then took them back to prison if the terms for exchange were not considered favorable enough.

Despite the international community's threat not to hold the meeting on reconstruction aid unless all prisoners were released, the conference was held as scheduled, although at least twelve registered prisoners were still being held by the parties.

In addition, some prisoners taken during the conflict were never registered and, therefore, their names do not appear on prisoners lists used to determine compliance with the Dayton agreement. For example, Bosnian Serb soldiers taken prisoner near Ostrelj in September 1995 by HV⁶⁴ or HVO soldiers were reportedly taken to prisons in Croatia, a family member of one captured soldier reported to Human Rights Watch/Helsinki in Prijedor. The exact number of Bosnian Serb prisoners still being held in Croatia is unclear. Human Rights Watch/Helsinki has obtained information that indicates the men were transferred to Croatia just prior to the signing of the Dayton agreement in order to prevent them from being counted. Human Rights Watch/Helsinki believes that these prisoners should be immediately released unless substantial evidence of their involvement in war crimes is produced immediately for review by the ICTY. Further, President Tudjman should be held to account for their presence in Croatia. Human Rights Watch/Helsinki believes that they are being held for exchange purposes. While the ICRC believes that it has had access to most, if not all, of these prisoners, family members claim that men are being hidden from the ICRC.

Although the exact numbers are unclear, some civilian detainees (taken prisoner during the conflict) continue to be held in detention. For example, Father Tomislav Matanovic, a Catholic priest, and his elderly parents were arrested by local Bosnian Serb authorities in Prijedor in September 1995, after having been held under house arrest for over one month. After several months without any indication of their fate, Human Rights Watch/Helsinki obtained information in April that Father Matanovic and his parents are still alive and are being held in Ljubija, near Prijedor, by Bosnian Serb commander of the 43rd Brigade, Pero Colic.

The Bosnian Serb "Commissioner for Exchange of Persons", Radovan Glogovac told Human Rights Watch/Helsinki in Banja Luka that he did not know where Matanovic was despite his name appearing on several exchange lists, but said he thought Matanovic was in central Bosnia.

Human Rights Watch/Helsinki received information that the Serbs wanted to exchange Matanovic for a Bosnian Serb soldier being held in Croatia. For their part, the Exchange Commission representatives for the HVO forces in Mostar told Human Rights Watch/Helsinki, "We told the Serbs we would not exchange any more civilians until they release Matanovic."⁶⁵ This indicated that the HVO also had persons who did not appear on prisoner lists and that they had no appreciation for the fact that exchanges were illegal, or that reciprocity was not a condition for release of prisoners.

Many persons are still missing as a result of the conflict. The Working Group on Missing Persons, which includes the ICRC and several other international organizations estimates that there are still approximately 10,000 persons unaccounted for. Although many of these persons are presumed dead, without an accounting it is not possible to exclude the possibility that some of them may still be held in detention.

While the general public is aware of the estimated 8,000 men missing from Srebrenica, and of disappearances which occurred early on in the conflict, it is less well known that thousands also disappeared during the last phases of expulsions in northern/northwestern Bosnia during the early fall of 1995. An estimated 2,000 men went missing, and it is not clear whether all have been accounted for.

⁶⁴ Croatian Army (Hrvatska Vojska).

⁶⁵ Human Rights Watch/Helsinki interview, Mostar, April 15, 1996.

During the period of August-November 1995, Bosnian Serb forces rounded up the entire Bosniak population of Sanski Most and many other towns, later expelling many women, children and elderly. Draft-age males were separated from their families. Some were killed in Sanski Most or in surrounding villages, others were sent to work brigades under the supervision of the military, and several hundred were placed in detention first in Sanski Most and then in Prijedor.⁶⁶ Several massacres appear to have occurred during this period; one involving at least two busloads of persons killed on or about September 21, 1995 in the village of Sasina outside Sanski Most. There were also arrests by special forces of a number of prominent citizens from towns in northern Bosnia, including Banja Luka, Prijedor, Sanski Most, and Kljuc. Most of these persons are believed dead, but there has been no confirmation of the fate of many of them.⁶⁷

Absence of the Conditions for Free and Fair Elections

In addition to the severe restrictions discussed above that continue to exist in Bosnia and Hercegovina and the politically tense atmosphere throughout the region, there are also serious restrictions on freedom of expression, the press and association. The absence of these minimal prerequisites for participation in a democratic election, when considered together with the ongoing political influence exerted by indicted war criminals, makes the chance of free and fair elections minuscule at this point.

Freedom of Expression

Under the Dayton accord, the parties not only committed themselves to secure to all persons freedom of expression and the press as fundamental human rights (Annex 6, Ch. 1, Art. I (8)), they also agreed to ensure freedom of expression and of the press as necessary preconditions for free and fair elections (Annex 3, Art. I (1)). In addition, the parties are obligated to: "ensure that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process."⁶⁸

⁶⁶ Most of these men were later exchanged, although approximately six men remained behind in Prijedor. Their fate is not known.

⁶⁷ Nedim Filipovic, the president of Merhamet in Kljuc, was reportedly taken by two men in a Mercedes without plates on August 12, 1995, and remains unaccounted for. A number of Serbs were reported missing from Mrkonjic Grad following the fall of the town to Bosnian Croat forces. Unfortunately, the mass grave discovered there may yield the answer to what happened to them. A young Croat from Bugojno formerly held in an ABH prison camp told Human Rights Watch/Helsinki that he and other ex-detainees had formed a support group to deal with the trauma they had experienced in the camp. One of the things that his group insists must be addressed by the international community is what happened to twenty-six men who had been registered by the ICRC and then disappeared in 1993.

⁶⁸ OSCE Copenhagen Document, paragraph 7.8. The parties "shall comply fully with paragraphs 7 and 8 of the OSCE Copenhagen Document" (Dayton Peace Accord, Annex 3, Art. I (3)).

High Representative Carl Bildt also stated in his March 13 report to Secretary-General Boutros-Gali, "For any election to be free and fair, there has to be equitable access to the media by all registered parties both before and during the election campaign, especially radio and television."⁶⁹

In the Republika Srpska, the governmental authorities tightly control the press and seek to intimidate and silence any independent voice. In Banja Luka, independent Serb media received death threats following publication of information supportive of Rajko Kasagic, who was recently ousted by Karadzic.⁷⁰ Radio Big, the Banja Luka radio station that is very popular and at least semi-independent, was taken off the air on May 20 because, according to radio station staff, "the Banja Luka authorities claimed they had not paid their electricity bill. Editor Igor Crnadak was convinced, however, that the cutoff was organized harassment. For example, in a move not viewed favorably by the local authorities, the station has invited IFOR representatives to appear on regularly scheduled programs. Within Republika Srpska, there are only two publications which could be called independent; they have limited readership, and their journalists are subjected to harassment. Journalists have often been prevented from crossing the IEBL by all the parties.

Print, television and radio are also strictly controlled in Croat-controlled areas of Bosnia and Hercegovina such as Mostar. Ante Krista, majority owner and director of Hrvatska Televizija (Mostar West TV, but with the same name as the national television station in Croatia) has stated, "We are willing to be part of the Federation, but the Federation will die in a year or two because 'they' [the Bosniaks] have been brainwashed by Islam into believing they must have their own nation." He agreed to publicize information about the elections as long as the information was in the "Croatian" language. The deputy ombudsman for Mostar believes it is unlikely that the television stations on either side will be willing to allow opposition parties to express their views.⁷¹ RTVBH, the only national television station in Federation territory, is under the firm control of the SDA and gives very little air time to the opposition. While the press has more freedom in SDA-controlled areas than in the other regions of Bosnia and Hercegovina, it has a limited circulation and is rarely available to those living in rural areas.

Any communication across the inter-entity line is difficult, since it is not possible to make telephone calls between entities; thus access to other points of view and the possibility of a free exchange of information are not possible for most citizens of Bosnia. In short, citizens in Bosniak-, Serb- and Croat-controlled areas are largely dependent upon the government-dominated media, which continues to propagate ethnic hatred and the ideal of ethnically pure states.

Freedom of Association

Freedom of association, including of political parties, is a cornerstone of any democratic society and is also identified in the Dayton accord as a prerequisite for free and fair elections. Specifically, the parties are obligated to:

[R]espect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities; and to

⁶⁹ Letter dated March 13, 1996, from the Secretary General addressed to the President of the Security Council, S/1996/190, March 14, 1996. See appendix, "Report of the High Representative for the implementation of the Bosnian peace agreement to the Secretary-General of the United Nations" (Brussels, March 13, 1996).

⁷⁰ Kurt Schork, "Death Threats to Media Supporting Rajko Kasagic," Reuters, May 17, 1996.

⁷¹ As told to Human Rights Watch/Helsinki by a credible, confidential source, Mostar, April 1996.

[E]nsure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution.⁷²

Yet freedom of association is severely limited within each of the regions of Bosnia and Hercegovina, and it remains impossible for any association that might choose to organize across entity boundaries to function.

A number of attacks upon opposition parties have been reported in the Republika Srpska. On March 24, members of the Socialist Party of Republika Srpska in Blatinica were attacked during a party meeting. One party member was beaten unconscious. This was the third attack on the party, and involvement of the police station in Teslic was alleged.

Alternative parties to the ruling HDZ in Hercegovina have complained that the authorities do not tolerate their activities. A former member of the Social Democratic Party in West Mostar said he would not participate in politics for fear of his life. A member of the same party in Central Bosnia told Human Rights Watch/Helsinki that Serbs and other non-Croats or non-Bosniaks are discriminated against in that they are not allowed to be a member of the National Assembly.

In Bihac, opposition parties have reported serious harassment and that party members have been fired from their jobs. The Social Democratic Party (SDP) in Bihac produced a written recommendation by the SDA that municipal authorities affiliated with the SDP be dismissed. The Bosnian Party of Rights, a party in opposition to the SDA, claims they are not given air time on Bihac television, and that the SDA prevents them from renting office space. The SDA, on the other hand, complains of job discrimination and little access to the media in Croat-controlled Livno.

Izet Zigic, a member of former Prime Minister Haris Silajdzic's new Party for Bosnia and Hercegovina (SBH) in Tuzla, lost his post at Tuzla University shortly after leaving the SDA for the SBH. In Kalesija, military police singled out persons who supposedly heckled the town's mayor during a public appearance to appear for "informative talks"—a common method of intimidation—and were threatened with arrest if they did not comply. In Doboje, Human Rights Watch/Helsinki received reports that the directors of businesses have been pressured to join the party.

Miodrag Zivanovic, leader of the Social Liberal Party in Banja Luka, one of the few, if not the only party in the Republika Srpska that encourages multi-ethnic cooperation and a united Bosnia, reported to international human rights monitors that he has been unable to travel across the IEHL to make contact with the Social Liberal Party in the Federation. Two political rallies for Karadzic and Mladic were held in March in Banja Luka and Prijedor. The local SDS denied being involved in organizing the rallies, but public firms and schools were closed and employees and students ordered to participate.

THE FAILURE OF THE INTERNATIONAL COMMUNITY TO IMPLEMENT THE DAYTON AGREEMENT

The International Implementation Force

Failure to Apprehend War Criminals

⁷² OSCE Copenhagen Document, paras. 7.6 and 7.7.

There can be no question that IFOR is fully authorized to provide active support to the International Tribunal for the Former Yugoslavia. The Dayton agreement and Security Council Resolution 1031 (December 15, 1995) implementing the agreement give IFOR important responsibilities for promoting justice in Bosnia. Article X of Annex 1-A to the agreement mandates: "The Parties shall fully cooperate with all entities involved in the implementation of this peace settlement . . . , including the International Tribunal for the Former Yugoslavia."⁷³

Security Council Resolution 1031 "[r]ecognizes that the parties shall cooperate fully with all entities involved in implementation of the peace settlement..., including the International Tribunal for the Former Yugoslavia, and that the parties have in particular authorized the multinational force... to take such actions as required, including the use of necessary force, to ensure compliance with Annex 1-A of the Peace Agreement" (para. 5).⁷⁴

Despite its clear authority to arrest persons indicted for war crimes, IFOR has failed to apprehend a single person indicted by the ICTY; the force commander on the ground, Adm. Leighton Smith, initially insisted that arresting war criminals was not within his mandate. Later, after meeting with tribunal officials in early January, IFOR commanders and European and American political leaders stated that IFOR would arrest any indicted war criminal "encountered in the course of normal business." In fact, however, it is increasingly evident that IFOR soldiers are making every effort not to "encounter" the two most notorious of indicted persons, Bosnian Serb leader Radovan Karadzic and Gen. Ratko Mladic. Both Mladic and Karadzic continue to openly defy the international community, repeatedly speaking to the press and, in the case of Karadzic, traveling right under the noses of American IFOR troops. "They can't arrest me", Karadzic said in March, "I am going to travel whenever I feel I need to travel."⁷⁵ He was apparently correct. IFOR bypassed several opportunities to arrest Karadzic, claiming that there would have been some resistance.

- On May 21, two high-level persons indicted by the tribunal for war crimes, Bosnian Serb Gen. Ratko Mladic and Veselin Sljivancanin, publicly appeared in Belgrade at the funeral of Gen. Djordje Djukic, indicted by the tribunal and turned over to the Haag but released because he had terminal cancer. This signaled clearly that Milosevic has no intention to comply with Dayton's requirement to hand over war crimes suspects. Mladic's presence in Belgrade was especially meaningful because it followed on the heels of an uproar about Karadzic's ouster of Kasagic and new demands that Karadzic and Mladic be removed from power. Antonio Cassese, president of the ICTY, has complained about Serbia's continued non-compliance with the tribunal to the U.N. Security Council.

⁷³ Full cooperation means, according to Article 13(4) of Annex 6, "provid[ing] unrestricted access to" the ICTY, and according to Article IX(g) of Annex 1-A, "comply[ing] with any order or request of the International Tribunal for the Former Yugoslavia for the arrest, detention, surrender of or access to persons who would otherwise be released and transferred under this Article, but who are accused of violations within the jurisdiction of the Tribunal."

⁷⁴ The same resolution authorizes member states, through IFOR, "to take all necessary measures to effect the implementation of and to ensure compliance with Annex 1-A of the Peace Agreement" (para. 15). The resolution also mandates: "All states shall cooperate fully with the ICTY...and shall comply with requests for assistance or orders issued by a Trial Chamber under article 29 of the [ICTY's] Statute..." (Para. 4). Article 29 of the ICTY's Statute sets forth the various forms of cooperation that the Tribunal can request, including "the identification and location of persons," "the production of evidence," "the arrest or detention of persons," and "the surrender or the transfer of the accused of the International Tribunal."

⁷⁵ Costas Paris, "Karadzic, Mladic Say They Will Resist NATO Arrest," Reuters, March 10, 1996.

- On April 20, Karadzic was seen by Italian IFOR troops attending a Bosnian Serb parliamentary session in Pale. Associated Press journalists present at the session reported that Karadzic's bodyguards cocked their weapons and approached a unit of Italian troops that appeared to be moving toward the building Karadzic was in. The Italians retreated when confronted by the armed men.⁷⁶
- On February 27, High Representative Carl Bildt was meeting with local Serb politicians in the city hall in Banja Luka while Karadzic attended a meeting in the same building. A spokesman for NATO confirmed that Karadzic was seen by NATO troops four or five times that day, but said that at each sighting Karadzic had been surrounded by numerous armed guards and crowds of civilians.⁷⁷

IFOR soldiers have not been given clear orders to detain persons they encounter and suspect of being indicted by the tribunal. When Human Rights Watch/Helsinki representatives asked an American soldier what he was instructed to do if he recognized a person indicted for war crimes at a checkpoint, he answered, "Well, we're not supposed to apprehend them." Instead, he reported, "We call our squad leader, and he calls up the chain of command..." And in the meantime, he said, the soldiers are "supposed to let him go."⁷⁸ When asked the same question, a Danish soldier replied, "We will detain suspected war criminals if we recognize them." But when pressed, he indicated that if the suspect has some armed men with him, "We let him go."⁷⁹ Russian IFOR soldiers interviewed in the Republika Srpska appeared not to have been given any instructions whatsoever regarding apprehension of indicted persons and had no posters or other personal details to help them identify such persons. They had been given one photograph, however, of a suspected Mujahadeen terrorist.⁸⁰

Failure to Secure Freedom of Movement and Protect Civilians

IFOR has clear authority to ensure freedom of movement and to protect civilians. The Dayton agreement specifically permits IFOR to "observe and prevent interference with the movement of civilian populations, refugees and displaced persons, and to respond appropriately to deliberate violence to life and person" as well as to "help create secure conditions for the conduct by others of other tasks associated with the peace settlement, including free and fair elections." General Michael Walker, commander of ground forces in Bosnia, stated in mid-April, "We are absolutely clear there is a mandate within Dayton for us to ensure the freedom of movement of those who want to go home."

Frequently, American and other officials have taken the position that, as did U.S. State Department spokesman Nicholas Burns said on May 1, "It is the responsibility of the parties to ensure the freedom of movement on their territories and to ensure the security [of refugees]." However, in the current situation, there can be no realistic expectation that local authorities will guarantee the security of a member of a minority population only recently "cleansed" from the region. A clear example of the false premise of IFOR's position was an American IFOR unit's treatment of seven Bosniaks who, on May 10, turned themselves in for protection in a remote village in Republika Srpska territory. IFOR handed the men over to the Bosnian Serb police in Zvornik. As was completely predictable, after being handed over to the Zvornik authorities the men were beaten until they "confessed" to the murder of Serbs.

⁷⁶ "NATO says War Crimes not its Main Priority," Reuter, February 28, 1996.

⁷⁷ Ibid.

⁷⁸ Human Rights Watch/Helsinki interview, IFOR checkpoint between Tuzla and Dobo, March 29, 1996.

⁷⁹ Human Rights Watch/Helsinki interview, IFOR checkpoint at Dobo, March 29, 1996.

⁸⁰ Human Rights Watch/Helsinki interview, IFOR checkpoint at the village of Mahmutovic, near Zvornik, March 27, 1996.

There has been some change in IFOR's reluctance to become involved in the civilian aspects of the agreement since the beginning of the mission. IFOR did make a positive move by relocating its British headquarters from Gornji Vakuf to Banja Luka--a move which angered Karadzic, who according to the Pale press "ordered an inquiry to find out who promised to set up the British divisional headquarters in Banja Luka despite the opposition of parliament and the leadership of the Republika Srpska."⁸¹ Karadzic's reaction indicated that, in fact, he was not able to control this event and could not mount a strong reaction to it--a very positive indication that IFOR can push its authority quite far.

NATO's military commander, Gen. George Joulwan, recently stated that IFOR would "over the next several months concentrate on freedom of movement in advance of elections."⁸² He also indicated that the original December 20 deadline for the withdrawal of IFOR troops was being reconsidered, and that no announcement would be made until after the elections. There is agreement in many spheres that the deadline for withdrawal has encouraged hard-liners to simply "wait it out". Once IFOR leaves, many believe, there will be little to discourage renewed conflict. Further, there is almost no hope that anyone but IFOR would be able to arrest persons indicted for war crimes, especially Mladic and Karadzic.

- In an incident reminiscent of UNPROFOR's reluctance to respond militarily to direct attacks, on May 25-26, a NATO patrol and observation post near Prijedor came under attack by Bosnian Serbs carrying sticks and stones. NATO troops responded by withdrawing "to prevent further confrontation," explained a NATO spokesperson.⁸³

The International Police Task Force

The International Police Task Force (IPTF) was created by the U.N. Security Council on December 21, 1995, for the period of one year following the transfer of authority from UNPROFOR to IFOR. The IPTF role is described under Annex 11 of the Dayton agreement. A United Nations Civilian Police (UNCIVPOL) operation, IPTF comes under the supervision of the civilian component headed by Carl Bildt. Its responsibilities include monitoring police and associated judicial organizations and structures and ensuring the existence of social conditions for free and fair elections. IPTF does not carry guns or have the right to make arrests. It does, however, have "the right to monitor, observe, and inspect any site or facility at which it believes that police, law enforcement, detention, or judicial activities are taking place."⁸⁴ The parties "shall allow IPTF personnel immediate and complete access to any site, person, activity, proceeding, record, or other item or event in Bosnia and Hercegovina as requested by the IPTF in carrying out its responsibilities under this agreement."⁸⁵

Of the more than 1,700 pledged police monitors, over 300 had still not been deployed by late May. Two of the countries which had pledged the highest number of monitors, the United States and Germany, had not yet even submitted the names of those they intended to send. Given that the IPTF's mandate expires in December 1996 (at the same time as IFOR's), there is little expectation that it will be fully deployed unless the operation is extended.

IPTF's first test came during the transition of authority in Sarajevo, where its limited mandate did not allow it to provide meaningful aid to victims. According to relief workers, the IPTF officers present did not take an active role in stopping abuses or preventing the dismantling of the infrastructure in the Sarajevo suburbs. When residents complained of being harassed or robbed, IPTF often reported the incidents to the Bosnian Serb police, who did nothing to stop the looting and in some cases participated in it. IPTF explained to complainants that their job was not to intervene but to monitor the local police. IPTF required those persons who wished to remain in the suburbs to register at an IPTF station, but some people were afraid because of rumors that persons who registered had their houses burned

⁸¹ See OMRI Daily Digest, no. 80, part II, "Karadzic Demands Inquiry over British Move to Banja Luka," April 23, 1996.

⁸² "NATO Commander Emphasizes Freedom of Movement," Reuters, May 1996.

⁸³ "Bosnia Serbs Again Block Entry by Muslims," *The New York Times*, May 27, 1996.

⁸⁴ Dayton Peace Accord, Annex 11, Art. IV(3).

⁸⁵ *Ibid.*

down afterward. Others were afraid that IPTF translators were informants. On March 8, *The Washington Post* reported:

Officers from the U.N. International Police Task Force, which has 41 men from eight countries in Grbavica, say they can do little to stop the tide of violence. They have come to Bosnia with no weapons and without a mandate to halt crime, only to observe and monitor it. In Grbavica, the sole station for the international police is located on a hill nearly a mile outside of town, and most people don't have cars . . . The station does not have any telephones. Besides, the [IPTF] officers said, they do not go out at night. "It's dangerous out there," one said. "The Serbs here think they have no options," a U.N. official said. "NATO says it isn't its job. And the U.N. police are a joke. Would you stay if that's all that's between you and a bunch of angry Muslims?"⁸⁶

A journalist on the scene told Human Rights Watch/Helsinki that IPTF officers "sat in the Serb police station drinking coffee while right outside the window they would see people dismantling the electrical system for the suburb—and they did nothing."⁸⁷

In late May 1996, after Bosnian Serbs blocked the return of Bosniaks to the Prijedor area, IPTF officers attempted to discuss the matter with the chief of police in Prijedor, the infamous Simo Drljaca. Armed men blocked their entrance to the police station.⁸⁸

The Dayton agreement specifically states that the parties "shall not impede the movement of IPTF personnel or in any way hinder, obstruct, or delay them in performance of their duties." One of the most important aspects of IPTF's role involves visiting detainees. Nonetheless, local police have in many instances prevented the IPTF from entering places of detention.

⁸⁶ John Pomfret, "Occupied During War, Terrorized in Peace: Sarajevo's Serb-Held Suburbs Left Unprotected," *Washington Post*, March 8, 1996.

⁸⁷ Human Rights Watch/Helsinki interview, Sarajevo, March 23, 1996.

⁸⁸ "Bosnia Serbs Again Block Entry by Muslims," *The New York Times*, May 27, 1996.

The International Committee of the Red Cross (ICRC) is focusing on persons detained during the conflict⁸⁹; therefore IPTF is the primary international agent with responsibility for persons detained since the conflict ended. Further, because IPTF officers are present at the local level, and many police abuses are carried out in local police stations, their involvement becomes even more critical. As discussed above, the Dayton agreement specifies that the parties are to allow "immediate and complete access to any site, person, activity, proceeding, record, or other item or event...as requested by the IPTF in carrying out its responsibilities."⁹⁰ Deputy IPTF Commissioner Robert Wasserman told Human Rights Watch/Helsinki that IPTF was "frequently denied access to places of detention."

There is some question, however, whether IPTF applies the standards set by the ICRC and others for detention visits. The ICRC has pointed out that organizations without proper training may make errors which result in only temporary access to prisoners or place them at risk. If prisoners are not interviewed alone, for example, they are likely to withhold information about their treatment. Further, if information about prisoners' statements is not carefully guarded, the results could be disastrous.⁹¹

IPTF has opted to exclude from its mandate visits to prisoners held by the military, although nothing in the Dayton accord restricts IPTF access to civilian places of detention. In Bosnia, however, civilians have often been taken by or transferred to military authorities for detention. In cases where the ICRC is not involved, especially for persons detained after the signing of the peace agreement, IPTF should take on the responsibility to visit detainees.

Perhaps most importantly, IPTF must address the very serious issue of police responsibility for abuses. Local police have often served as instruments of hard-liners, both during and after the conflict. The police are directly involved in abuses in many towns; in others they have been instructed to stand by and do nothing when incidents occur. Police in Mostar and other towns have refused to investigate cases involving evictions or attacks on minorities. Human Rights Watch/Helsinki interviewed Deputy Commissioner Robert Wasserman in Sarajevo and asked about vetting procedures to identify persons involved in abuses during or after the conflict in order to relieve them of police duties. Deputy Commissioner Wasserman was either unable or unwilling to describe the plan for vetting, saying only that IPTF planned to revamp the entire police system and would exclude those involved in abuses from police work. Other conversations with IPTF representatives have been equally vague.

According to other sources, the current plan involves a massive restructuring of police departments with a substantial reduction in force. But as to screening out abusive officers, there are no internal investigation mechanisms within police departments in Bosnia and Hercegovina, and it seems unlikely that local political authorities will acquiesce to any vetting procedure that is suggested from the outside.⁹² Part of IPTF's plan also involves identifying the "bad apples" through training to encourage police officers to adhere to international police standards. While training could have a very positive effect, the process is a long one, and the need to identify, suspend and discipline abusive officers is too pressing for such delay. Human Rights Watch/Helsinki has no information to indicate that the IPTF have publicly exposed abuses by the Republika Srpska and Federation police, except in specific high profile cases.

⁸⁹ The ICRC has indicated its continued interest in detention issues, however, and will exercise its right of humanitarian initiative when necessary in order to ensure access to prisoners.

⁹⁰ Dayton Peace Accord, Annex 11, Art. IV(3).

⁹¹ In Rwanda, for example, a U.N. human rights monitor reported a prisoner's complaints to the warden of a prison, which led to the reprisal killings of several prisoners.

⁹² Under Annex 11, Art. V(1-2) of the Dayton Peace Accord: (1) "any obstruction of or interference with IPTF requests, or other failure to meet the parties' responsibilities or other obligations in this agreement, shall constitute a failure to cooperate with the IPTF; and (2) "The IPTF Commissioner will notify the High Representative to take appropriate steps upon receiving such notifications, including calling such failures to the attention of the Parties, convening the Joint Civilian Commission, and consulting with the United Nations, relevant states, and international organizations on further response."

IPTF should be commended, however, for beginning the important work of police training in towns like Banja Luka, where they have found many police officers to be interested in learning about Western-style police work.

Finally, there are serious questions about the operation and efficiency of IPTF, from headquarters on down, and this in turn has serious implications for their ability to affect human rights conditions. Human Rights Watch/Helsinki interviewed IPTF officers in several towns in Bosnia. Many complained that they did not have sufficient resources to do their jobs. They often lacked telephones, radios, or vehicles, and there was concern about security because of the difficulty in communicating with headquarters when out in the field. In towns where security risks were high, IPTF officials complained that headquarters in Sarajevo had not shared information about the plans and priorities for IPTF despite being asked for direction. District commanders were ordered to place persons from certain countries in higher positions regardless of their qualifications, and had no option to refuse people deemed unable to perform their duties. A language barrier was also a problem: few of the officers shared a common language, making communication difficult. Almost none of the IPTF staff spoke the local language, but in no case we encountered was there a sufficient number of interpreters available to facilitate IPTF communication with the local police or with local people who wished to complain to them about abuses.

The Office of the High Representative

The High Representative for the implementation of the peace agreement on Bosnia and Hercegovina is charged by the U.N. Security Council and the Dayton agreement "to monitor the implementation of the Peace Agreement and mobilize, and as appropriate, give guidance to, and coordinate the activities of, the civilian organizations and agencies involved" in the implementation of the Dayton accord.⁹³ The high representative, Carl Bildt of Sweden, has the authority to report to the Security Council if "the Federal Republic of Yugoslavia (FRY) or the Bosnian Serb authorities are failing significantly to meet their obligations under the Peace Agreement."⁹⁴ Such a report would automatically trigger the reimposition of sanctions against the FRY and the Republika Srpska unless the Security Council objected. In his March 14 report to U.N. Secretary-General Boutros Boutros-Gali, Bildt stated, "Although such action would have severe consequences for reuniting Bosnia and Hercegovina I will use these powers if I judge it necessary. I note that there is no similar provision in the event of a failure by the Federation or the Republic of Croatia to meet their obligations under the Peace Agreement."⁹⁵

It is hard to imagine a more difficult job than that of high representative. Almost immediately after taking office, Mr. Bildt was faced with the tremendous challenge of the transition of authority in Sarajevo, one of the most sensitive areas of Bosnia. The transfer of authority was disastrous for the Serb population of Sarajevo and did nothing to inspire confidence in either the IPTF or the Office of the High Representative. Bildt was too easily misled by the Serb authorities' assurances that Serbs would be encouraged to stay, when in reality Serb propaganda was urging them to leave. Although Bildt did work hard to reassure the Serb population, he failed to demand sufficient assistance from the international community. He should have been more forceful in demanding that IFOR increase its numbers in the suburbs before and during the transition of authority and that contributing states work faster to get qualified IPTF officers on the ground.

The high representative holds a crucial position in the implementation of the Dayton accord. He oversees and coordinates the civilian aspects of the operation, including humanitarian aid efforts, reconstruction, establishment of political and constitutional institutions in Bosnia and Hercegovina, promotion of respect for human rights and the return

⁹³ Dayton Peace Accord, Annex 10, Art. I(1). *See also* U.N. Security Council Resolution 1031, December 15, 1995.

⁹⁴ U.N. Security Council Resolution 1022, November 22, 1995.

⁹⁵ "Letter dated March 13, 1996, from the Secretary General Addressed to the President of the Security Council," S/1996/190, March 14, 1996. *See* Appendix, "Report of the High Representative for the implementation of the Bosnian peace agreement to the Secretary-General of the United Nations," (Brussels, March 13, 1996).

of refugees and internally displaced persons, and the holding of elections. The high representative is also responsible for ensuring cooperation with the International Tribunal for the Former Yugoslavia.

Significantly, the high representative is responsible for periodically reporting on human rights abuses and violations of the Dayton accord by the parties to the United Nations, the European Union and interested governments. Through such reports and pursuant to the U.N. Security Council Resolution 1022, adopted on November 22, 1995, the high representative has the authority to trigger the reinstatement of sanctions against the Federal Republic of Yugoslavia by informing the U.N. secretary general that the FRY or the Bosnian Serbs are not complying with the Dayton agreement.

Although Bildt wields a great deal of economic and political leverage in Bosnia and Hercegovina, he has failed to use that to obtain progress on compliance with significant elements of the Dayton accord. Instead, he has sent mixed messages to the parties by insisting that his powers is not nearly as great as his critics claim. In a letter to the editor of *The New York Times*, Bildt stated "His [the high representative's] powers are not to execute or enforce but to monitor and coordinate."⁹⁶ Yet, Bildt controls millions of dollars worth of reconstruction aid, can call for the automatic reimposition of sanctions, and both the IPTF and the Human Rights Ombudsman's office are mandated to report cases of non-compliance to Bildt.

High Representative Bildt has not only downplayed his power, he has also signalled to the non-complying parties that he will not use the most powerful tools available to him, such as reimposition of sanctions. After four months of non-compliance with the provisions of the Dayton agreement that deal with the tribunal, Bildt's spokesperson stated on April 30 that "Mr. Bildt's view is that there is a danger that imposing sanctions would be running up the white flag and admitting that partition is inevitable. The alternative is patience and pressure through the sorts of negotiations that are under way."⁹⁷

The Organization on Security And Cooperation in Europe

Certifying Conditions for Free and Fair Elections

Under Annex 3 (Article I(2)) of the Dayton agreement, the OSCE is requested to "certify whether elections can be effective under current social conditions in both Entities and, if necessary, to provide assistance to the Parties in creating these conditions."

The criteria set out by the Dayton agreement and by the OSCE for the holding of free and fair elections include the following:

- establishment of a politically neutral environment;
- ensuring freedom of movement;
- allowing and encouraging freedom of association;
- enforcement of the right to vote in secret;
- ensuring freedom of expression and access to the media for all wishing to participate in the electoral process.

The conditions necessary for free and fair elections do not currently exist in Bosnia and Hercegovina. The OSCE's own monitors reportedly do not believe that the conditions exist to allow free and fair elections in Bosnia and Hercegovina. An internal OSCE report admits that the organization cannot overcome the logistical problems before elections are scheduled to take place in September.⁹⁸ Nevertheless, the OSCE has come under intense political

⁹⁶ Letter to the Editor from Carl Bildt, *The New York Times*, December 21, 1995.

⁹⁷ "Ethnic Separatists Forcing Bosnia into a Divided Nation," Reuters, April 30, 1996.

⁹⁸ John Pomfret, "Planning for Bosnian Vote Disrupted: U.S. Official's Exit Underscores Doubts Poll Can be Held on

pressure, especially from the U.S. government, to proceed with the elections, and a decision to certify the elections appears imminent.

A draft of a National Intelligence Estimate report on Bosnia asserts that elections, if held, would strengthen ethnic partition, based on the assumption that the three main parties, none of which have a multi-ethnic platform, would be likely to use the elections as a means to preserve their power bases.⁹⁹ Nationalist parties in both entities control most of the money, have almost exclusive access to the media, and control the local police forces. This presents an overwhelming deterrent to the opposition's participation in the political process. Holding elections under current conditions may only serve to consolidate power for hard-line incumbents. People fearful of renewed conflict may be naturally inclined to look toward those who represented them during the war as their protectors. According to a report by the U.S. organization the National Democratic Institute (NDI) based on a February mission to Bosnia, "Many people stressed that, unless there is a pre-election indication that IFOR troops will stay past the end of the year, the outcome of the election is already predetermined as voters will opt for the perceived security of supporting the three ethnic parties."¹⁰⁰

In complete disregard for the mounting evidence that the conditions do not currently exist to allow free and fair elections, Human Rights Watch/Helsinki was informed in mid-May that the OSCE intended to certify the elections, justifying their position by claiming that it is important to establish a foundation for future democracy, regardless of how shaky that foundation may be. If the elections go forward under conditions such as those which exist now, however, the international community becomes an accomplice to a lie. The message will be sent that compliance with the Dayton agreement is not necessary or even expected, and it is likely that interference and intimidation by hard-liners will result in a corrupt election. This will serve to undermine the entire peace process, increasing the likelihood of renewed conflict.

Furthermore, the OSCE has apparently already informed President Slobodan Milosevic of Serbia and Franjo Tudjman of Croatia that the elections will go forward, further diminishing leverage the international community has to bring about compliance with the human rights aspects of the Dayton agreement. Clearly the OSCE political leadership has made a decision that elections in Bosnia must take place regardless of the conditions on the ground. This decision has apparently been influenced by the political considerations, in particular the upcoming U.S. presidential elections, but has little to do with the actual situation on the ground in Bosnia.

Human Rights Watch/Helsinki would like to commend many of the individuals who work for the OSCE. We have found that despite the political leadership's apparent willingness to downplay serious human rights violations in order to certify conditions for elections, many of the staff are courageous people who are committed to improving the human rights conditions in Bosnia and to reporting human rights developments in an honest and open manner.

CONCLUSIONS

Any criticism of the implementation of the Dayton agreement must take into account the tremendous accomplishment of ending open conflict in Bosnia and Hercegovina. Sarajevo and other towns are no longer under siege, families no longer cower in shelters, and throughout the country there are signs of a return to normalcy. But the specter of renewed conflict is continually present. The leaders who propelled their people into war, and who increased their power and wealth during the conflict, still wield predominant influence. They have prevented implementation of critical elements of the agreement, especially the right to return, freedom of movement, and the freedoms necessary to exercise political choice. They have engaged in the politically motivated resettlement of their own people, leading them to abandon their life-long homes.

While the international community has donated tremendous human and financial resources into Bosnia over the past years and months, there is still an underlying reluctance to do what is necessary to bring a lasting peace based on justice and respect for human rights, instead of the illusion of peace built on ethnic partition and the slaughter of thousands of innocent civilians. If there is to be any hope that conflict will not be renewed when the international

⁹⁹ Steven Erlanger "U.S. Report Says Chances Poor for Bosnia to Hold Together," *The New York Times*, May 17, 1996.

¹⁰⁰ National Democratic Institute report, "NDI Assessment Mission to Bosnia-Hercegovina," February 12-17, 1996.

forces withdraw from Bosnia, the international community must send a clear message that the wholesale slaughter of human beings will not be permitted, that there will not be impunity for those who commit atrocities, and that nationalist agendas pursued through bloody conflict will not result in the creation of mini-states built on concepts of intolerance and ethnic purity.

If Dayton is to represent anything more than a pause in the fighting, the international community must demonstrate that it will use all the means at its disposal to see that the commitments made in Dayton—both the military and the civilian—are enforced. Persons suspected of war crimes must be arrested and tried, civil authorities and the police must be held accountable for abuses of their power, and conditions must be put in place so that elections can be conducted under truly free and fair conditions.

This report is based on missions to Bosnia by Ivan Lupis, research assistant with Human Rights Watch/Helsinki, from January 25 to March 26 and by Diane Paul, research associate with Human Rights Watch/Helsinki, from March 17 to April 18. Additional information was provided by Max Marcus, research assistant with Human Rights Watch/Helsinki, based in Bosnia since May 3, 1996. This report was written by Diane Paul and edited by Holly Cartner, executive director of Human Rights Watch/Helsinki, and Cynthia Brown, program director for Human Rights Watch. Shira Robinson provided invaluable production assistance.

Human Rights Watch/Helsinki

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