

A THREAT TO “STABILITY”

Human Rights Violations in Macedonia

Human Rights Watch/Helsinki

**Human Rights Watch
New York · Washington · London · Brussels**

Copyright © June 1996 by Human Rights Watch.
All rights reserved.
Printed in the United States of America.

ISBN: 1-56432-170-3
Library of Congress Catalog Card Number: 96-77111

Human Rights Watch/Helsinki

Human Rights Watch/Helsinki was established in 1978 to monitor and promote domestic and international compliance with the human rights provisions of the 1975 Helsinki Accords. It is affiliated with the International Helsinki Federation for Human Rights, which is based in Vienna, Austria. Holly Cartner is the executive director; Erika Dailey, Rachel Denber, Christopher Panico, and Diane Paul are research associates; Ivan Lupis and Maxine Marcus are research assistants; Malcolm Hawkes, Anne Kuper, Alexander Petrov, and Shira Robinson are associates. Jonathan Fanton is the chair of the advisory committee and Alice Henkin is vice chair.

Addresses for Human Rights Watch
485 Fifth Avenue, New York, NY 10017-6104
Tel: (212) 972-8400, Fax: (212) 972-0905, E-mail: hrwnyc@hrw.org

1522 K Street, N.W., #910, Washington, DC 20005-1202
Tel: (202) 371-6592, Fax: (202) 371-0124, E-mail: hrwdc@hrw.org

33 Islington High Street, N1 9LH London, UK
Tel: (171) 713-1995, Fax: (171) 713-1800, E-mail: hrwatchuk@gn.apc.org

15 Rue Van Campenhout, 1000 Brussels, Belgium
Tel: (2) 732-2009, Fax: (2) 732-0471, E-mail: hrwatcheu@gn.apc.org

Website Address: <http://www.hrw.org>

Gopher Address: <gopher://gopher.humanrights.org:5000>

Listserv address: To subscribe to the list, send an e-mail message to majordomo@igc.apc.org with "subscribe hrw-news" in the body of the message (leave the subject line blank).

HUMAN RIGHTS WATCH

Human Rights Watch conducts regular, systematic investigations of human rights abuses in some seventy countries around the world. Our reputation for timely, reliable disclosures has made us an essential source of information for those concerned with human rights. We address the human rights practices of governments of all political stripes, of all geopolitical alignments, and of all ethnic and religious persuasions. Human Rights Watch defends freedom of thought and expression, due process and equal protection of the law, and a vigorous civil society; we document and denounce murders, disappearances, torture, arbitrary imprisonment, discrimination, and other abuses of internationally recognized human rights. Our goal is to hold governments accountable if they transgress the rights of their people.

Human Rights Watch began in 1978 with the founding of its Helsinki division. Today, it includes five divisions covering Africa, the Americas, Asia, the Middle East, as well as the signatories of the Helsinki accords. It also includes five collaborative projects on arms transfers, children's rights, free expression, prison conditions, and women's rights. It maintains offices in New York, Washington, Los Angeles, London, Brussels, Moscow, Dushanbe, Rio de Janeiro, and Hong Kong. Human Rights Watch is an independent, nongovernmental organization, supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly.

The staff includes Kenneth Roth, executive director; Cynthia Brown, program director; Holly J. Burkhalter, advocacy director; Barbara Guglielmo, finance and administration director; Robert Kimzey, publications director; Jeri Laber, special advisor; Lotte Leicht, Brussels office director; Juan Méndez, general counsel; Susan Osnos, communications director; Jemera Rone, counsel; and Joanna Weschler, United Nations representative.

The regional directors of Human Rights Watch are Peter Takirambudde, Africa; José Miguel Vivanco, Americas; Sidney Jones, Asia; Holly Cartner, Helsinki; and Christopher E. George, Middle East. The project directors are Joost R. Hiltermann, Arms Project; Lois Whitman, Children's Rights Project; and Dorothy Q. Thomas, Women's Rights Project.

The members of the board of directors are Robert L. Bernstein, chair; Adrian W. DeWind, vice chair; Roland Algrant, Lisa Anderson, Alice L. Brown, William Carmichael, Dorothy Cullman, Gina Despres, Irene Diamond, Edith Everett, Jonathan Fanton, James C. Goodale, Jack Greenberg, Vartan Gregorian, Alice H. Henkin, Stephen L. Kass, Marina Pinto Kaufman, Bruce Klatsky, Harold Hongju Koh, Alexander MacGregor, Josh Mailman, Andrew Nathan, Jane Olson, Peter Osnos, Kathleen Peratis, Bruce Rabb, Sigrid Rausing, Orville Schell, Sid Sheinberg, Gary G. Sick, Malcolm Smith, Nahid Toubia, Maureen White, and Rosalind C. Whitehead.

ACKNOWLEDGMENTS

This report was researched and written by Fred Abrahams, a consultant to Human Rights Watch/Helsinki. It is based primarily on a mission to Macedonia conducted in July and August 1995. During that time, Human Rights Watch/Helsinki spoke with dozens of people from all ethnic groups and political persuasions. Extensive interviews were conducted throughout the country with members of government, leaders of the ethnic communities, human rights activists, diplomats, journalists, lawyers, prison inmates and students. The report was edited by Jeri Laber, Senior Advisor to Human Rights Watch/Helsinki. Anne Kuper provided production assistance.

Human Rights Watch/Helsinki would like to thank the many people in Macedonia and elsewhere who assisted in the preparation of this report, especially those who took the time to read early drafts. Thanks also go to those members of the Macedonian government who helped by organizing a prison visit, providing information or granting lengthy interviews.

Related Human Rights Watch/Helsinki reports on the southern Balkans

- Human Rights in Post-Communist Albania, 3/96
- Abuses on Non-Serbs in Kosovo, Sandžak and Vojvodina, 5/94
- The Macedonians of Greece, 4/94
- Open Wounds: Human Rights Abuses in Kosovo, 3/94
- Human Rights in the Former Yugoslav Republic of Macedonia, 1/94

A Note on Terminology

Macedonia is officially recognized in world bodies as the "Former Yugoslav Republic of Macedonia." For the purposes of this report, the country is referred to as "Macedonia."

CONTENTS

I. SUMMARY AND RECOMMENDATIONS	1
II. BACKGROUND	6
HISTORY	6
DEMOGRAPHICS	9
ECONOMIC SITUATION	11
DOMESTIC POLITICS	13
INTERNATIONAL POLITICS	14
Relations with Albania	14
Relations with Greece	14
Relations with Serbia	15
Relations with Kosovo	16
Relations with Bulgaria	16
Relations with the International Community	17
III. MINORITY RIGHTS	18
LEGAL GUARANTEES	20
Domestic Law	20
International Law	21
THE COUNCIL ON INTER-ETHNIC RELATIONS	24
THE ALBANIAN MINORITY	26
Background	26
Demographics	27
Underrepresentation in State Bodies	27
Political Representation	29
Albanian Language Education	32
Primary and Secondary Schools	33
Higher Education	38
The Private University in Tetovo	40
Violations of the Right to a Fair Trial	44
The Albanian Paramilitary Case	44
The University of Tetovo Case	47
Albanian Media	49
Police Violence	51
THE TURKISH MINORITY	52
THE ROMA (GYPSY) MINORITY	56
THE SERB MINORITY	60
THE MACEDONIAN MUSLIM MINORITY	63

THE VLACH MINORITY	64
IV. CITIZENSHIP.....	65
GENERAL PRINCIPLES AND INTERNATIONAL LAW	65
CRITERIA FOR FAIRNESS	67
MACEDONIA'S CITIZENSHIP LAW AND ITS APPLICATION	69
V. FREEDOM OF THE PRESS.....	74
THE PRINT MEDIA	74
The Case of Branko Gerovski.....	77
ELECTRONIC MEDIA	78
State Television and Radio	78
Private Radio and Television.....	79
The Case of TV ART.....	83
VI. VIOLATIONS OF DUE PROCESS GUARANTEES	85
LEGAL STANDARDS	85
DUE PROCESS VIOLATIONS	86
VII. ABUSES BY LAW ENFORCEMENT OFFICIALS	88
LEGAL PROTECTIONS.....	88
ARBITRARY SEARCHES AND DETENTIONS	88
EXCESSIVE USE OF FORCE BY POLICE.....	89
PRISON CONDITIONS	93
The Idrizovo Riot.....	94
VIII. THE POLITICAL PROCESS.....	98
FREE AND FAIR ELECTIONS.....	98
HARASSMENT OF THE POLITICAL OPPOSITION	101
IX. ROLE OF THE INTERNATIONAL COMMUNITY.....	103
THE UNITED NATIONS.....	104
ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE).....	106
X. UNITED STATES GOVERNMENT POLICY.....	109
APPENDIX	110

I. SUMMARY AND RECOMMENDATIONS

Macedonia faces difficulties on several fronts. As a former member of the Yugoslav federation, the young republic is in a transition from communism in which it must decentralize its economy, construct democratic institutions and revitalize its civil society. These tasks, demanding under any circumstances, have been made more difficult by Macedonia's proximity to the war in Bosnia. Bloody conflict in the former Yugoslavia has severely affected the country by exacerbating inter-ethnic tensions, damaging the economy and threatening stability in the region. United Nations forces have been deployed in Macedonia since 1992 to prevent a spill-over of the war.

Despite these obstacles, Macedonia has taken some important steps toward democratization since declaring its independence four and a half years ago. Substantive reform has opened the door to the European institutions and laid the foundation for a multi-party system based on the rule of law. Human rights are guaranteed in Macedonia's new constitution and most of the relevant legislation.

Nevertheless, some serious problems remain. Although human rights principles are encoded in Macedonian law, their application remains selective and incomplete. This is partially a result of political and economic pressures in the southern Balkans, as well as of the country's communist traditions. But at times, the current Macedonian government has been directly responsible for violating the rights of its citizens.

The main human rights problem is the status of national minorities. Macedonia has a vast number of minority groups, including Albanians, Turks, Roma, Serbs, Macedonian Muslims and Vlachs, all of whom complain of state discrimination. While some of their complaints are politically motivated, the Macedonian government has not done all that it could to provide the minority populations with their basic rights, especially regarding non-discriminatory treatment in state employment and minority language education. The government has addressed some of these problems during the past four years, but the lack of substantial improvement has contributed to a deterioration in inter-ethnic relations.

By far the largest and most vocal of Macedonia's ethnic communities is the Albanians, who constitute almost one-quarter of the population, according to official statistics. Despite some improvements, Albanians are still grossly underrepresented in the police force and state administration, even in areas where

they constitute a majority. A highly restrictive citizenship law has left stateless some ethnic Albanians with long-standing ties and family origins in the country.

A major complaint of the ethnic Albanians concerns higher education in the Albanian language. An attempt in early 1995 to open a private Albanian-language university was deemed illegal by the state and ordered shut down. The initiative continued nonetheless, and an Albanian man was killed when police clashed with Albanians on the first day of classes. The organizers of the university were imprisoned for a brief period after a trial that failed to meet international standards — the second such trial against a group of prominent ethnic Albanians in the past two years.

But minority groups are not the only victims. All citizens of Macedonia suffer from the country's weak democratic institutions, immature political parties and economic hardships. Despite the adoption of democratic legal standards, for example, there are still many violations of due process in Macedonian courts against all citizens regardless of their ethnicity. Defendants are sometimes held in detention for longer than the twenty-four hours allowed by Macedonian law, submitted to physical abuse, denied access to a lawyer or the right to a fair trial.

One fundamental problem is the slow pace of legislative reform. Despite constitutional guarantees, which set time limits for the revision of important legislation, many of Macedonia's laws still date from the communist era. The delay has negatively affected the development of Macedonia's judicial system.

The political opposition has also complained about mistreatment by the state, including phone-tapping and police harassment. The main opposition party VMRO-DPMNU boycotted the second round of parliamentary elections in 1994 to protest what it considered altered voting lists and an outdated electoral law. International monitors from the Council of Europe and European Union reported on these irregularities but declared that they had not been serious enough to invalidate the election.

Another problem in Macedonia involves freedom of the press. The state-run company Nova Makadonja still has a virtual monopoly on printing and distribution, which severely limits the possibilities for an independent press. In May 1995, the government closed eighty-eight private radio and television stations, especially some of the more influential minority stations, allegedly for technical reasons. After protests, most were allowed to broadcast again.

These human rights problems in Macedonia are intensified by the country's tenuous economic situation. The little industry that was based in Yugoslav Macedonia has mostly ground to a halt. United Nations sanctions against Yugoslavia, in force from May 1993 until December 1995, and an eighteen-month embargo imposed by Greece cost the economy an estimated U.S. \$4 billion dollars

in lost revenue. This difficult economic situation places further strains on social relations within the country, especially between ethnic communities.

The international politics of the southern Balkans have also taken their toll on the young country. Macedonia's neighbors, known in Macedonia as "the four wolves," have exhibited behavior ranging from inhospitable to aggressive. Minority populations, irredentist movements and hostile neighboring governments all threaten the very sovereignty of the country. An active nationalist opposition at home further limits the government's maneuvering room.

The international community has recognized these threats to Macedonia's stability. A United Nations Preventive Deployment Force (UNPREDEP) and an Organization for Security and Cooperation in Europe (OSCE) monitoring mission are in Macedonia to observe and report on the internal and external threats to the country. In addition to U.N. patrols along the borders, both organizations attempt to assist the government with the process of democratization and occasionally mediate between various political forces, and especially ethnic communities.

The work of these two organizations reflects the international community's main policy goal in Macedonia: stability. Both the United States and Europe fear a spread of the war to Macedonia since the conflict could draw in Greece and possibly Turkey, both members of NATO, as well as Albania, Serbia and Bulgaria. In the name of stability, however, both the U.N. and the OSCE tend to defend the status quo in Macedonia and downplay human rights violations within the country. Only gentle criticism is directed against a friendly government that is seen as a stabilizing force.

Indeed, stability in Macedonia is critical for the Balkans. Already the starting point of two Balkan wars in this century, a war in Macedonia would have devastating effects for the region and beyond. But human rights are an integral part of establishing long-term stability. A lasting peace will only be secured when a democratic system is in place that guarantees full rights for all citizens.

Despite the difficult circumstances in which it finds itself, the Macedonian government is ultimately responsible to respect the fundamental human rights of all its citizens. Clearly, there are individuals within the government who are trying to achieve this. But there are still many instances in which the Macedonian government has not respected individual human rights, as is required by both Macedonian and international law.

RECOMMENDATIONS

Human Rights Watch/Helsinki calls on the government of Macedonia to:

- Guarantee all citizens the right to a fair trial. Macedonian law requires that defendants be informed of the reason for their arrest within forty-eight hours of their detention and have access to a lawyer.
- Expedite the process of legislative reform, as is required under the Macedonian constitution. Of particular need are new versions of the penal code and laws on civil, criminal and executive procedure.
- Investigate allegations of police abuse and improper treatment of those in detention. The government should prosecute to the fullest extent of the law all officials found to have used excessive force.
- Establish a permanent structure through which citizens may file complaints of police misconduct.
- Guarantee that prisoners' rights are respected in accordance with international law. This includes the right to be free from torture, cruel or inhuman treatment.
- Assure that members of minority groups are granted equal rights without discrimination, in accordance with Macedonian and international law.
- Respect the constitutional right of minority groups freely to express, foster and develop their identity and national attributes.
- Allow the formation of private educational institutions on all levels. This includes adopting the necessary laws and regulations for the accreditation of private schools.
- Adopt an affirmative action plan to recruit more minorities into government positions.
- Continue and expand programs to enlist police from among Macedonia's ethnic minorities.

- Guarantee that the Council on Inter-Ethnic Relations address the problems of national minorities in good faith. Parliament should consider all of the council's proposals, as is required by law.
- Adopt liberal criteria for citizenship applicants who lived in Macedonia and considered it their primary community while it was still part of the former Yugoslavia. The norms set out in the current citizenship law might more reasonably be applied to those citizenship applicants who have never resided in former Yugoslavia or were never citizens of the state.
- Assure that the Law on Citizenship is applied in a non-discriminatory manner. Avoid arbitrary deprivation or denial of citizenship and work actively to minimize statelessness in Macedonia.
- Provide a right of appeal for those denied citizenship by establishing an impartial, non-partisan and multi-ethnic review commission.
- Guarantee that diverse viewpoints are given appropriate access to the state-run media (publications of the Nova Makedonja company and the state-run television and radio).
- Pass a broadcast law to regulate the use of radio and television frequencies by private senders. Licences to private television and radio broadcasters should be distributed in a non-discriminatory manner without regard to political content. Private broadcasters should have access to the state's network of transmitters.
- In the absence of a law on radio broadcasting, the government should allow all private radio and television stations currently holding licences from the Ministry of Information to operate freely.

II. BACKGROUND

HISTORY

The term Macedonia refers to a large area of land that stretches today across four European countries. The heart of Alexander the Great's empire, Macedonia extended roughly from the highlands of Albania in the west to the mountains in central Bulgaria, and from southern Serbia and Kosovo to the Aegean Sea in Greece.

Following Alexander's death in 323 B.C., the region fell prey to a host of foreign invaders. The Romans, Byzantines and then the Slavs all occupied this strategic piece of land that offered control of the important Balkan trade routes, both East-West and North-South. Bulgarian and Serbian medieval empires controlled the region successively until the fourteenth century when it was absorbed into the Ottoman Empire, under whose control it remained for more than 500 years.

A Macedonian identity began to take form in the late nineteenth century, mostly among intellectuals. In 1903, a revolt against Ottoman forces led to the creation of the Republic of Krushevo, which was crushed after ten days. At the same time, Greece, Bulgaria and Serbia denied the existence of a Macedonian nation and laid claim to large portions of Macedonia. By 1890, all three were supporting guerrilla movements to gain control of the region.

The Turks were expelled from Macedonia after the Balkan Wars of 1912 and 1913, and the region was divided up among the three victorious states — Bulgaria, Serbia and Greece. Each state began aggressive campaigns to assimilate the populations within their respective territories.

During World War Two, Yugoslavia was occupied by the Germans, who granted large sections of what is now Macedonia to both the Bulgarians and the Albanians. Both were expelled in 1945 when the partisan leader Josip Broz Tito established the Socialist Republic of Macedonia as the southernmost part of the Yugoslav federation.

The official recognition of the Macedonian identity was a strategic move by Tito to integrate Macedonia into the new Yugoslavia. He purposefully fostered a distinct Macedonian language and culture to delegitimize the territorial claims of Macedonia's neighbors, as well as to differentiate Macedonians from Serbs, who he feared might dominate the new federation. As a result, Greeks and Bulgarians now claim that the Macedonian identity is nothing more than an artificial communist creation.

The establishment of the Socialist Republic of Macedonia also left large Macedonian minorities in Greece, Bulgaria and, to a lesser extent, Albania. Both Bulgaria and Greece denied, and continue to deny, that any significant Macedonian minority exists in their countries. An estimated 40,000 (Greek government figure) to 250,000 (Macedonian government figure) ethnic Macedonians still live in Greece today and are denied their basic rights, such as freedom of expression and religion. Ethnic Macedonian refugees who fled northern Greece after the Greek Civil War of 1946-49, as well as their descendants who identify themselves as Macedonians, are denied permission to regain their citizenship or to visit northern Greece.¹

During the communist period, Macedonia was the poorest of the six Yugoslav republics, contributing only 5-7 percent of the national gross domestic product.² Landlocked and without significant natural resources, it relied heavily on transfers from Croatia and Slovenia, and economic cooperation with the other republics, especially Serbia. Remittances from Macedonians living abroad provided a major source of income to individual families.

The republic was, and still is, a multi-ethnic region inhabited by Macedonians, Albanians, Turks, Roma, Serbs, Macedonian Muslims and Vlachs, among others. The 1974 Yugoslav constitution granted minority groups some basic rights with regard to education, religion and language use. The Albanians, for example, had a university in Prishtina, the capital of Kosovo, and were allowed to speak Albanian in the local governments where they constituted a majority. But minority rights were by no means complete, and any political activism along ethnic lines was punishable by long-term imprisonment. Albanians, in particular, were severely punished for expressions of national identity.

¹See "Destroying Ethnic Identity: The Macedonians of Greece." Human Rights Watch/Helsinki report, April 1994.

²"Macedonia: A Balkan Problem and a European Dilemma," Duncan Perry. RFE/RL Research Report, June 19, 1992.

Following the lead of Slovenia and Croatia, Macedonian citizens voted for independence from Yugoslavia in a national referendum on September 8, 1991. Only 72 percent of the registered voters took part in the referendum, but, of those who voted, 95 percent were in favor of independence.³ On November 11, 1991, the independent republic held its first multi-party elections. The nationalist party Internal Macedonian Revolutionary Organization - Democratic Party for Macedonian National Unity (VMRO-DPMNU) won 37 of the 120 seats, and parliament elected Kiro Gligorov, a former member of the Yugoslav Presidency, as Macedonian President.

The first government, known as a non-party government of experts, fell to a vote of no-confidence in July 1992. As the political party with the most seats in parliament, VMRO-DPMNU was charged with assembling a new government. It failed in this task, and a new government was formed by a coalition called the Alliance of Macedonia made up of the Social Democratic Union (successors to the communists), Liberal Party and the (ethnic Albanian) Party for Democratic Prosperity. The coalition lacked a two-thirds majority, however, and was unable to proceed with fundamental reform. Ethnic Albanian and VMRO deputies often boycotted sessions, leaving parliament without a quorum.

Despite this, parliament did succeed in approving a new constitution that declared Macedonia a "sovereign and independent state, as well as a civil and democratic one." The twenty-five ethnic Albanian members of parliament abstained from the vote, claiming that certain articles were discriminatory against non-ethnic Macedonians in the country. Of particular concern to them was the constitution's preamble, which declares Macedonia "a national state of the Macedonian people," with "full equality" for other nationalities. Ethnic Albanians, as well as the other minority groups, saw this as the first step in the establishment of a Macedonian national state in which minority groups would be second-class citizens. For many ethnic Macedonians, the Albanians' abstentions called into question their loyalty to the young Macedonian state.

³"Republic of Macedonia - Basic Data," p. 11. Ministry of Foreign Affairs, Skopje. May 1995. Most of those who didn't vote in the referendum were ethnic Albanians, who were fearful of the new Macedonian state's national character.

The second parliamentary elections, held in October 1994, helped the Alliance for Macedonia consolidate power, but not without controversy. Kiro Gligorov's party, the Social Democrats (SDS), gained a majority of the votes in the first round, while the opposition VMRO-DPMNU did worse than expected. Claiming electoral fraud, VMRO-DPMNU boycotted the second round of the elections and is not represented in the parliament today.⁴ Council of Europe monitors admitted that there were voting irregularities, but did not consider them serious enough to affect the outcome of the elections. After the second round of voting, the SDS secured 58 seats, the Liberal Party 29 and the PDP 10. With a clear two-thirds majority, the new coalition has been able to pass some key pieces of legislation, including a restructuring of the courts, education system and local government.

Much of the new government's energy has been directed toward earning international recognition for Macedonia. Despite meeting all the requirements outlined by the European Community, Macedonia was slow in gaining international recognition, due primarily to protests from Greece.⁵ In April 1993, Macedonia was accepted into the United Nations under the name "Former Yugoslav Republic of Macedonia" (FYROM). After an accord signed with Greece in September 1995, Macedonia was accepted into the Council of Europe and Organization for Security and Cooperation in Europe (OSCE), and the United States established full diplomatic relations. The border with Greece was opened, and both sides have set up diplomatic representations.

⁴Some political observers estimate that, because of the boycott, 20 percent of the electorate is not represented in the current parliament. VMRO-DPMNU has declared it considers the parliament illegal and its decisions non-binding. See chapter on the political process.

⁵Until November 1995, Greece effectively blocked recognition of Macedonia in the OSCE, Council of Europe and NATO's Partnership for Peace.

On October 3, 1995, President Gligorov was seriously injured in a terrorist attack on a Skopje street. He returned to office three months later, but the assassination attempt underlined the country's tenuous stability. The government blamed an international company operating in a neighboring country, but has not named the people it considers responsible.

In February 1996 the ruling coalition split, primarily over differences on privatization policy. The SDS and PDP restructured the government without the participation of the Liberal Party.

DEMOGRAPHICS

Macedonia is a small, mountainous country with a population of about two million. The largest ethnic group is the Macedonians, although, like most countries in the Balkans, there is a large number of ethnic minorities. The precise size of Macedonia's ethnic communities is a matter of great debate. Throughout history, each group has tried to inflate its numbers to support territorial claims. Census figures have also been subject to political manipulation due to the complexity of Macedonia's ethnic make-up and the lability of national identity.

For example, Macedonian Muslims have historically been under pressure from various political forces to declare themselves as either ethnic Turks or Albanians. Human Rights Watch/Helsinki also encountered some individuals, mostly ethnic Roma, who declared themselves as ethnic Albanians or Macedonians to avoid discrimination.

In the past five years, there have been two censuses taken in Macedonia. The first, in 1991, was boycotted by ethnic Albanians, who claimed that it was discriminatory. As a result primarily of ethnic Albanian pressure, the international community funded and monitored a second census in 1994. The official results are:⁶

Macedonians	1,288,330	66.5%
Albanians	443,914	22.9%
Turks	77,252	4.00%
Roma	43,732	2.30%
Serbs	39,260	2.00%
Muslims	-	-

⁶Statistical Office of Macedonia, December 1994.

Bulgarians	-	-
Montenegrins	-	-
Croatians	-	-
Didn't state	1,962	0.10%
Yugoslavs	-	-
Unknown	-	-
Others	34,960	1.80%
TOTAL	1,936,877	100%

The European Union declared the census to be accurate and fair, but every ethnic group complained that it had been under-counted. One of the major concerns was that the census only counted those individuals who had Macedonian citizenship at the time. Since a highly restrictive citizenship law was passed in 1992, many ethnic minorities with long-standing ties to Macedonia were left without citizenship. (See chapter on citizenship.)

Most ethnic Albanians and Turks live in the rural areas of the country's western and northern region, although there is also a large population of both groups in Skopje. Ethnic Serbs are predominantly in the north near the border with Serbia, while ethnic Roma are dispersed throughout the country in both the cities and rural areas, very often in isolated, ghetto-like areas. Macedonian Muslims live predominantly in the west.

While there are mixed neighborhoods in Skopje and even some multi-ethnic villages, the different ethnic communities mostly live separate lives, especially Albanians and Macedonians. Different schools, religions and work environments keep the ethnic communities apart from one another. Macedonia has been a place of peaceful co-habitation but has relatively little inter-ethnic communication. As the economic situation deteriorates and political lines harden, the communications gap is becoming larger, especially between Muslim Albanians and Orthodox Christian Macedonians.

ECONOMIC SITUATION

Already the poorest republic in the former Yugoslavia, Macedonia's economic status has further declined since its independence in 1991. This is partly a result of Macedonia's difficult transition to a market economy. The closure of inefficient state firms has hurt production and caused a sudden rise in

unemployment, something largely unknown during communism.⁷ The government must also balance the budget, repay its foreign debt and restructure the antiquated banking system.

But it is the geopolitics of the southern Balkans that have had the most catastrophic effect on the country's economic development. First, the United Nations sanctions against Yugoslavia, imposed from mid-1992 until the end of 1995, cut Macedonia off from Serbia, previously its most important trading partner. Trading in violation of the sanctions was very common, but the flow of goods was still lower than the normal level of trade would have been with open borders.⁸

⁷An estimated 25-30 percent of the workforce in unemployed.

⁸According to Macsam, the European Union agency that was charged with monitoring the sanctions, up to 1,000 lorries crossed from Macedonia into Serbia every week during the sanctions. Human Rights Watch/Helsinki interview with Sip Van der Weg, Head of Mission, and Dermot A. Jennings, Deputy Head of Mission, Sanctions Assistance Mission Macedonia (Macsam), Skopje, July 26, 1995.

In the south, Greece imposed an embargo in April 1994 that lasted eighteen months to protest Macedonia's name, flag and articles in its constitution that, Greece claimed, implied territorial claims on the Greek province of the same name. On September 14, 1995, with the assistance of American mediators, Greece and Macedonia came to an interim agreement that involved a lifting of the embargo in return for a changing of the flag.⁹ The issue of the name remains to be resolved.

Despite this positive development, the embargo had already caused considerable damage to Macedonia by denying it access to the major port of the region, Thessaloniki. Greece's objections to Macedonia's name also delayed the country's entrance into major international organizations, such as the OSCE and Council of Europe. The lack of international recognition made it more difficult to obtain international credit and assistance from international monetary agencies like the World Bank and International Monetary Fund. Altogether, the United Nations estimates that the embargo and sanctions cost Macedonia U.S. \$4 billion in lost income.¹⁰

As a result of these conditions, economic production has dropped sharply. The government claims that gross social product per capita fell from U.S. \$1,419 in 1987 to U.S. \$720 in 1993. While it is in the government's interest to over-emphasize the effects of the embargo and sanctions, there is no question that the

⁹Macedonia had already amended its constitution in 1992 to recognize the inviolability of international borders and state that it would not interfere in the internal affairs of neighboring countries.

¹⁰MILS News, February 2, 1996.

economy has deteriorated greatly during the past four years. Social tension has increased as a result, especially between the different ethnic communities.¹¹

DOMESTIC POLITICS

Since establishing a two-thirds majority in parliament in 1994, the Alliance for Macedonia has initiated reform in a number of key areas, such as the judiciary and education. Its biggest challenge, however, has been balancing the many competing forces that exert pressure on Macedonia, both at home and abroad.

Of primary importance on the domestic scene has been maintaining a balance between Macedonian nationalists on the one side, and Albanian extremists on the other. Nationalist parties like VMRO-DPMNU have criticized the government for granting too many concessions to ethnic Albanians who they believe have intentions to break away from the state and form a greater Albania. Ethnic Albanians, however, complain that their condition continues to deteriorate. They place particular blame on the Albanian members of the ruling coalition, the Party for Democratic Prosperity, who many ethnic Albanians believe have betrayed the Albanian cause.

Nationalist attacks have also been directed against the government's policy toward Greece. The nationalists see the decision to change the national flag in return for an end to the Greek embargo as a Macedonian defeat. They took their complaint to the constitutional court, which ruled that the interim accord with Greece was constitutional.

¹¹In discussions with the various ethnic groups, Human Rights Watch/Helsinki noticed that each group tended to perceive itself as the main victim of the country's economic woes. While unemployment has affected all citizens of Macedonia, each ethnic group, including ethnic Macedonians, thought it were suffering the most as a result of discrimination.

In February 1996 the ruling coalition began to break apart. Disagreements over domestic policy, primarily privatization, led to the Liberal Party leaving the coalition. A new government was named comprised only of the SDS and PDP.

Since 1991, the government has also maintained very close ties to the west, especially the United States, which established full diplomatic relations with Macedonia after the recent agreement with Greece. Military cooperation between the two sides has increased steadily with Macedonia becoming a member of NATO's Partnership for Peace in November 1995.

In general, the political scene is afflicted with many of the post-communist traumas familiar throughout the region, such as irresponsible politicians and a poorly informed electorate. Political party structures are still weak, and politicians have a low level of accountability to the public. A weak media and nongovernmental sector hinder the free flow of information.

INTERNATIONAL POLITICS

The bi-polar politics of the Cold War effectively quelled centuries-old tensions in the southern Balkans. But the collapse of communism and the destruction of Yugoslavia have unleashed an array of conflicting forces, many of which threaten the stability and security of the young Macedonian state.

Relations with Albania

Macedonia's sizable Albanian minority is the main point of contention between Macedonia and Albania. Since coming to power in 1992, Albanian President Sali Berisha has voiced concern for the rights of ethnic Albanians in Macedonia, sometimes drawing criticism for interfering in Macedonia's internal affairs, but generally maintaining a moderate position.

The most controversial incident occurred in early 1994 when leaders of the ruling Democratic Party helped precipitate a split in the Party for Democratic Prosperity. Two factions emerged, and Berisha supported the more radical group while criticizing the remaining members of the PDP for collaborating with the Macedonian government. Berisha toned down his comments after heavy criticism from Skopje and, more importantly, from the United States.

In early 1995, the Tirana government expressed concern about the closing of the private Albanian-language university in Tetovo. The foreign ministry

released strong statements in defense of the initiative, which prompted a Macedonian response that Albania was meddling in its domestic affairs.

At other times, however, relations between the two countries have been good. When Greece imposed the embargo, Albania opened up its port in Durres for Macedonian use. Albania was also one of the first countries to recognize Macedonia and, after initial objections, supported its entrance into the OSCE. In October 1994, Albania, Macedonia and Bulgaria signed an agreement on mutual cooperation which focused on trade and communications.

Relations with Greece

Relations with Greece have been highly strained since the day of Macedonia's independence. Greek objections to Macedonia centered on the choice of its name, which Greece believes implies territorial ambitions toward the Greek province also called Macedonia. In addition, Greece objected to Macedonia's flag, the Star of Vergina, which it considers an ancient Hellenic symbol, and to articles in Macedonia's constitution that call for the protection of all ethnic Macedonians outside the country's borders. Because of these objections, Greece blocked Macedonia's acceptance into international organizations and forced the use of the name "Former Yugoslav Republic of Macedonia" (FYROM), which is how Macedonia is currently recognized at the United Nations and other international bodies.

In April 1994 Greece imposed an embargo on Macedonia that blocked all trade with the exception of humanitarian goods. The embargo was lifted on October 3, 1995, after Macedonia changed its flag. Macedonia had already amended its constitution to guarantee its respect for the inviolability of international borders and pledged not to interfere in the internal affairs of neighboring states. Shortly thereafter, Macedonia was accepted into the Council of Europe and the OSCE. As of April 1996, negotiations on the name of the country were continuing.

Another on-going dispute between the two countries involves the Macedonian minority living in Greece, some of whom identify themselves as Greek. The Greek government refuses to recognize that any minority populations are living in the country and refer to the Macedonians as "Slavo-phone Greeks." Increasingly, Macedonian human rights activists in Greece are calling for recognition as a minority and an end to discriminatory treatment along ethnic lines, particularly in the realm of education and employment.¹² In addition,

¹²See Human Rights Watch/Helsinki report, "Destroying Ethnic Identity: The Macedonians of Greece," April 1994.

representatives of at least 80,000 Macedonians who fled Greece after the Greek civil war and are still not allowed back into the country, even to visit families or attend funerals, are asking Greece for an end to these restrictions.

Relations with Serbia

Macedonia is the only former Yugoslav republic to gain independence without bloodshed. In early 1992, the Yugoslav National Army (JNA), dominated by Serbia, withdrew peacefully from Macedonia, although it took with it every possible piece of military equipment.

Since then, relations have been tense but stable. Some nationalist Serbs regard Macedonia as South Serbia, and for a long time the Belgrade government refused to recognize the independent Macedonian state. Belgrade has also expressed concern for the Serb minority living in Macedonia, although it has not taken as aggressive a stance on this issue as it did in other parts of the former Yugoslavia. Many Macedonians are concerned nonetheless, since the status of Serb minorities in Croatia and Bosnia were used by Belgrade to incite war.

Since 1991 there have been a number of incidents along the common Macedonian-Serbian border, which was previously an unmarked internal boundary. Both sides have different interpretations of where the border really lies, and the U.N. has had to intervene on occasion to avoid possible conflict.

Relations between the two sides improved at the end of 1995 following the signing of the Dayton Accord on Bosnia. On April 8, 1996, the two countries signed a treaty of mutual recognition in which both sides agreed to "respect the sovereignty, territorial integrity and political independence" of its neighbor. The agreement infuriated the Greek government, which had maintained close ties with Serbia since the breakup of Yugoslavia.

Relations with Kosovo

The Macedonian government is very concerned about the situation in the predominantly Albanian region of Kosovo for a number of reasons.¹³ First, any open conflict between Albanians and Serbs is very likely to spill over into

¹³Approximately 90 percent of the population in Kosovo is ethnic Albanian, 8.5 percent ethnic Serb. Its status as an autonomous region was revoked by the Belgrade government in 1989. Since then, Serb authorities have committed frequent abuses of Albanians' civil and political rights, including torture, police brutality and restrictions on the freedom of expression. See Human Rights Watch/Helsinki report, "Open Wounds: Human Rights Abuses in Kosovo," March 1993.

Macedonia, which would certainly affect the country's delicate ethnic balance. An influx of Albanian refugees could be used as a pretext for interventions by both Serbia and Albania.

Even without such a conflict, the fates of ethnic Albanians in Kosovo and Macedonia are intimately tied. Many leaders of the Albanian community in Macedonia were educated in Kosovo. At the very least, many Albanians in Macedonia are strongly supportive of the Kosovar Albanians' struggle against Serb oppression.

For many ethnic Macedonians, Serbia is a potential aggressor which threatens to destabilize the country. At the same time, there are some ethnic Macedonians who would like to see Macedonia rejoin a Yugoslav federation. Usually this is related to a common suspicion of Albanians, whom they believe are posing a "threat" in both Kosovo and Western Macedonia.

Relations with Bulgaria

Bulgaria was one of the first countries to recognize the Macedonian state, but it still refuses to recognize the Macedonian people. This is due to strong opinion in Bulgaria that the Macedonian identity was an artificial creation of Tito's.

The Macedonian language, they claim, is a dialect of Bulgarian. The conflict has prohibited the two countries from signing some declarations of cooperation because they were not able to agree on the language.

Despite this, there has been some cooperation between the two countries, especially during and after the Greek embargo. In general, the Bulgarian government has taken a moderate stance toward the young state. Still, there are some political forces in Bulgaria with irredentist aspirations. Their desires find some support among a small sector of pro-Bulgarians in Macedonia.

Relations with the International Community

Since declaring its independence, Macedonia has continuously struggled for international recognition, impeded mostly by barriers imposed by Greece. Acceptance into the major international institutions was blocked until Greece's complaints had been addressed.

In late 1991, the European Community (EC) announced the conditions under which it would recognize the newly independent countries of the former Yugoslavia. These included the new state's promise to respect minority rights, relinquish territorial claims and assure that it would not engage in hostile acts against another state.¹⁴

¹⁴The EC formed the Badinter Commission to determine which states of the former

In early 1993, the EC announced that, of the four former Yugoslav republics seeking recognition, only Macedonia and Slovenia fulfilled all of the requirements. Despite this, on January 15, 1993, the EC extended formal recognition only to Slovenia and Croatia. Bosnia-Herzegovina was recognized three months later.

Macedonia was recognized in May 1993, but under the name "Former Yugoslav Republic of Macedonia" (FYROM). A similar arrangement had been made the previous month with the United Nations.

Since then, better relations with Greece have opened the door to the international community. Following the Macedonian-Greek interim accord on October 3, 1995, Macedonia was admitted into the Council of Europe, OSCE and the Partnership for Peace. Today, the country cooperates with all of these institutions on a variety of levels.

III. MINORITY RIGHTS

Since 1991, the Macedonian government has taken some steps to guarantee the rights of the country's ethnic groups. Minority groups may be educated on the primary and secondary level in their native language and, according to a new law on local government, minority languages are used together with Macedonian in municipalities with a minority population greater than 50 percent.¹⁵

Despite these achievements, non-ethnic Macedonians are still discriminated against in some key areas, such as state employment and education. While the government has addressed some of these problems in recent years, the lack of improvement in many areas has contributed to a deterioration in inter-ethnic relations.

The fundamental question is whether Macedonia will become a national or civic state, that is, a state dominated by ethnic Macedonians - as is the trend in the Balkans today - or a state for all citizens regardless of ethnicity. The new constitution has been criticized by Macedonia's different ethnic groups for promoting the former. Its controversial preamble states that:

¹⁵According to the new law, passed in October 1995, municipalities with a minority population greater than 50 percent will use the language of that minority along with Macedonian in all official matters. In those municipalities where a minority group makes up more than 20 percent of the local population, the names of towns, stores and streets will be written in both languages. Based on the new law, the Albanian language will be used in Kumanovo, Gostivar, Debar, Struga, Kicevo, Krusevo and four of the five districts in Skopje. Turkish signs will be used in Makedonski Brod and Debar.

...Macedonia is established as a national state of the Macedonian people, in which full equality as citizens and permanent co-existence with the Macedonian people is provided for Albanians, Turks, Vlachs, Romanies and other nationalities living in the Republic of Macedonia.¹⁶

¹⁶Albanian deputies in parliament did not vote on the new constitution in protest of the formulation.

For non-ethnic Macedonians, this formulation is an indication of the ethnic Macedonians' attempt to create their own state in which non-ethnic Macedonians will be second-class citizens. They view the preamble as an inherent contradiction to other parts of the constitution which proclaim Macedonia as a civic and democratic state that guarantees "human rights, citizens' freedoms and ethnic equality."¹⁷

Arben Xhaferi, leader of the Albanian Party for Democratic Prosperity, told Human Rights Watch/Helsinki:

A state that was a common state for Albanians, Macedonians and others has become a Macedonian state. You may notice this everywhere. The television is "Macedonian TV." It's not "TV of Macedonia," but with a predicate. Everything in this country is being identified with this predicate "Macedonian."¹⁸

But the Macedonian government and its supporters counter that they are committed to establishing a multi-ethnic, civic state. In no other country in the Balkans, they argue, do minorities enjoy the degree of rights they have in Macedonia. The complaints of discrimination, especially by the Albanians, are seen as a sign of disloyalty to the state. At best, many ethnic Macedonians say, Albanians wish to destabilize the country; at worst, to secede from it.

The world community's delayed recognition of Macedonia has also exacerbated inter-ethnic relations. The ethnic Albanians' demand for increased autonomy and federalization is viewed as an existential threat by most ethnic Macedonians who are hungry for recognition by the world. For Macedonians, national unity is critical as they struggle to assert their national identity on the world market. Instead of complying, however, most Albanians take great pleasure in

¹⁷Preamble of the Constitution of the Republic of Macedonia.

¹⁸Human Rights Watch/Helsinki interview with Arben Xhaferi, Tetovo, July 30, 1995.

using the term "FYROM" - Former Yugoslav Republic of Macedonia - the name under which the country is formally recognized at international bodies.

Indeed, the question of minority rights in Macedonia is dangerously complex. Many of the fine points of debate are political manipulations by both sides. While many of the ethnic communities' complaints are valid, some are exaggerations and misrepresentations. Nevertheless, it is the responsibility of the Macedonian government, under both domestic and international law, to grant full respect for minority rights and avoid discrimination along ethnic lines.

LEGAL GUARANTEES

Domestic Law

The Macedonian constitution grants all citizens their fundamental rights and freedoms, including freedom of expression, religion, assembly and speech. Article 9 of the constitution states:

Citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status.

All citizens are equal before the constitution.

Article 48 specifically addresses the rights of the country's nationalities. It states:

Members of nationalities have a right freely to express, foster and develop their identity and national attributes.

The Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity of the nationalities.

Members of the nationalities have the right to establish institutions for culture and art, as well as scholarly and other associations for the expression, fostering and development of their identity.

Paragraph 4 of Article 48 deals with education in the languages of minorities. It states:

Members of the nationalities have the right to instruction in their language in primary and secondary education, as determined by law. In schools where education is carried out in the language of a nationality, the Macedonian language is also studied.

Article 8 of the constitution pledges Macedonia to abide by the generally accepted norms of international law.

International Law

International law protects the right of individuals who belong to an ethnic or national minority to express, preserve, and develop their cultural traditions:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language. [International Covenant on Civil and Political Rights (1976), Article 27.]¹⁹

To belong to a national minority is a matter of a person's individual choice and no disadvantage may arise from the exercise of such choice. Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will. [Document of the Copenhagen

¹⁹Regarding Article 27, the Human Rights Commission has commented that "positive measures by States may also be necessary to protect the identity of a minority and the rights of its members to enjoy and develop their culture and language and to practice their religion." [General comment adopted by the Human Rights Committee under Article 40, Paragraph 4, of the International Covenant on Civil and Political Rights, April 26, 1994.] Human Rights Watch, however, interprets Article 27 of the ICCPR as preventing governmental interference with the right of ethnic, religious and linguistic minorities to enjoy their culture, to profess and practice their religion and to use their language, but does not take a position on a State's obligations to provide positive measures.

Meeting of the Conference on the Human Dimension of the CSCE (1990), Paragraph 32.]²⁰

The participating States...reaffirm that respect for the rights of persons belonging to national minorities as part of universally recognized human rights is an essential factor for peace, justice, stability and democracy in the participating States. [Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 30.]

International law prohibits states from discriminating on the basis of ethnic or national identity, and requires states to take positive measures to prevent discrimination on these grounds:

All are equal before the law and are entitled without any discrimination to equal protection of the law. [Universal Declaration of Human Rights (1948), Article 7.]

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. [International Covenant on Civil and Political Rights, Article 26.]

The participating States will adopt, where necessary, special measures for the purpose of ensuring to persons belonging to national minorities full equality with the other citizens in the exercise and enjoyment of human rights and fundamental freedoms. [Document of the Copenhagen Meeting of the

²⁰Although the CSCE documents do not have the binding force of a treaty, Macedonia has made a solemn commitment to abide by the standards set out therein.

Conference on the Human Dimension of the CSCE, Paragraph 31.]

The participating States...commit themselves to take appropriate and proportionate measures to protect persons or groups who may be subject to threats or acts of discrimination, hostility or violence as a result of their racial, ethnic, cultural, linguistic or religious identity, and to protect their property.... [Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 40.2.]

International law protects freedom of association, including political association:

Everyone has the right to freedom of peaceful assembly and association. [Universal Declaration of Human Rights, Article 20.]

[T]he participating States will...respect 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.... [Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 7.6.]

The participating States reaffirm that...the right of association will be guaranteed....[This right] will exclude any prior control. [Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 9.3.]

Every citizen shall have the right and the opportunity [without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status]...and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives.... [International Covenant on Civil and Political Rights, Article 25.]

International law allows parents the right to choose the kind of education that shall be given to their children:

Everyone has the right to education....Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit....Parents have a prior right to choose the kind of education that shall be given to their children. [Universal Declaration of Human Rights, Article 26.]²¹

International law allows states to take special measures (i.e., "affirmative action"), for a limited period of time, to ensure members of all ethnic groups the equal enjoyment and exercise of human rights and fundamental freedoms:

Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for

²¹Human Rights Watch does not take a position on the extent to which a state should take positive steps to provide minorities with opportunities to learn their mother tongue or the extent to which a state should finance education in a minority's language. Human Rights Watch recognizes that under certain regional human rights documents, such as the Document of the Copenhagen Meeting of the Conference on the Human Dimension on the CSCE, Macedonia has committed itself to provide minority rights education and to take other steps to foster minority cultural, education and linguistic opportunities. However, such commitments are outside the scope of Human Rights Watch's mandate and will not be addressed in this report except as background information.

different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved. [International Convention on the Elimination of All Forms of Racial Discrimination (1969), Article 1.]

THE COUNCIL ON INTER-ETHNIC RELATIONS

Article 78 of the Macedonian constitution mandates the creation of a Council on Inter-Ethnic Relations. The council consists of the president of parliament and two members from each of the country's main ethnic groups: Macedonians, Albanians, Turks, Vlachs and Roma, as well as two members from each of the other nationalities. Members of the council are elected by parliament.

The council's task is to consider issues affecting the relationship between the country's many ethnic communities. It makes suggestions directly to the parliament, which, according to the constitution, "is obliged to take into consideration the appraisals and proposals of the council and to make decisions regarding them."²²

Since its formation in 1992, however, the council has not played an active role in promoting inter-ethnic dialogue and harmony. Leaders of the ethnic communities complain that they, not parliament, should elect their representatives. In addition, the council's discussions have not had any substantial bearing on parliamentary debate. Erdogan Saraç, president of the Democratic Party of Turks, told Human Rights Watch/Helsinki:

²²Constitution of Macedonia, Article 48.

The council has no authority. It only exists theoretically for the outside world as an example of democratic action. Because it has no authorization for decision-making, they can only suggest.²³

On occasion, the council has made recommendations to the parliament that were ignored. For example, the council suggested that Serbs be included in the constitution as a minority population, but parliament never considered the proposal. In September 1995, the Serb representative on the council, Bosko Despotovic, resigned in protest.

In a letter to then Minister of Foreign Affairs Stevo Crvenkovski, OSCE High Commissioner for National Minorities Max van der Stoel expressed his concern that the council had not “played an active role since its inauguration.” He added:

Regular discussion in the Council can help not only to identify questions of concern to the various nationalities, but also to remove misunderstandings and mutual suspicions. Against this background, it would also be helpful if legislation relevant to the position of the various nationalities were discussed in the council prior to its submission to parliament.²⁴

THE ALBANIAN MINORITY

²³Human Rights Watch/Helsinki interview with Erdogan Saraç, Skopje, August 8, 1995.

²⁴OSCE High Commissioner for National Minorities Max van der Stoel letter to Foreign Minister Stevo Crvenkovski, November 16, 1994. Reference No. 3016/94/L.

Background

According to the Yugoslav constitution of 1974, ethnic Albanians were considered a constituent nation. In Macedonia, the Albanian language was spoken in local governments where ethnic Albanians constituted a sizable portion of the population. The predominantly Albanian region of Kosovo - now controlled by Serbia - was an autonomous region with its own local parliament and an Albanian-language university in the capital, Prishtina. Despite this, open expressions of Albanian national identity were not tolerated by the state.

The position of ethnic Albanians in Yugoslavia began to deteriorate in the early 1980s. Albanians were increasingly purged from the communist party, state institutions and many state-run firms. Student demonstrations at the university in Prishtina led to police crack-downs and more severe political repression.

The rights of ethnic Albanians deteriorated sharply with the rise of Slobodon Milošević to power. With communism failing, Milošević fostered a growing sense of Serb nationalism, directed primarily against ethnic Albanians. In 1989 Kosovo lost its status as an autonomous region within Yugoslavia. All Albanian institutions were closed, including the parliament and university, and today Albanians in Kosovo are dominated by a violent police state run by Serbs.

In Macedonia, the situation is nowhere near as tragic. But, having been one country up until 1991, the denial of basic rights for ethnic Albanians in Kosovo has a strong impact on the ethnic Albanians in Macedonia. In practical terms, for example, Albanians in Macedonia no longer have an Albanian-language university in Kosovo to attend. In addition, Serb oppression is often viewed as a Slav Orthodox attack against the mostly Muslim Albanian population.

Since 1991, the ethnic Albanians in Macedonia have viewed their new state with suspicion. The Albanian members of Macedonia's parliament boycotted the vote on independence in 1991 and asked their constituents not to participate in the 1992 census. Albanian MPs also did not vote on the new Macedonian constitution in 1991 due to what they claimed was its Macedonian national character.

The major complaint of the Albanian minority is that they are considered a "minority group" in the constitution rather than a "constituent nation" as they were in the 1974 Yugoslav constitution. For ethnic Albanians, "minority status" relegates them to an inferior position vis-a-vis ethnic Macedonians and forms the basis on which a Slav-dominated state may discriminate against them.

Human Rights Watch/Helsinki found that many of the particular details concerning the rights of ethnic Albanians in Macedonia are manipulated by both sides. In the end, however, ethnic Albanians have been denied many of the basic

rights guaranteed them in both Macedonian and international law. In particular, the Macedonian government should take steps to eliminate discrimination in state employment, assure equal political representation and provide a sufficient opportunity for Albanians to protect and preserve their culture, including the right to open private educational institutions.

Demographics

According to the 1994 census, ethnic Albanians make up 22.9 percent of the population. Almost all Albanians, however, dispute the figure claiming that it was reduced for political purposes. Some ethnic Albanian leaders claim the number is as high as 40 percent.

The Albanian population is concentrated in the western part of the country near the border with Albania. A large number, officially 107,000, live in the capital, Skopje. For the most part, Albanians lead a more rural and tradition lifestyle than ethnic Macedonians. This has some bearing when considering their complaints of discrimination in education and employment. The majority of Albanians in Macedonia are Muslim.

Underrepresentation in State Bodies

There are currently nineteen ethnic Albanian deputies in the 120-seat unicameral parliament, fifteen of whom are members of the Party for Democratic Prosperity (PDP) which participates in the ruling coalition. In August 1995, there were four ethnic Albanian ministers in the government and four vice ministers. The formation of a new government in early 1996 increased the number of ethnic Albanian ministers to five.

Aside from this, ethnic Albanians are grossly underrepresented in government and other state bodies. A very small number of Albanians hold appointed positions in the ministries, state or local governments or the police. Etem Aziri, Vice Director of the (ethnic Albanian) National People's Party, told Human Rights Watch/Helsinki:

If you consider there are four [Albanian] ministers in government, there are no Albanians working in the central organs of these ministries. In the administration of the parliament, only four out of 200 workers are Albanians. In administrative organs

of the state, only 2 percent are Albanians. There has been no improvement in the last two years at all.²⁵

²⁵Human Rights Watch/Helsinki interview with Etem Aziri, Tetovo, August 1, 1995.

According to the largest ethnic Albanian party, the Party for Democratic Prosperity, in August 1995 only two ethnic Albanians out of 400 people were employed in the Ministries of Labor and Social Policy, Urban Affairs and Finance. The party also claimed that only one ethnic Albanian was working respectively in the Ministry of Culture and the Ministry of Science, while none were working in the Ministry of Foreign Affairs.²⁶ According to Arben Xhaferi, head of the Albanian Party for Democratic Prosperity, ethnic Albanians make up 1.7 percent of the judiciary, 1.7 percent of the officers in the armed forces and 2.0 percent of the state administration.²⁷

Ilir Luma, a member of the presidency of the Party for Democratic Prosperity, told Human Rights Watch/Helsinki:

All leaders of state institution and enterprises are [ethnic] Macedonian. [Ethnic] Albanians apply for these jobs but regularly get hired less, even if the Macedonians are less qualified.

In the hospital where I work [in Tetovo] there are 1,350 employees. Of them, less than 350 are [ethnic] Albanian. It is a

²⁶Bulletin of PDP Information Service, Tetovo, February 2, 1995.

²⁷As of April 1996, three of the 25 Supreme Court judges were ethnic Albanians. According to the Law on Judges, Article 40, which comes into effect on July 1, 1996, "Representation of the nationalities should be taken into consideration in the selection of judges and juries, without prejudicing the criteria of the law."

fact that [ethnic] Macedonians are only 15-20 percent of the population in Tetovo.²⁸

While the numbers may not be as high as the ethnic Albanian political parties claim, evidence suggests that ethnic Albanians are severely underrepresented in government bodies. According to the Ministry of Internal Affairs, for example, only 4.12 percent of their employees are ethnic Albanians. In the departments of the ministry in the western part of the country, where Albanians predominate, Albanians make up only 8.74 percent of those employed.²⁹

²⁸Human Rights Watch/Helsinki interview with Ilir Luma, Tetovo, July 30, 1995.

²⁹Information provided by the Ministry of Internal Affairs in response to a Human Rights Watch/Helsinki request, Letter No. 122-390991, September 22, 1995.

According to former Minister of Internal Affairs Ljubomir Frčkovski³⁰, approximately 4.5 percent of the police force in Macedonia is ethnic Albanian. This is an improvement from 1.7 percent in 1992, but still far below the proportional number of ethnic Albanians living in the country.³¹ The under-representation of ethnic Albanians in the police force is even more evident in areas where they form a majority of the population. In the city of Tetovo, where ethnic Albanians comprise approximately 80 percent of the population, only 38 percent of the police are Albanian, according to the Ministry of Internal Affairs. A similar proportion exists in Gostivar, another predominantly ethnic Albanian city.

Minister Frčkovski told Human Rights Watch/Helsinki that he recognized the under-representation of ethnic Albanians in his ministry and was trying to rectify the imbalance, but that he would not lower his standards. A new police college was opened in 1994 for 250 students, 25 percent of whom were from minority groups, mostly Albanian. Another six-month course for high-school graduates was opened to train people for simple police duties, such as traffic control, with a minority quota of 50 percent. Still, Minister Frčkovski recognized that the ministry should do more to achieve a balanced ethnic representation. While still Minister of Internal Affairs, he told Human Rights Watch/Helsinki that his goal was to have minorities comprise 15-20 percent of people working in the ministry.

Political Representation

According to article 22 of the constitution, the right to vote is “equal, universal and direct.” In addition, article 18 of the existing electoral law stipulates that voting districts should be formed in order to ensure that approximately the same number of voters elects one representative. Ethnic Albanian political parties,

³⁰Ljubomir Frčkovski was Minister of Internal Affairs until February 1996 when the Liberal Party left the ruling coalition and the government was restructured. He is now Minister of Foreign Affairs.

³¹Human Rights Watch/Helsinki interview with former Minister of Internal Affairs Ljubomir Frčkovski, Ohrid, August 6, 1995.

however, maintain that the current voting districts are left over from the communist era and drawn in such a way as to dilute the Albanian vote. Etem Aziri, told Human Rights Watch/Helsinki:

The electoral law is from communism and is discriminatory. We have cases where 15,000-17,000 people have voted for one [ethnic] Albanian deputy, while 3,000-4,000 people voted for one [ethnic] Macedonian deputy. This is unprecedented. As you can see, the vote of three Albanians is equal to the vote of one Macedonian.³²

Arben Xhaferi compared the voting districts in Bitola and Tetovo. He told Human Rights Watch/Helsinki that Bitola, with an 85 percent ethnic Macedonian population, has 96,000 registered voters, while Tetovo, with an 85 percent ethnic Albanian population, has 136,000 registered voters.³³ Still, he claimed that both cities elect nine deputies to the national parliament. He also said that the western city of Debar elects only one deputy, even though there are 16,000 registered voters, 90 percent of whom are ethnic Albanian.³⁴

In June 1994, the National People's Party registered a formal complaint with the Constitutional Court about disproportionate voting districts. Party leaders told Human Rights Watch/Helsinki that, as of August 1995, they had still not received a response.³⁵

In the request, the party presented some of the more disproportionate voting districts. These included:³⁶

³²Human Rights Watch/Helsinki interview with Etem Aziri, Tetovo, August 1, 1995.

³³According to the 1994 census, 87 percent of Bitola's 124,000 inhabitants are ethnic Macedonian, while 71 percent of Tetovo's 180,600 inhabitants are ethnic Albanian.

³⁴Human Rights Watch/Helsinki interview with Arben Xhaferi, Tetovo, July 30, 1995.

³⁵Human Rights Watch/Helsinki interview with Etem Aziri, Tetovo, August 1, 1995.

³⁶Request submitted by the National People's Party to the Republic of Macedonia's Constitutional Court, June 13, 1994.

District 1 (Berovo) with 12,320 voters
District 20 (Gostivar) with 12, 759 voters
District 73 (Tetovo) with 12,356 voters
District 79 (Tetovo) with 14,144 voters
District 80 (Tetovo) with 14,744 voters

District 3 (Bitola) with 6,663 voters
District 11 (Brod) with 6,817 voters
District 37 (Kriva Palanka) with 4,781 voters
District 55 (Prilep) with 5,169 voters
District 60 (Radovish) with 5,848 voters

Since each district elects one representative, the party argued that the voters in the larger districts, primarily ethnic Albanians, had a weaker vote than the voters in smaller districts.

According to a detailed report conducted before the 1994 parliamentary elections by the International Foundation for Electoral Systems (IFES), Macedonia's electoral commission has recognized that some electoral districts represent approximately 6,000 voters while others represent as many as 17,000. The IFES report concluded:

Not only are significant numbers of voters over- and underrepresented under the current plan, candidates for election need significantly greater or lesser numbers of votes to be elected simply on the basis of the district in which they run. Although the IFES team was not in a position to investigate the legitimacy of the allegations, concern was expressed on numerous occasions that the deviations negatively impact certain minority groups and dilute their opportunities for equal representation in the Assembly.³⁷

Human Rights Watch/Helsinki was also not able to ascertain whether or not the disproportionality of voting districts negatively affects ethnic Albanians.

³⁷"Pre-Election Technical Assessment of the Former Yugoslav Republic of Macedonia," International Foundation for Electoral Systems, Washington D.C. 1994, page 21.

However, there is clearly a need to revise the electoral law to assure that all voting districts are roughly of equal size. This is necessary in order to comply with Macedonian law and to guarantee individuals the fundamental right of one person-one vote. When considering the division of electoral districts, the government should take into account the special concerns of the minority populations.

Albanian Language Education

A primary complaint of the Albanian community concerns discrimination in Albanian-language education. As stated above, Human Rights Watch/Helsinki does not take a position on the state's obligation to provide education in a minority language. As such, this section presents the complaints of the Albanian community, along with the government's position, without judging whether the government is meeting its obligations under international law.

However, Human Rights Watch unequivocally supports the right to open private schools on all levels, in accordance with minimum standards set by the state, as a right to free expression and association. In the case of minorities, private schools also fall under the right to preserve one's culture. What is more, the way in which the Macedonian government addresses the particular concerns of the Albanian minority regarding education can do much to reduce tensions and foster an atmosphere of tolerance and good faith or, by contrast, foster ethnic hostility and regional instability.

The education system in Macedonia is divided into three parts: primary (grades 1-8), secondary (grades 9-12) and university. Education through grade eight is mandatory. After that, students may elect to proceed through to university or to attend a variety of technical or professional schools.

Although the numbers have increased slightly since 1992, ethnic Albanians still comprise only 12.4 percent of all high-school students in Macedonia and 6.5 percent of all university students.³⁸ While there are many Albanian schools on the primary and secondary level, the state does not provide university level instruction in the Albanian language, except for the training of Albanian teachers.

³⁸Human Rights Watch/Helsinki interview with former Assistant Minister of Education Zoran Jachev, Skopje, August 8, 1995. Jachev is now chief of staff at the Foreign Ministry.

During the past four years, the Macedonian government has taken some steps to improve the situation. These include expanded instruction for Albanian teachers, the introduction of a 10 percent minimum quota for minority groups at the university in Skopje and the opening of some new elementary and secondary schools. But many ethnic Albanians believe that these changes have been slow in coming and inadequate.

In fairness, the Macedonian government is fighting deep-seated prejudice against Albanians in some sectors of the ethnic Macedonian population. Conservative forces at the university in Skopje, for example, have resisted changes proposed by the government to improve Albanian language instruction. The Minister of Education has even been taken to the Constitutional Court by a group of citizens for trying to expand Albanian-language classes at the Pedagogical Academy. In September, a group of ethnic Macedonian parents in the northern village of Ognjanci refused to send their children to school because Albanian classes had been started at the local school. The government did not stop the Albanian classes and threatened the parents with prosecution, thereby ending the boycott and making a positive statement about the importance of Albanian-language education.

In addition, Albanians' educational statistics are in part a reflection of their demographic characteristics and socio-economic status. In general, the Albanians in Macedonia are more rural and traditional and place less emphasis on obtaining a higher education. Many ethnic Albanians respond, however, that they would be more interested in obtaining a higher education if they could study in their mother language at an institution that did not discriminate against them.

Primary and Secondary Schools

Schools on the primary and secondary level exist in a number of minority languages, including Albanian, Turkish, Serbian and, most recently, Vlach. Every village with a sizable ethnic Albanian population has its own primary school, while secondary schools are located in more centrally located towns. Albanian students, therefore, can study through the twelfth grade exclusively in Albanian, with the exception of classes in Macedonian as a foreign language. At no point before university do ethnic Albanian and ethnic Macedonian pupils study together.

One common Albanian complaint is that there are not enough primary and secondary schools in all the places where ethnic Albanians need them. In addition, those that do exist, Albanians say, are generally of a lesser quality than the schools for ethnic Macedonians.

The first complaint is vehemently disputed by the Ministry of Education. Havzi Mehmeti, Assistant Minister of Education and an ethnic Albanian, told Human Rights Watch/Helsinki:

Before 1945, 90 percent of the [ethnic] Albanian population was illiterate. Today, wherever Albanians are living, in every village, there is a primary school. There is not a single Albanian child that is not covered with schooling in the Albanian language.³⁹

³⁹Human Rights Watch/Helsinki interview with Havzi Mahmeti, Skopje, August 10, 1995.

Human Rights Watch/Helsinki found that there were enough Albanian-language primary schools to cover the needs of the Albanian population, especially when considering the financial constraints on the Ministry of Education.⁴⁰ However, some Albanian schools, partly because of their rural locations, were more poorly equipped than the schools attended by ethnic Macedonians.

The question of secondary schools, however, is more complicated, since the government decides where to locate the schools, and pupils must pass entrance exams. As with the primary schools, Albanians claim that there are not enough places in the secondary schools to accommodate all those who wish to attend.

According to Milaim Fejziu, President of the Forum for Human Rights in Gostivar, a predominantly ethnic Albanian group:

In the obligatory primary schools there are 80,000 Albanian pupils. From these, about 8,000 finish the eighth grade. But when they want to continue with high school there is discrimination because there is no way for them to be registered.

The percentage is 25-30 who go to high school. The reason is the Ministry of Education sets limits. 96 percent of [ethnic] Macedonians who finish eighth grade go on to high school.⁴¹

The government recognizes that ethnic Albanians who finish primary school are less likely than ethnic Macedonians to continue their educations on the

⁴⁰According to the Ministry of Education and Physical Culture, the annual budget for the entire ministry is less than U.S. \$100 million.

⁴¹Human Rights Watch/Helsinki interview with Milaim Fejziu, Tetovo, August 1, 1995.

secondary level. According to the Ministry of Education, 30.75 percent of the Albanian pupils who completed their eight years of elementary school in 1994 went on to an Albanian secondary school. This percentage rose to 40.12 in 1995. For both years, the corresponding percentage of ethnic Macedonians who continued their education on the secondary level was 94 percent.⁴²

⁴²Human Rights Watch/Helsinki interview with Assistant Minister of Education Havzi Mahmeti. These numbers also correspond with those in a letter to Prime Minister Stevo Crvenkovski from Max van der Stoep, OSCE High Commissioner on National Minorities, November 16, 1994.

However, the government disputes that this discrepancy is because ethnic Albanian pupils are being denied entrance into secondary schools. Instead, it is because ethnic Albanians are voluntarily choosing not to continue their educations on the secondary level. Former Minister of Education Emilja Simoska⁴³ told Human Rights Watch/Helsinki that all ethnic Albanians pupil can find places in a secondary school if they want. She said:

There was not one [ethnic] Albanian student left out of a secondary school. No one was excluded. And that's the problem because some of them - a big number of them - were accepted with a lower criteria than [ethnic] Macedonians.⁴⁴

Despite these reassurances, ethnic Albanian leaders in some areas were not satisfied with the availability of an Albanian-language secondary education and decided to open their own private schools. Each time, the Ministry declared the school illegal, and the police closed it down.⁴⁵

⁴³Emilja Simoska was Minister of Education until February 1996 when the government was changed.

⁴⁴Human Rights Watch/Helsinki interview with former Minister Emilja Simoska, Skopje, July 20, 1995.

⁴⁵Article 45 of the Macedonian constitution states that "citizens have a right to establish private schools at all levels of education, with the exception of primary education, under conditions defined by law."

One such school was in the southwestern village of Ladorisht, near Struga. Organizers of the school told Human Rights Watch/Helsinki that they opened the privately funded secondary school "Hajdar Dushi" in Ladorisht only after a number of Albanian classes had been closed in the regional state school in Struga in 1989.⁴⁶ According to the private school's organizers, they made formal requests to the Ministry of Education in August and September 1991 asking for permission to open an Albanian-language secondary school, but the government refused. They opened their school in October 1991 regardless with a program that, the directors claim, was based on the republic's curriculum with qualified teachers.

The first director of the school, Mr. Lena, told Human Rights Watch/Helsinki:

Beginning in April 1995 we got an ultimatum from the Ministry of Education to close the school. We asked for discussions with the Ministry of Education in Skopje, but they said if we don't close the school they will intervene with the police. We also spoke with the United Nations.

⁴⁶Human Rights Watch/Helsinki interview with Mr. Lena, Ladorisht, July 31, 1995.

On April 17, the police blocked the roads around the school and didn't let the pupils in the school. The educational inspector took the school's materials and forcefully entered the office. We asked them why and they said they had orders. For ten days, police were around the school. So, now we make the school in private homes.⁴⁷

But officials at the Ministry of Education in Skopje have a different story. They claim that the ministry didn't receive an official request from the school's organizers until 1994. Assistant Minister of Education at the time, Zoran Jachev, told Human Rights Watch/Helsinki that Ladorisht did not need an Albanian secondary school since there were Albanian-language classes in nearby Struga. He pointed out that no village in Macedonia has a secondary school of any kind. The school in Ladorisht was ordered to close many times, and finally the police had to be called in. He told Human Rights Watch/Helsinki that, "the closing was to make order in the educational system. It was not an ethnic question."⁴⁸ As evidence, he pointed out that at least six ethnic Macedonian schools had also been closed over the last three years, either because they were private or because they were not following the Ministry's set curriculum.

Assistant Minister of Education, Havzi Mehmeti, told Human Rights Watch/Helsinki that every ethnic Albanian from the Struga region would be guaranteed a place in a secondary school. He admitted, however, that there had been resistance in the Struga secondary school to open some Albanian classes.

According to Mehmeti, the Ministry of Education is currently planning to open two new schools in the Struga area, one in Frangovo and one in Veleshta. Both will be built with the financial help of the local population. Three other Albanian primary schools should be opened in Kicevo, one in Gostivar and three in Tetovo. Ethnic Albanians, however, question whether these schools will really be

⁴⁷ *Ibid.*

⁴⁸ Human Rights Watch/Helsinki interview with former Assistant Minister of Education Zoran Jachev, Skopje, August 8, 1995.

opened and contend that the state is not providing adequate possibilities for Albanian-language secondary education.

Despite these disagreements, both ethnic Albanian leaders and the Ministry of Education agree that there are serious problems with the quality of Albanian-language education in the country. Officials at the Ministry of Education readily admit that the Albanian primary and secondary schools generally do not provide as good an education as the Macedonian-language schools. Former Minister of Education Emilja Simoska told Human Rights Watch/Helsinki:

At entrance into the secondary school there is discrimination against [ethnic] Albanians because of the lower quality of their primary education. Most of their schools are in rural areas. We can change the quality by training the teachers.⁴⁹

To rectify the imbalance, the ministry has initiated a number of changes. First, in the school year 1994-95, one hundred ethnic Albanians applied to the Pedagogical Academy that trains teachers for the primary and secondary schools. All one hundred applicants were accepted, even though officials at the academy did not want to admit them all. Then, in 1995, the two-year Pedagogical Academy was expanded to become a four-year faculty at the university in Skopje. Ethnic Albanians will study there in the Albanian language to become teachers.

Thus far, the Ministry is pleased with the results. In 1990, for example, only 15 percent of ethnic Albanians who finished primary school went on to secondary school. In the school year 1994-1995, however, 41 percent applied to secondary school, and all were accepted. Likewise, in the school year 1992-1993, 91 percent of all secondary school students were ethnic Macedonians, while 8.5 percent were ethnic Albanians. In 1994-1995, 87 percent were ethnic Macedonian and 12.4 percent were ethnic Albanian.⁵⁰

⁴⁹Human Rights Watch/Helsinki interview with former Minister of Education Emilja Simoska, Skopje, July 20, 1995.

⁵⁰Human Rights Watch/Helsinki interview with Zoran Jachev, Skopje, August 8, 1995.

Higher Education

The biggest controversy over Albanian-language education concerns demands for higher education in the Albanian language. Article 48 of the constitution grants the nationalities the right to primary and secondary education in their mother languages, but does not mention higher education. Recent changes have introduced more Albanian-language instruction into some university departments, especially where students from minority groups are studying to become teachers, but the universities are basically Macedonian-language institutions.

Ethnic Albanian leaders claim that their demand for higher education must be viewed within the context of the former Yugoslavia. Beginning in 1974, they point out, ethnic Albanians from all over Yugoslavia could study most subjects at the Albanian-language university in Prishtina, Kosovo. Today, that university offers instruction only in Serbian and is located on the other side of an international border.⁵¹

As with primary and secondary education, Human Rights Watch/Helsinki does not take a position on a government's obligation to provide Albanian-language education on the university level. However, the government does not have the right to forbid the creation and operation of private universities, although the recognition of degrees from such universities may depend on whether the school's curriculum has met the minimum standards set out by the state.

The Macedonian government recognizes that ethnic Albanians are proportionally underrepresented at the university level. According to the Ministry of Education, in the school year 1991-92, ethnic Albanians made up 2.4 percent of all university students. In 1994-95, that number had increased to 6.4 percent, a number still well below the percentage of ethnic Albanians in the total population.⁵² Official statistics from the University of St. Cyril and Methodus in Skopje vary slightly from the Ministry's, but essentially confirm these numbers.

⁵¹Albanian-language instruction was halted after the revocation of Kosovo's autonomy in 1989. For more information about the status of Albanians in Kosovo, see two Human Rights Watch/Helsinki publications: "Open Wounds: Human Rights Abuses in Kosovo," March 1993 and "Yugoslavia: Human Rights Abuses in Kosovo 1990-1992," October 1992.

⁵²Human Rights Watch/Helsinki interview with former Assistant Minister of Education Zoran Jachev, Skopje, August 8, 1995.

It should be noted that, in percentages, fewer ethnic Albanians apply for acceptance to the university. In 1994, for example, 6,891 ethnic Macedonians took the entrance exam for St. Cyril and Methodus University, which is 0.5 percent of the total ethnic Macedonian population. In comparison, 775 ethnic Albanians applied, which is 0.17 percent of the total ethnic Albanian population. Leaders of the Albanian community, however, claim that many more ethnic Albanians would apply to the university if it offered better possibilities to study in the Albanian language.

The lower number of ethnic Albanian applicants to the university is also partially explained by the socio-economic make-up of the Albanian population. The mostly rural and more traditional Albanian communities tend to place less emphasis on higher education, primarily for economic reasons. Most ethnic Albanians are involved in business, abroad or in Macedonia, and derive less of a financial benefit from a university degree.

Another factor is that many of the ethnic Albanians who do apply to the university do not pass the entrance exam. Records at the university in Skopje show that, in 1994, ethnic Macedonians had a passing rate of 82.8 percent, compared to 51 percent for ethnic Albanians.⁵³

Some leaders of the Albanian community claim that the university purposefully fails ethnic Albanians on account of their ethnicity. However, Human Rights Watch/Helsinki found no evidence to support this claim. Entrance exams are graded anonymously, and students seem to be accepted based on their academic qualifications.⁵⁴

Human Rights Watch/Helsinki, however, does find credible Albanian complaints that the university entrance exam is administered only in the Macedonian language. Former Minister Simoska denied that this would negatively effect ethnic Albanian students, but it seems plausible that the exam would be more difficult for an ethnic Albanians who, up until that point, had only studied and taken exams in the Albanian language.

⁵³"Analysis on Enrolling of Students in the First Year of School 94/95," University of St. Cyril and Methodus, Skopje, December 1994.

⁵⁴University professors and students told Human Rights Watch/Helsinki that students occasionally paid bribes to university officials to gain acceptance into the university.

The primary reason for ethnic Albanians' poorer test results, however, is the lower quality of Albanian-language primary and secondary schools. Former Minister of Education Emilja Simoska told Human Rights Watch/Helsinki:

The quality of education in the [Albanian] secondary schools, which is a precondition for acceptance in the university, is lower... The real problem is the quality of students. When they raise their level, they will get into the university because there is really no political discrimination.⁵⁵

Since 1994, the Ministry of Education has undertaken a number of initiatives to improve the level of Albanian education. As mentioned above, the focus has been on improving the quality of ethnic Albanian teachers. Despite resistance, the Pedagogical Academy was expanded from two years to four and made into a regular faculty at the university. In addition, in the school year 1994-95, the university established a 10 percent minimum quota for first year students from the ethnic minorities.

The Private University in Tetovo

Despite these positive developments, ethnic Albanians still view improvements in their access to higher education as slow and disingenuous. Many ethnic Albanians point out that they had been demanding improvements in the Pedagogical Academy beginning in 1991. Despite numerous governmental promises, nothing was changed until 1995.

⁵⁵Human Rights Watch/Helsinki interview with former Minister Simoska, Skopje, July 20, 1995.

In late 1994, a group of ethnic Albanians formally presented their demand for a university in Tetovo in the Albanian language. The legality of their demand was ambiguous. Article 48 of the constitution makes no mention of higher education in languages other than Macedonian. Article 45, however, states that "citizens have a right to establish private schools at all levels of education, with the exception of primary education, under conditions determined by law."⁵⁶

Human Rights Watch/Helsinki believes that all Macedonian citizens should have the right to open private schools, a right that is apparently guaranteed in Article 45 of Macedonia's constitution. Clearly, private schools on any level must fulfill the academic criteria established by the state. The government should, therefore, take steps to establish guidelines for private schools, which would allow Article 45 of the constitution to be applied.

Despite this, the government rejected the request and declared that any attempt to open a private university would be unconstitutional. The government and many ethnic Macedonians expressed the belief that the university was a political initiative rather than a genuine attempt to improve education for ethnic Albanians. Many also feared that a separate university would lead to increased demands for Albanian autonomy. Former Education Minister Simoska told Human Rights Watch/Helsinki:

⁵⁶No law exists to clarify the conditions under which a private school may be opened. In addition, the communist-era Law on Education of the Socialist Republic of Macedonia is still in force and does not provide for the creation of private universities.

The problem with that self-proclaimed university is not only from the constitutional point of view. Let's say we had a provision that allowed a university in Albanian, we wouldn't just go and say this building from today is a building of the university. This is a professor of history, a professor of math. I mean, there are standards in all countries.⁵⁷

A group of ethnic Albanians continued to organize the university despite warnings by the government that it would be illegal. They argued that, while article 48 of the constitution did not specifically allow an Albanian university, it also did not forbid it. In addition, they said, Albanians from Macedonia and abroad were willing to finance the project themselves.

According to organizers of the initiative, the police repeatedly attempted to hinder their work. Fadil Sulejmani, rector of the university project, told Human Rights Watch/Helsinki:

On November 9, 1994, the police arrested me and my colleagues. They asked us so-called informational questions. They said they will arrest me and use all means of the police and army to stop the university. I spent one day and a night in prison and was let go.

On December 14, the Macedonian government with the police broke in to the university's office and confiscated our documents, telephone and fax. They blocked the door. A university building where we wanted to put the science faculty was destroyed by bulldozer.⁵⁸

⁵⁷Human Rights Watch/Helsinki interview with former Minister of Education Simoska, Skopje, July 20, 1995.

⁵⁸Human Rights Watch/Helsinki interview with Fadil Sulejmani, Tetovo, August 1, 1995.

On December 17, the organizers formally declared the founding of the "University of Tetovo" in a meeting at the headquarters of the Party for Democratic Prosperity. A journalist from TV ART in Tetovo filmed the proceedings, but was later detained by the police, who confiscated the tape. (See chapter on freedom of the press.)

The academic school year in Tetovo officially began on February 15, 1995, without police interference. But tension was very high and police were monitoring the roads going in and out of Tetovo.

On February 17, classes were held in two areas near Tetovo, Male Recica and Poloj. In Male Recica, riot police clashed with large numbers of ethnic Albanians, resulting in numerous injuries to demonstrators and police and the shooting death of one ethnic Albanian, Abduselam Emini. An autopsy conducted by the state did not reveal with certainty who had fired the fatal shot, but an investigation by the OSCE established that the bullet had been fired from a Kalashnikov used by the police, although, the OSCE concluded, the shot was probably not deliberate. Witnesses present in Male Recica told Human Rights Watch/Helsinki that the police were poorly organized and used force beyond the amount necessary to bring the situation under control. (See chapter on abuses by law enforcement officials.)

All together, approximately twenty individuals were hurt in the fighting, including at least twelve policemen. A number of people, including children, were indiscriminately beaten by the police.⁵⁹ A journalist, Branko Gerovski, was also severely beaten, requiring hospitalization for two weeks. (See chapter on freedom of the press.)

That evening, five ethnic Albanians were arrested, either for hindering the work of the police or inciting the crowd to violence. They included: Fadil Sulejmani, Milaim Fejziu, Arben Rusi, Musli Halimi and Nevzat Halili. Some of

⁵⁹Then-Minister of Internal Affairs Ljubomir Frčkovski told Human Rights Watch/Helsinki that three policemen had lost their jobs because of the incident.

them complained that they were verbally mistreated by police and denied access to a lawyer. (See section in this chapter on violations of the right to a fair trial.) Sulejmani was later sentenced to two and a half years in prison for inciting the crowds to resistance. Within one month, however, he and the other four defendants were released after paying bail.⁶⁰

⁶⁰The bail amounts were: Sulejmani DM100,000 (German Marks), Halili DM70,000, Rusi DM50,000, Halimi DM50,000 and Fejziu no fine.

In November 1995 the Tetovo university resumed with classes. Sulejmani claims that the university currently has 1,259 student and 150 lecturers in six faculties.⁶¹ The government continues to call the university illegal, but, as of May 1996, had not taken any action against it.⁶² The Ministry of Education has made clear, however, that it will not recognize the students' degrees.

While Human Rights Watch/Helsinki does not take position on a state's obligation to provide minority-language higher education, the response to the university in Tetovo raises a number of concerns. First, Human Rights Watch/Helsinki objects to prohibitions on private education as an infringement on free expression and association. This is especially true when dealing with a minority group, which has a guaranteed right to protect and preserve its culture, including its language.

Secondly, while the university in Tetovo may have been a provocative political initiative, rather than a genuine attempt to improve the education of ethnic Albanians, it appears that the university came about as a result of the government's unwillingness to address the legitimate concerns of the Albanian community. While the recent expansion of the Pedagogical Academy and the introduction of a 10 percent minimum quota for minority students at the university are positive changes, we note that they were introduced only after the university in Tetovo had become a full-scale political concern that threatened the country's fragile inter-ethnic balance. The implicit message to ethnic Albanians, therefore, is that they should use provocative methods to achieve their aims.

Lastly, Human Rights Watch/Helsinki is deeply concerned about the excessive use of force by the police on the first day of classes. According to witnesses, the police used violence beyond the amount necessary to bring the situation under control. The state has a duty to investigate the matter and hold legally responsible all those found to have used excessive force, including both the police and the demonstrators.

Violations of the Right to a Fair Trial

In the past two years there have been two prominent trials of ethnic Albanians in Macedonia. Both of them violated domestic and international law by

⁶¹"Back to Campus," *War Report*, December 1995, and "Balkan College for Albanians Fights to Stay Alive," *The New York Times*, February 14, 1996.

⁶²In May 1996, President Gligorov told a German newspaper that the Tetovo university was "illegal" and had been founded by "Albanian separatists."

denying the defendants the right to a fair trial before an independent and objective tribunal. The violations in these trials are symptomatic of an underdeveloped legal system that equally affects all citizens of Macedonia regardless of ethnicity. Still, these cases were directed in a very public manner against two groups of prominent ethnic Albanians and, therefore, must also be considered in an ethnic context.

The Albanian Paramilitary Case

In November 1993, ten ethnic Albanians, including then Vice-Minister of Defense Hisan Haskaj, were arrested and charged with forming an Albanian paramilitary group to overthrow the constitutional order.⁶³ By August 1, 1995, all ten of the defendants had been released, either by means of a government amnesty or on a conditional sentence. The case, however, from their day of arrest through the appeals process, was riddled with due process violations that prohibited the defendants from obtaining a fair trial, as is guaranteed in Macedonian law.⁶⁴ These violations suggest that there were political motivations for their arrest and conviction.

According to the OSCE Monitoring Mission in Macedonia, which monitored the case, the defendants' rights were violated in the following ways:⁶⁵

⁶³The ten defendants were: Mitat Emini, Hasan Agushi, Resmi Ejupi, Selam Elmazi, Shinasi Rexhepi, Hysen Haskaj, Aqif Demiri, Abdylselem Arslani, Burim Murtezani and Eugen Cami.

⁶⁴For a description of Macedonian legal standards, see the chapter on Violations of Due Process.

⁶⁵The OSCE mission sent a letter of concern about the case to the Macedonian government, which was then leaked to the press and published in the newspaper *Večer*.

- Upon apprehension, the accused were not immediately informed of the reasons for their arrest.
- The accused were kept in police custody longer than the 24 hours allowed by law and forced to sign a confession.
- The accused were denied access to a lawyer during detention.
- The accused were in pre-trial detention longer than the ninety days from the day of arrest allowed by law.
- Some of the accused were allegedly physically mistreated by the police after their arrest, a violation of Macedonia's constitution, Article 11, which prohibits any form of torture, inhuman or humiliating treatment.

The trial, which began on June 3, 1994, contained numerous violations. First, statements made by the defendants during the period of investigation were leaked to the press and published in *Večer*, a government sponsored newspaper. During the trial, which was open to the press and public, the judge arbitrarily rejected requests of the defense, such as calls for further witnesses and requests to allow weapons allegedly collected by the defendants to be examined by experts. The court also refused a proposal by the defense to exclude statements made by the defendants at the beginning of the investigation period when, it was alleged, they were under shock due to mistreatment by the police.

Lawyers for the defense and observers of the trial told Human Rights Watch/Helsinki that the court failed to meet the burden of proof. Savo Kocarev, a lawyer for some of the defendants, told Human Rights Watch/Helsinki:

[Mitat] Emini was convicted as commander of a para-military group, but that was never proven by the court. The only proof was that one of the ten defendants said that he had heard Emini was the commander. Also, all of the defendants were in prison more than 90 days which is against the constitution.⁶⁶

An appeals court in January 1995 reduced the sentences of all ten defendant by two years. By August 1, 1995, all of them had been released, eight of them for having completed one third of their sentences with good behavior. The other two, Mitat Emini and Hasan Agushi, were granted an amnesty.

⁶⁶Human Rights Watch/Helsinki interview with Savo Kocarev, July 22, 1995, Skopje.

Machmut Jusufi, the attorney for two of the defendants, told Human Rights Watch/Helsinki about police efforts to hinder his work during the trial. He said:

At 2:00 a.m. the police arrived and said they had come to search my house. I asked for the warrant, and they said, “we don’t need it so we order you to let us in.” They searched my house and frightened my child. They were a special anti-terrorist brigade with bullet proof vests and automatic weapons.

They said we must go to search my office, but I told them they must have special permission to search my office. Even someone from the lawyers’ association must be present during the search.⁶⁷ They said, “We need nothing!”

⁶⁷ Article 17 of the Code for the Practice of Law specifies that someone from the lawyers’ association must be present during searches of attorneys’ offices.

We went to Skopje later by car. I stayed at the police station until 5:00 p.m. the next day without sleep. They interrogated me about the trial. They asked me why I am in the Human Rights Forum and why I am in contact with Mazowiecki.⁶⁸ They said my activities in the trial had damaged the image of Macedonia.⁶⁹

The University of Tetovo Case

On February 17, 1995, five ethnic Albanians were arrested in connection with their activities to promote the private Albanian-language university in the town of Tetovo. All five were later convicted, primarily for hindering the work of the police, and sentenced to between six months and two and a half years of imprisonment. Their trials contained numerous due process violations. On May 30, 1995, all of them were released on bail.

Fadil Sulejmani, rector of the university, was arrested on the evening of February 17 and charged with "inciting the Albanian population in Macedonia to resistance and civil disobedience" by organizing the university initiative and calling on Albanians to defend it. The four other defendants⁷⁰ were charged with hindering the work of the police who had intervened to stop the university's first day of classes on February 17, 1995.

⁶⁸The Human Rights Forum is an ethnic Albanian human rights group based in Gostivar. Tadeusz Mazowiecki was the United Nation's special rapporteur for human rights in the republics of the former Yugoslavia.

⁶⁹Human Rights Watch/Helsinki interview with Machmut Jusufi, August 1, 1995, Tetovo.

⁷⁰The other four defendants were: Arben Rusi, Milaim Fejziu, Musli Halimi and Nevzat Halili.

Fadil Sulejmani told Human Rights Watch/Helsinki:

In the night at 6:30 [on February 17], they arrested me and took me to Skopje. In detention, which lasted 34 hours, they didn't treat me well. They cursed me and threatened that they will beat me and I'll die in prison. I had no access to a lawyer that night. On the 19th I first contacted my lawyer. I didn't know the charges. For one week I received no newspaper. Afterwards, I got *Flaka* [Albanian-language newspaper] and *Nova Makedonja* [Macedonian-language newspaper]. After five days I got some food and clothing from my family. A real visit came after ten days.⁷¹

In a public statement issued on February 20, the Macedonian Helsinki Committee, a local human rights group, pointed out similar violations:

Our sources claim that the first two detainees [Fadil Sulejmani and Arben Rusi] were not allowed to contact an attorney despite their requests and that all four of them were brought before the Justice of the Peace after a 29-hour detention, which is five hours longer than the legally envisaged period of detention.⁷²

The trial, which began April 26, was not in conformity with international standards. A European diplomat who monitored the trial told Human Rights Watch/Helsinki that the judge and prosecutor entered the court room together and seemed to act in collusion against the defense. The court consistently refused legitimate motions made by the defense and arbitrarily interrupted their lawyers' statements.⁷³

Fadil Sulejmani's conviction was based primarily on a press conference he had held on February 15, in which he said, "if the police try to prevent us from

⁷¹Human Rights Watch/Helsinki interview with Fadil Sulejmani, Tetovo, August 1, 1995.

⁷²Macedonian Helsinki Committee, Announcement to the Public, February 20, 1995.

⁷³Human Rights Watch/Helsinki interview, Skopje, July 24, 1995.

working, 200,000 Albanians will rise to our defense, and they have guns and grenades."⁷⁴ The four other defendants were convicted of hindering the work of the police who had come to prevent the opening of the university. International monitors present in Tetovo on February 17, however, told Human Rights Watch/Helsinki that the defendants had not actively hindered the work of the police.

Machmut Jusufi, a lawyer for some of the defendants, told Human Rights Watch/Helsinki:

⁷⁴Reuters World Service, February 16, 1995. Human Rights Watch/Helsinki also heard Sulejmani make the statement on a video recording of the press conference.

The court did not accept any demands of the defense. They didn't base their decision based on witnesses of the defense but only on the declarations of the police. Even in communism it was hard to imagine such a farce. Everything was according to formal rules but the decision was made before the process started.⁷⁵

Other individuals present at the trial told Human Rights Watch/Helsinki that the defendants had not been granted an impartial trial. They questioned the court's rejection of witnesses presented by the defense and the admittance as evidence of the video tape in which Sulejmani called for 200,000 people to defend the university.

On May 30, 1995, Fadil Sulejmani was released after paying DM 100,000 bail. The other four defendants were released on lesser amounts. As of May 1996, the university was functioning without interference, although the state has said that it will not recognize the diplomas.

Albanian Media

Despite constitutional guarantees protecting freedom of expression, the Macedonian government still wields a disproportionately strong influence over the flow of information. The details of this issue are discussed in the chapter on freedom of the press.

Regarding freedom of the press for minorities, the main concern is state support for the newspapers, radio and television programs of non-ethnic Macedonians. Specifically, many ethnic Albanians complain that the state does not provide enough financial support for their newspapers or enough hours for minority-language programming on the state-run television and radio.

Currently, there is one state-supported Albanian daily newspaper, *Flaka e Vëllazërimit* (Flame of Brotherhood) with a circulation of approximately 2,800. The paper was published thrice weekly until May 1994, when the government acceded to Albanian demands for increased publication. In comparison, the state

⁷⁵Human Rights Watch/Helsinki interview with Machmut Jusufi, August 1, 1995, Tetovo.

directly finances two daily newspapers in the Macedonian language, as well as a major weekly.

Private newspapers in the Albanian language face the same barriers as their Macedonian counterparts: the state's virtual monopoly on newspaper services. The state-run company Nova Makedonja, left over from the communist era, controls almost all of the country's newspaper printing and distribution, which severely limits the possibilities for an independent press. A number of private newspapers and magazines, both Albanian and Macedonian, have failed in part because they could not afford the inflated prices that Nova Makedonja demands.

Macedonian Television has three channels with a broad variety of programming. The second channel broadcasts in the languages of the minorities, including three hours in Albanian per day. Seven of Macedonia's 29 municipal radio stations broadcast programs in Albanian, including Channel 2000 in Skopje, which broadcasts six hours of Albanian programming every day. Of the 300 municipal radio employees, 36 are from minority groups, including 20 Albanians.⁷⁶

Beginning in 1991, the government allowed a vast proliferation of private radio and television stations, despite the absence of appropriate legislation to distribute licences. By May 1995, there were approximately 240 private radio and television stations broadcasting in the country, among them many stations run by ethnic Albanians, Roma and Turks.

On May 19, 1995, the government ordered the immediate closure of eighty-eight private radio and television stations, allegedly for technical reasons. However, the government did not explain what criteria they had used to select those stations to close. It was only after public protest, that the government said it would make its criteria known at a later time.

Ethnic Albanians complained that the government had used technical reasons to justify restrictions on the Albanian media. Many journalists and media specialists, both ethnic Albanians and Macedonians, told Human Rights Watch/Helsinki that a disproportionately large percentage of the closed stations were either Albanian or Roma. Dragan Pavlovic, Director of Radio Vox in Skopje and President of the Association of Commercial Radio and Television Stations in

⁷⁶Statistics provided by the Macedonian Ministry of Information.

Macedonia, told Human Rights Watch/Helsinki that 55 percent of the closed stations were run by ethnic Albanians. All of the closures, he maintained, were in violation of the constitution, which protects freedom of the press.⁷⁷

⁷⁷Human Rights Watch/Helsinki interview with Dragan Pavlovic, Skopje, July 24, 1995

Minister Buzlevski told Human Rights Watch/Helsinki that the Ministry is "not looking into the ethnic structure of the stations."⁷⁸ However, an analysis of the stations that were closed and their locations throughout the country reveals a pattern of discrimination against the Albanian media. In three of the country's four largest cities, Skopje, Tetovo and Bitola, the government closed the largest Albanian television station. Of the three, TV ART in Tetovo and TV ERA in Skopje were considered professional, produced their own news and reached a relatively large audience. After substantial protest from the Albanian community and abroad, both stations were reopened two months later.⁷⁹

TV ART also encountered difficulties on December 17, 1994, when police forcibly entered the station's Tetovo studio and confiscated video tapes that journalists had taken that day of the founding of the Tetovo university. The director of the station, Artan Skenderi, was taken into police custody for 18 hours, psychologically abused and then released without an explanation. (See chapter on freedom of the press.)

Police Violence

Ethnic Albanians complain that the Macedonian police mistreat them and use excessive force. The allegations include arbitrary arrests, unnecessary physical violence and psychological pressure during detention. A book published by the Forum for Human Rights, "Abuses Committed Against Albanians," mentions dozens of cases of police abuse against ethnic Albanians since Macedonia's independence. Although there are a number of disturbing cases in which the police have responded with unnecessary violence when dealing with ethnic Albanians, Human Rights Watch/Helsinki did not find evidence to suggest that the numbers are as high as the book claims.

⁷⁸Human Rights Watch/Helsinki interview with Minister Dimitar Buzlevski, Skopje, August 8, 1995.

⁷⁹For a complete analysis of the private radio and television closures, see the chapter on freedom of the press.

In addition, police violence is not only a problem for ethnic Albanians. While the violence mentioned below clearly had an ethnic component, police violence seems to be a general problem in the country that afflicts all citizens. Human Rights Watch/Helsinki heard credible reports of police violence against Macedonian citizens in general, regardless of their ethnicity, as demonstrated in the chapter on abuses by law enforcement officials.

The most prominent example of police violence against ethnic Albanians occurred on November 6, 1992, when the police arrested and allegedly beat a teenaged ethnic Albanian who was selling cigarettes on the black market in Skopje's Bit Pazaar neighborhood. Clashes erupted between ethnic Albanians and police, and three ethnic Albanians and one ethnic Macedonian were killed. According to the United States Department of State, more than 20 people were injured, including ten policemen.⁸⁰ The OSCE Monitoring mission in Macedonia concluded that the police had used excessive force.

According to Milaim Fejziu, President of the Forum for Human Rights, none of the policemen involved in the incident were held responsible.⁸¹ However, then Minister of Internal Affairs Ljubomir Frčkovski told Human Rights Watch/Helsinki that six policemen had been disciplined by the ministry and were subsequently prosecuted.⁸²

The other notable example of excessive police force against ethnic Albanians occurred in Tetovo during the first days of the Albanian university. (See section on the private university in Tetovo.) On February 17, 1995, approximately 500 ethnic Albanians clashed with Macedonian police equipped with riot gear and automatic weapons who were deployed to stop the first day of classes. Approximately fifty people were injured, including at least twelve policemen. One ethnic Albanian, Abduselam Emmini, was killed.

A relevant factor concerning police abuse is the ethnic composition of the police force. As discussed in the section on underrepresentation in state bodies, only 4.5 percent of the police are ethnic Albanian. Very few of these are upper-

⁸⁰United States Department of State, "Country Reports on Human Rights for 1992," Washington D.C., 1992.

⁸¹Human Rights Watch/Helsinki interview with Milaim Fejziu, Tetovo, August 1, 1995.

⁸²Human Rights Watch/Helsinki interview with former Minister of Internal Affairs Ljubomir Frčkovski, Ohrid, August 6, 1995.

level officers or police chiefs. During his tenure as Minister of Internal Affairs, Minister Frčkovski stated he wanted this number to increase to 15-20 percent and said that he had taken some steps to achieve this. However, much more needs to be done to achieve a proper balance. Until this is achieved, ethnic Albanians are likely to perceive the actions of the police as being discriminatory.

THE TURKISH MINORITY

According to the 1994 census, there are 77,252 ethnic Turks in Macedonia. Like other ethnic groups, leaders of the Turkish community claim their numbers are much higher. According to Erdogan Saraç, General Secretary of the Democratic Party of Turks, there are between 170,000 and 200,000 ethnic Turks currently living in the country.

Like ethnic Albanians, the starting point of Turkish dissatisfaction is the preamble of the Macedonian constitution, which describes the country as the "national state of the Macedonian people" with "full equality" for all other citizens. For many ethnic Turks, this formulation regulates them to second-class status behind ethnic Macedonians.

Erdogan Saraç articulated an idea that was repeated by many ethnic Turks when he told Human Rights Watch/Helsinki:

It's obvious from the preamble of the constitution that they [the ethnic Macedonians] want to create one national state. But in the other articles of the constitution, the idea is for Macedonia to become a civic country. It is not possible to favor one nationality and, at the same time, to have a civic state.⁸³

The "favoritism" that many ethnic Turks perceive is reflected in the low number of Turks currently working in the government or other state institutions, including the police. Human Rights Watch/Helsinki did not obtain precise numbers, but anecdotal evidence suggests that the Turkish population is underrepresented in state employment, suggesting a possible discriminatory hiring practice along ethnic lines.

⁸³Human Rights Watch/Helsinki interview with Erdogan Saraç, Skopje, August 8, 1995.

Afrim Šamovski, an ethnic Turk living in Debar, told Human Rights Watch/Helsinki:

I work in the Ministry of Justice in Debar. My office has seven people and all except me are [ethnic] Macedonian. In the whole building there are 100 employees — I am the only Turk.⁸⁴

Other ethnic Turks in the Debar area relayed similar stories, none of which Human Rights Watch/Helsinki was able to confirm. In the village of Zhupa, however, inhabited primarily by ethnic Turks, Human Rights Watch/Helsinki confirmed that a very small number of the thirty policemen were Turkish.

Like the other minorities, ethnic Turks are allowed schooling in their mother language on the primary and secondary level. There are primary schools in a number of villages with Turkish populations, and Turkish high schools exist in Skopje and Gostivar. According to many ethnic Turks, however, the number of Turkish-language schools does not meet the demand. The Ministry of Education refutes this claim, saying that many ethnic Turks do not speak the Turkish language well enough to warrant a Turkish-language school. Indeed, Human Rights Watch/Helsinki did discover that many ethnic Turks in Macedonia speak Macedonian with one another.

This debate came to a head in the western region of Zhupa, where many ethnic Turks live. On October 1, 1991, a group of activists from the Democratic Party of Turks and local parents opened two private primary schools with instruction in the Turkish language after their requests for opening official Turkish-language classes had been denied by the Ministry of Education in Debar (the regional capital) and Skopje. According to the school organizers, the classes were financed privately, had properly trained teachers and followed the curriculum of the Ministry of Education. By 1994, the two schools had 250 pupils.

Baudin Šaćir, one of the school organizers, told Human Rights Watch/Helsinki that there were two state-run Turkish schools in the area, but they were too far away and too small to accommodate all of the Turkish pupils in the

⁸⁴Human Rights Watch/Helsinki interview with Afrim Šamovski, Zhupa, July 30, 1995.

area. The schools, in the villages of Breštanik and Kozazik, are about ten kilometers away from the center of Zhupa.

The Ministry of Education declared the two private schools illegal and ordered that they be closed. According to Zoran Jachev, then Assistant Minister of Education, many of the ethnic Turks in Zhupa do not speak Turkish. He told Human Rights Watch/Helsinki that, while there certainly are ethnic Turks in the area, many of them are Macedonian Muslims who have been persuaded to declare themselves as ethnic Turks. All of the people in Zhupa with whom Human Rights Watch/Helsinki spoke claimed that they were definitely Turkish, although many spoke the Macedonian language with one another.

In spring 1995, the police came to Zhupa and tore down the two private schools. Sačir told Human Rights Watch/Helsinki:

On June 8, at 6:30 a.m., 250 police came with weapons and blocked all of the streets. It was very uncomfortable, like an occupation. The pupils were on the street, and they were threatened by the police. They told them that they cannot go to the school and must go home. In two hours, the schools were destroyed by the police with everything inside.

They [the police] left at 9:30 a.m.. At 10:00 a.m. UNPROFOR came to check it out. They came for the next three days to conduct interviews.⁸⁵

In July 1995, Human Rights Watch/Helsinki saw the remains of two one-room cabins built out of wood and corrugated metal. Both had been totally destroyed.

On January 11, the head of the Debar government, an ethnic Albanian, came to Zhupa to address a crowd of demonstrators. Human Rights Watch/Helsinki saw a video of the event showing several hundred individuals chanting for a Turkish school. Police with weapons and helmets were present, but no violence occurred.

On February 3, there was another protest in Debar. Organizers of the two private schools told Human Rights Watch/Helsinki that many people were threatened with losing their jobs if they sent their children to the schools. Allegedly, the parents of children who did attend the school stopped receiving social aid from the state.

⁸⁵Human Rights Watch/Helsinki interview with Baudin Šačir, Zhupa, July 29, 1995. The OSCE also visited the site.

As of August 1995, the two schools were still closed. The Ministry of Education told Human Rights Watch/Helsinki that the pupils who attended the private schools will be able to take an exam to determine at what level they can continue their education in the Macedonian language. Former Assistant Minister Jachev also told Human Rights Watch/Helsinki that it may be possible to enlarge the two Turkish schools in Breštanik and Kozazik, although financial restrictions made this difficult.

Human Rights Watch/Helsinki does not take a position on the state's obligation to provide education in the Turkish language. However, Human Rights Watch does believe that a state should allow citizens to open private schools as a basic right of free expression and association and, when dealing with a minority group, the right to enjoy one's culture. Article 45 of the Macedonian constitution allows for the formation of private schools, "under conditions defined by law." But there is still no legislation to regulate the creation of such schools, thus rendering Article 45 of the constitution unapplicable. It is difficult to argue that a private school does not meet the minimum requirements of the state when those requirements are not in existence. Also, Human Rights Watch/Helsinki questions the use of police to tear down private school facilities.

Another complaint of the ethnic Turkish community regards Macedonia's new citizenship law, which was passed in 1992. According to leaders of the ethnic Turkish community, there are a large number of ethnic Turks in Macedonia who deserve citizenship but have been denied. (For details see chapter on citizenship.)

Turkish political parties also raised concerns about the communist-era electoral districts they believed were diluting the ethnic Turk vote. As an example, the Democratic Party of Turks mentioned the ethnic Turkish village of Banica, which is divided into two districts, Gorna and Dolna (upper and lower). Human Rights Watch/Helsinki was not able to confirm whether the ethnic Turkish vote is in fact diluted.

Finally, there are some complaints by ethnic Turks about the state's support for Turkish-language media. Currently, there is one hour of Turkish programming on Macedonian state television every day. The state also supports the Turkish-language newspaper, *Birlik*, which appears three times a week.

THE ROMA (GYPSY) MINORITY

Comparatively speaking, the Roma community in Macedonia is better off than in other countries of the region. There are a number of Roma political, social and cultural organizations functioning in Macedonia, and a Roma party is

represented in parliament. Roma are recognized in the constitution as a nationality, and relations with the ethnic Macedonian population are generally good.

Despite these achievements, the Roma population is still clearly at the bottom of the country's social and economic ladder. Unemployment, mortality rates and homelessness are all highest within the Roma communities. While there is no overt state discrimination, the state has not done all that it could to provide the Roma population with equal access to jobs, housing and education. Human Rights Watch/Helsinki also has serious concerns that Macedonia's new citizenship law discriminates against Roma in the country.

According to the official numbers, there are 43,732 Roma in Macedonia, or 2.3 percent of the total population. But most people, including many ethnic Macedonians and Albanians, admit that the Roma's numbers are considerably higher.⁸⁶ Some Roma citizens of Macedonia told Human Rights Watch/Helsinki that they had declared themselves as ethnic Turks or Albanians in the 1994 census in order to avoid discrimination in getting a job. Human Rights Watch/Helsinki also heard credible reports of Roma declaring themselves as Albanians, Turks or Macedonians in order to receive humanitarian assistance from an ethnically-based aid organization.

Without question, Roma have a living standard far below all the other nationalities in the country. While some Roma live in mixed neighborhoods, many live in ghettos, isolated from the rest of the population, such as Šuto Orizari or Topana in Skopje. These areas do have many acceptable homes, usually built by Roma who have worked abroad. But there are also many cases of large families living in squalid conditions. Human Rights Watch/Helsinki saw as many as 15 people sharing one unheated room without proper sanitary facilities.

There are no official statistics, but unemployment is indisputably higher among the Roma population. Roma are often the first to be laid off from state jobs and the last to be hired by private business. Some Roma told Human Rights Watch/Helsinki that they were discriminated against in the job market; jobs for which they were qualified repeatedly went to ethnic Macedonians or Albanians. Bekir Arif, member of the Democratic Progressive Party of Roma, told Human Rights Watch/Helsinki that Roma had been more severely affected than other ethnic groups by the economic changes in Macedonia. He estimated that there is 80 percent unemployment in the Roma district Šuto Orizari.⁸⁷

⁸⁶Political leaders of the Roma claim their numbers range between 120,000 and 200,000.

⁸⁷Human rights Watch/Helsinki interview with Bekir Arif, Šuto Orizari, July 12,

Another problem is the low level of education among the Roma population. Very few Roma attend secondary school, and even fewer are in the university. Partially this is because there is less of an emphasis on higher education in the Romani communities. But some Roma told Human Rights Watch/Helsinki that they received discriminatory treatment by school directors and teachers who sometimes denied them access to better classes or did not encourage them to pursue their education. There is also a lack of Roma role-models who have completed higher education; and those few that do continue their education are predominantly male.

Many times the cost of an education is prohibitive for Roma. While primary and secondary school is free, the cost of not working is often too high, as are the costs of books and other materials. M. Raif, an eighteen-year-old Romani girl living in Gorče Petrov, told Human Rights Watch/Helsinki:

The school is free, but what you need in school you must pay for by yourself — like books and the bus ticket. For most of us, it is too much. I would like to go to school, but I can't.⁸⁸

According to Faik Abdi, a member of parliament for the Party for the Total Emancipation of Roma, Roma-language instruction will soon be introduced into schools with Romani pupils. He told Human Rights Watch/Helsinki that soon Romani children in grades one through eight would be able to study the Romani language two times a week.⁸⁹ Romani is already taught as a foreign language at the university.

Perhaps the most serious issue facing Roma in Macedonia today regards their right to citizenship. As stated in the chapter on citizenship, many Roma with long-standing ties to Macedonia found it difficult to prove fifteen years of residency, permanent housing and a steady source of income. In addition, evidence suggests that some Roma were denied citizenship despite having met all of the requirements of the law. (See the chapter on citizenship.)

Human Rights Watch/Helsinki was not able to confirm that Roma who had met all of the requirements laid out in the citizenship law were denied citizenship by the Macedonian government. However, some of the law's requirements do seem to discriminate against the Roma population. In particular, the fifteen-year residency requirement and the need to have a steady income and living accommodations are difficult to attain for a group of people that is so economically disadvantaged. Because of this, Human Rights Watch/Helsinki is concerned that a number of Roma living in Macedonia are currently stateless and, therefore, are denied benefits from the state, such as unemployment compensation and health insurance.

⁸⁸Human Rights Watch/Helsinki interview with M. Raif, Dorče Petrov, July 17, 1995.

⁸⁹Human Rights Watch/Helsinki interview with Faik Abdi, Skopje, July 18, 1995.

Unlike in other countries in the Balkans, Roma in Macedonia do not complain of systematic abuse by the police. Nevertheless, Roma do have a strained relationship with law enforcement officials and the justice system. Police are allegedly slow in responding to crimes in areas where Roma live, and often dismiss requests from Roma for help. Some Roma serving time in Idrizovo prison outside of Skopje told Human Rights Watch/Helsinki that the police had not informed them of the reason for their arrest, had not provided access to a lawyer and, on occasion, had abused them physically. Some believed that their sentences were more severe because they were Roma.⁹⁰

An example of police misconduct against Roma occurred in July 1995 when the police tore down the home of the Jasarovski family in the Topaner section of Skopje, a predominantly Roma area. According to Orhan Jasarovski, the eldest son in the family, his parents wanted to refurbish a house that they had purchased with money earned in Germany. When they informed the local authorities, they were told that the house would have to be torn down because it was so old. Orhan Jasarovski told Human Rights Watch/Helsinki:

The police came at 5:00 a.m. and asked us to go to the police station. We went and waited there until 12:00 a.m.. My father and brother were put into a cell. They wanted to put me in there too, but my mother told them that I was ill.

My mother went outside to see a neighbor and was told that our house had been torn down. My mother screamed at the police and he threatened to beat me. At 12:00 a.m. they let my father and brother go and we went home. The house was destroyed.⁹¹

⁹⁰Human Rights Watch/Helsinki interviews, Idrizovo Prison, July 25, 1995.

⁹¹Human Rights Watch/Helsinki interview with Orhan Jasarovski, Skopje, July 29, 1995.

Human Rights Watch/Helsinki was shown the remains of a one-family house that had been destroyed by bulldozer.

Like the other ethnic minorities in Macedonia, Roma also complain about the situation with the media. Until September 1995, there was only one half-hour a week on state television for Roma programs. Today, however, thirty-minute programs are broadcast three times a week. There are also a surprisingly high number of private radio and television stations run by and for Roma, although most transmit in a very small area. As of May 1995, there was a private Roma television station in Štip, Tetovo and Ohrid, and three in Skopje.

Many of these stations were closed in May 1995 when the government shut down eighty-eight stations throughout the country, allegedly for technical reasons. (See chapter on freedom of the press.) Human Rights Watch/Helsinki heard complaints from Roma journalists and other media specialists that, by percentage, more Roma radio and television stations were closed than the stations of other ethnic groups. For example, all of the Roma television stations in Skopje, TV Shutel, BTR and TV Atlanta, were shut down. During 1996, most of them were allowed to reopen.

THE SERB MINORITY

The complaints of the ethnic Serb community in Macedonia are similar to those of the other minorities: the lack of Serbian-language education and media, discrimination in obtaining state jobs and citizenship, and abuse by the police. Leaders of the Serb community also complain that the government has not recognized the Serbian Orthodox Church and has restricted the right of ethnic Serbs to practice their religion.

According to the 1994 census, there are 39,260 ethnic Serbs living in Macedonia, a number equal to 2 percent of the total population. According to some leaders of the Serbian community, however, there are as many as 250,000 Serbs in the country.⁹² Most Serbs live in the northern part of the country near the border with Serbia. Their language is slightly different than Macedonian, but perfect communication between Serbs and Macedonians is possible.

One fundamental complaint of ethnic Serbs is their complete absence from the Macedonian constitution. Unlike Albanians, Turks, Roma and Vlach, Serbs are

⁹²Human Rights Watch/Helsinki interview with Dragisha Miletić, Skopje, August 9, 1995.

not mentioned at all as a national group living within the country. The Council on Inter-Ethnic Relations suggested to parliament that Serbs be added to the list, but to date no changes in the constitution have been made. On September 22, 1995, the ethnic Serb representative on the council, Božidar Despotović, resigned in protest.

Ethnic Serbs are allowed to use their Serbian names in public, including in the title of cultural and political organizations such as "The Democratic Union of Serbs" and "The Association of Serbs and Montenegrins." However, some ethnic Serbs told Human Rights Watch/Helsinki that they did not like to use their Serbian names for fear of discrimination, especially when getting a job.

There are some Serbian-language schools, primarily in the northern part of the country. However, some leaders of the Serbian community claim that there are not enough schools to meet all of their children's needs. The Ministry of Education denies this claim, and Human Rights Watch/Helsinki was not able to determine conclusively if the number of Serbian schools is sufficient.

Like many of the other ethnic groups in the country, the Serbs complain that many people from their community have been denied Macedonian citizenship. According to Dragisha Miletić, President of the Democratic Union of Serbs, there are 80,000 Serbs in Macedonia currently without citizenship, although this number seems exceedingly high. He told Human Rights Watch/Helsinki that Muslims and Albanians get citizenship very easily because they have enough money to bribe the officials at the Ministry of Internal Affairs. The Ministry, however, denies that such a high number of ethnic Serbs with legitimate claims have been denied citizenship.

Serbs have also accused the Macedonian police of occasionally using excessive force against them. According to the United States State Department, Macedonian police used unnecessary violence during a clash with ethnic Serbs on January 1, 1994, in a predominantly Serbian village. Macedonian authorities claimed that the Serbs had provoked the police by throwing stones.⁹³ Human Rights Watch/Helsinki heard of other alleged cases of police brutality and harassment against ethnic Serbs, but was not able to confirm the cause or extent to which they occurred.

Perhaps the most serious complaint of the Serb community, however, concerns the right to practice one's religion freely. As of April 1996, the Macedonian government had still not recognized the Serbian Orthodox Church meaning that, officially, the church's activities are illegal. The government claims that there are no legal grounds for such recognition, but most observers believe the

⁹³U.S. Department of State, *Country Reports on Human Rights Practices in 1994*. Washington D.C., 1994.

decision is a response to the Serbian Orthodox Church in Serbia, which has still not recognized the autonomy of the Macedonian Orthodox Church.

On January 14, 1994, a Macedonian court forbid a Serbian Orthodox priest and Macedonian citizen, Nenad Tasic, from discharging his pastoral duties on account of incitement to national hatred. The government argued the Mr. Tasic was performing pastoral tasks in private homes in the town of Kumanovo without the approval of the Ministry of Internal Affairs or the Macedonian Orthodox Church. However, this violates article 19 of the Macedonian constitution, which states that everyone has "the right to express one's faith freely and publicly, individually and with others."

Lastly, some ethnic Serbs complained to Human Rights Watch/Helsinki about the lack of Serbian language media available in Macedonia, both in print and electronically. There are no Serbian-language newspapers published in Macedonia, but a number of newspapers from Serbia arrive in the country every day. In the north, ethnic Serbs can receive television and radio from Serbia. After protests, Macedonian state television agreed to offer one half-hour of Serb programming every week, although some ethnic Serbs are not satisfied with the content. Dragisha Miletic told Human Rights Watch/Helsinki:

There is a one half-hour program on television for Serbs. But it's a government program and we don't think that it belongs to the Serbs. The editors there are appointed by the government. They are mostly Serbs who don't feel Serbian. The programs are a joke. They have Muslim culture and Croatian composers. And they attack the Serbian party.⁹⁴

The situation with the Serbian minority is intensified by the fragile relationship between Serbia and Macedonia. Yugoslavia did not recognize Macedonia until April 1996, and many Macedonians still fear reabsorption into a Yugoslav state. At the same time, there are also many Macedonians with a positive image of Serbia, a bond made stronger by the Slavs' common dislike of Albanians.

⁹⁴Human Rights Watch/Helsinki interview with Dragisha Miletic, Skopje, August 9, 1995.

The status of the minority is particularly important due to the role that Serb minorities have played in the other republics of the former Yugoslavia. In Croatia, Bosnia and Kosovo, the Serb government in Belgrade has exaggerated the complaints of the local Serbian minorities to justify either increased repression or outright aggression. Regarding Serbian President Slobodon Milošević's behavior toward other republics, Human Rights Watch/Helsinki reported in October 1992:

After his rise to power as President of Serbia in 1987, President Milošević embarked on a series of moves to extend his power throughout Yugoslavia, with little regard for the human rights of non-Serbs or those Serbs opposed to his policies. Milošević's dogmatic communism gave way to strident nationalism. Through an incessant propaganda campaign in the press in the late 1980s and early 1990s, the Serbian government repeatedly manipulated the patriotism of its people and exaggerated the scope and nature of human rights abuses against Serbs in Kosovo, Croatia and Bosnia-Herzegovina. Although individual acts of violence against Serbs occurred in all three places to varying degrees, such abuse was by no means widespread nor did it amount to "genocide," a claim the Serbian government has asserted. Rather, the exaggeration and misrepresentation of human rights abuses against Serbs was used by Milošević to stir up national passions and thereby to consolidate or extend his power in Kosovo, Croatia and Bosnia-Herzegovina.⁹⁵

Up until now, the Serbian government has been relatively silent regarding the status of the Serbian minority in Macedonia. One exception occurred in August 1994 when the Macedonian government and Serbian minority came to an agreement that would have, among other things, included Serbs as a minority group in the constitution. The government in Belgrade criticized the agreement, and the President of the Democratic Party of Serbs, the main Serb party in Macedonia, was forced to resign.⁹⁶ In February 1996, Belgrade announced that it was close to recognizing Macedonia as an independent state. This prompted a letter from

⁹⁵*Yugoslavia: Human Rights Abuses in Kosovo 1990-1992*, October 1992, p. 1.

⁹⁶The President of the Democratic Party of Serbs at that time, Boro Ristic, refused to meet with Human Rights Watch/Helsinki.

Macedonia's Serbian community asking that recognition be delayed until their rights were improved. Formal recognition from Belgrade was extended on April 8, 1996.

In general, relations between ethnic Serbs and ethnic Macedonians are quite good. Dragisha Miletic told Human Rights Watch/Helsinki:

We don't have problems with the Macedonian people. But when it comes to the government, we have been mistreated. We want to solve the problems peacefully but only up to a limit. After that we'll take things into our own hands.⁹⁷

THE MACEDONIAN MUSLIM MINORITY

Macedonian Muslims are recognized as a separate ethnic group and are represented in parliament's Council on Inter-Ethnic Relations. According to the 1994 census, they account for less than 2 percent of the total population, a number that is disputed by leaders in the community.

For the most part, Macedonian Muslims live in the western part of the country. They share many of the complaints of the other ethnic minorities, including discrimination in getting state jobs and underrepresentation in government. Nijazi Limanovski from the Association of Macedonian Muslims told Human Rights Watch/Helsinki:

⁹⁷Human Rights Watch/Helsinki interview with Dragisha Miletic, Skopje, August 9, 1995.

The social and political status of the Macedonian Muslims is not very good. It is because the state does not take care of these people. Because of our Islamic religion, we are not treated as Macedonian. If you are Islamic, you can't be Macedonian.⁹⁸

THE VLACH MINORITY

The 1994 census states that there are 8,467 Vlachs in Macedonia. Related to Romanians, the Vlach community is mentioned in the constitution as a minority population and represented in the Council on Ethnic Relations. For the most part, Vlachs are well integrated into Macedonian society. Human Rights Watch/Helsinki did not hear any claims of discrimination regarding state employment or political representation.

The major complaint of the Vlach community concerned education in the Vlach language. Many older Vlachs are not able to speak their native language, which is similar to Romanian, but want the government to begin some Vlach-language instruction for their children. For a long time the government refused, claiming that there was not one unified Vlach dialect that could be used to write a textbook. Finally, in November 1995, classes in the Vlach language were started in some towns and cities throughout the country.

⁹⁸Human Rights Watch/Helsinki interview with Nijazi Limonovski, Ohrid, August 6, 1995.

IV. CITIZENSHIP

GENERAL PRINCIPLES AND INTERNATIONAL LAW

Citizenship determines the enjoyment of certain fundamental civil and political rights, and is a precondition for the receipt of welfare benefits and other government entitlements. International law gives states great — though not unlimited — freedom in setting requirements for citizenship. According to article 1 of the 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws:

it is for each state to determine under its own law who are citizens ... [but] the citizenship law of a State shall be recognized by other states only insofar as it is consistent with international conventions, international customs and the principles of law generally recognized with regard to citizenship.⁹⁹

Following the precedent of the 1930 Hague Convention on Nationality, article 1(3) of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (CERD) states that:

Nothing in this Convention may be interpreted as affecting in any way the legal provisions of State parties concerning nationality,

⁹⁹Kees Groenendijk, "Nationality, Minorities and Statelessness: The Case of the Baltic States," *Helsinki Monitor* (Netherlands Helsinki Committee), Vol. 4, Issue 3, 1993. See also Human Rights Watch/Helsinki, "Integrating Estonia's Non-Citizen Minority," (New York: Human Rights Watch, October 1993), pp. 11-12.

citizenship or naturalization, provided that such provisions do not discriminate against any particular community.¹⁰⁰

¹⁰⁰ *Twenty-Four Human Rights Documents*, (New York: Center for the Study of Human Rights, Columbia University, 1992).

Max van der Stoel, the High Commissioner on National Minorities of the Organization on Security and Cooperation in Europe (OSCE), has recommended that, "in view of articles 1(3) and 5(d) of the CERD, any discrimination on the ground of nationality or ethnicity should be avoided when enacting or implementing legal provisions concerning nationality, citizenship or naturalization."¹⁰¹

The Council of Europe has also stated that "citizenship should not be granted arbitrarily and in violation of the principle of non-discrimination, a rule found in most human rights treaties."¹⁰² The Council recognized that article 15(1) of the Universal Declaration of Human Rights grants everyone the right to citizenship and states that no one shall be arbitrarily deprived of his or her citizenship.¹⁰³ The Council also points out that children have the right to acquire citizenship under article 24(3) of the U.N. Covenant on Civil and Political Rights and article 7(1) of the Convention on the Rights of the Child.¹⁰⁴ All of these legal principles are aimed at avoiding statelessness among the world's population, a condition which the 1954

¹⁰¹ Letter from Max van der Stoel, the Organization on Security and Cooperation in Europe (OSCE) High Commissioner on National Minorities, to Trivimi Velliste, Foreign Minister of the Republic of Estonia, April 6, 1993.

¹⁰² Council of Europe, "Comments on the Draft Citizenship Law of the Republic of Latvia," Strasbourg, January 24, 1994.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness seek to abolish.¹⁰⁵

The Organization on Security and Cooperation in Europe (OSCE) has also addressed the issue of citizenship in newly-formed states. The recent Ottawa Declaration of the OSCE Parliamentary Assembly calls:

¹⁰⁵ Macedonia is a party to both Conventions.

...on the participating States to give equal rights to individuals as citizens, not as members of a particular national or ethnic group. Accordingly, they should ensure that all citizens be accorded equal respect and consideration in their constitutions, legislation and administration and that there be no subordination, explicit or implied, on the basis of ethnicity, national origin, race, or religion; further calls on the participating States to acknowledge that citizenship itself is based on a genuine and effective link between a population and a territory and should not be based on race or ethnicity and must be consistent with the state's international obligations in the field of human rights.¹⁰⁶

Despite the general principles set forth by the international community and regional European bodies, international law does not address the issue of citizenship in detail. For this reason, Human Rights Watch/Helsinki has adopted a position identifying principles that we believe should be embodied in new citizenship laws and proposals.¹⁰⁷ We believe that the newly formed states that have emerged from the former Socialist Federal Republic of Yugoslavia (SFRJ) have an obligation to

¹⁰⁶Ottawa Declaration of the OSCE Parliamentary Assembly, Chapter 3, Article 33, July 8, 1995.

¹⁰⁷ Human Rights Watch/Helsinki's position on citizenship in the republics of the former SFRJ is contained in Appendix C of this report. See also Helsinki Watch, "New Citizenship Laws in the Republics of the Former USSR," (New York: Human Rights Watch, April 15, 1992).

adopt and apply citizenship laws that treat in a fair and non-discriminatory manner individuals who moved to or otherwise lived in the respective republics of the SFRJ when it was a unified state.¹⁰⁸ Unfortunately, citizenship laws and proposals in some of the republics of the former SFRJ — including Macedonia — have been applied in ways that discriminate against ethnic and national groups which are not the majority group in the respective republic.

CRITERIA FOR FAIRNESS

¹⁰⁸ The following principles set forth in this section also were applied by Human Rights Watch/Helsinki with regard to citizenship laws in the now independent republics of the former Soviet Union. See Helsinki Watch, "New Citizenship Laws in the Republics of the Former USSR," (New York: Human Rights Watch, April 15, 1992).

Citizenship laws in newly independent states should be evaluated by two dependent sets of criteria: first, whether the law refrains from treating as immigrants certain individuals who lived on the state's territory before the declaration of independence,¹⁰⁹ and second, if the law does treat such individuals as immigrants, by the qualifications according to which the former may accede to or be denied citizenship. Such qualifications typically include minimum residence requirements, language proficiency, and proof of legal source of income. They also sometimes include medical, political, and financial grounds upon which a group of individuals could be excluded from citizenship.

The most liberal citizenship law is the "zero option," which grants citizenship to all people living in the republic either at the time independence was declared or when the law was adopted. It generally sets out a certain period during which individuals either may apply for citizenship or automatically become citizens provided they do not officially reject citizenship in a given state.

Human Rights Watch/Helsinki views with concern various laws and proposals under consideration in states of the former SFRJ that could exclude from citizenship in the state in question many individuals with significant links to that state. Those excluded are individuals who, while the SFRJ was a unified state, took up residence in a former Yugoslav republic that did not coincide with his or her ethno-national identity and now find themselves resident in a new state in which their ethnicity/nationality is not the dominant one. We believe that most individuals who migrated from one republic to another could not have foreseen the change in the SFRJ's political status and that they lived in any given republic with the expectation that their residence would not be interrupted by the issue of their citizenship.

Human Rights Watch/Helsinki believes that the denial of citizenship to persons who have extensive social and cultural ties to the community but who are members of the minority population in each of the respective republics of the former SFRJ is discriminatory against the minority group in question. It also leads to the social and economic marginalization of the minority population, forcing people to leave one republic and emigrate to a republic in which they would be part of the majority but which they do not otherwise consider their home.

Denial of Macedonian citizenship to some Albanians, Turks and members of other ethnic groups renders them illegal aliens in their own country. Denying

¹⁰⁹ That is, whether it sets out for these people citizenship regulations that are separate from those that apply to other individuals currently seeking to move to the new state.

citizenship to deserving individuals would violate their voting rights guaranteed in Article 25 of the International Covenant on Civil and Political Rights (ICCPR). Moreover, the allocation of property and other social and economic rights often hinges upon citizenship. Citizenship laws that exclude otherwise deserving individuals would create categories of people whose civil and political rights would be routinely violated and whose eligibility for medical, welfare, educational and other benefits would be denied.

MACEDONIA'S CITIZENSHIP LAW AND ITS APPLICATION

In October 1992, the Macedonian parliament passed a new citizenship law that had been proposed by the government. According to the law, citizenship may be acquired in four ways: by origin, birth on the territory of Macedonia¹¹⁰, naturalization or by international agreements. A person may obtain citizenship if he or she was born in Macedonia and at least one parent was a Macedonian national. When born abroad, a person must have two parents who were Macedonian nationals.

To acquire citizenship by naturalization, a person must meet a number of stringent requirements:

- 1) be eighteen years old
- 2) have resided continuously for at least fifteen years on the territory of Macedonia
- 3) be physically and mentally healthy
- 4) have living facilities and a permanent source of funds
- 5) not have been convicted of a crime in his/her state or Macedonia
- 6) speak the Macedonian language
- 7) accept not to endanger the security and defense of Macedonia
- 8) renounce foreign citizenship¹¹¹

These requirements, especially the fifteen-year residency clause, have been criticized by the leaders of Macedonia's ethnic groups as well as the OSCE's High

¹¹⁰A child found on the territory of Macedonia of unknown parents is considered a national of Macedonia.

¹¹¹Law on Citizenship of the Republic of Macedonia, article 7.

Commissioner on National Minorities.¹¹² Their main complaint is that non-Macedonians who have lived in Macedonia for decades do not automatically receive citizenship. The law, they say, does not adequately take into account the fact that Macedonia was once part of the SFRJ and that many of Macedonia's long-time residents do not qualify for citizenship under the new law because they are neither Macedonians by origin nor were they born in Macedonia.

¹¹²In a letter to Foreign Minister Stevo Crvenkovski, OSCE High Commissioner on National Minorities Max van der Stoep recommended that the permanent residency requirement be lowered to five years. Letter dated November 16, 1994. Reference number 3016/94/L.

The denial of citizenship to long-term residents of Macedonia who are not Macedonian by origin arbitrarily strips such persons of rights they had previously enjoyed. The former Special Rapporteur of the U.N. Commission on Human Rights for the former Yugoslavia¹¹³ has rightly pointed out that it is:

... imperative to distinguish the citizenship law of a State dealing with immigration under ordinary circumstance, where the applicant may have no social attachment to the territory concerned, as opposed to a new State where denial of citizenship on the basis of ethnic or national origin affects those who have previously enjoyed citizenship of the predecessor State and lawful residence on the territory concerned.¹¹⁴

Leaders of Macedonia's minority groups also point out how easy it is for ethnic Macedonians to obtain citizenship, regardless of where they live. Article 11 grants immediate citizenship to all "Macedonians by origin" who are living outside the borders of the Republic of Macedonia. Accordingly, a child of Macedonian parents who was born and raised in Canada and has never visited Macedonia can more easily obtain Macedonian citizenship than an Albanian, Turk, Serb or Romani

¹¹³Tadeusz Mazowiecki resigned as the U.N. Special Rapporteur in July 1995 in protest against the international community's "slow and ineffectual" response to human rights abuses in Bosnia. He was replaced by Elizabeth Rehn.

¹¹⁴U.N. Commission on Human Rights, "Situation of Human Rights in the Territory of the Former Yugoslavia: Fifth periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 32 of Commission resolution 1993/7 of 23 February 1993," E/CN.4/1994/47, November 17, 1993, p. 17.

person who was born in one of the other republics of the former SFRJ but has lived in Macedonia for decades.

The Macedonian government has stated that many of the individuals denied Macedonian citizenship were born in another republic of the former SFRJ and, therefore, may receive citizenship in the place from where they originate. But this presupposes that a person denied citizenship in one republic can obtain citizenship in another republic of the former SFRJ. For example, Albanians born in Kosovo find it almost impossible to obtain citizenship from the Serb authorities. Even if citizenship in another republic could always be granted, such an approach does not take into account the residency, ownership of property and family ties of the person in question. For example, a person born in another republic of the former SFRJ in the 1940s who had emigrated to and lived in Macedonia since the 1950s could be denied Macedonian citizenship despite the fact that all his or her personal and professional ties are in Macedonia.

According to leaders of the Albanian community, the law disproportionately affects ethnic Albanians, who traveled freely between western Macedonia and Kosovo when Yugoslavia was one state. Leader of the Party for Democratic Prosperity - Albania, Arben Xhaferi, told Human Rights Watch/Helsinki:

Albanians have been moving freely around this area for centuries. You can't use the term "emigration." This law aims at ethnic cleansing because at once there are a large number of people who are stateless. Approximately 125,000 people are without citizenship.¹¹⁵

According to leaders of Macedonia's Turkish community, there are also large numbers of ethnic Turks left without citizenship despite having lived in Macedonia for long periods. Erdogan Saraç, President of the Democratic Party of Turks, told Human Rights Watch/Helsinki:

Even if your parents are born here, you must prove you have money and a house. Some people married other Yugoslavs, moved away, came back and cannot get citizenship. Or their children can't get it. And most of those without citizenship are

¹¹⁵Human Rights Watch/Helsinki interview with Arben Xhaferi, Tetovo, July 30, 1995.

from the ethnic groups. Some Turks couldn't vote because they couldn't prove their citizenship.¹¹⁶

Human Rights Watch/Helsinki is also concerned that the citizenship law is discriminatory against the country's ethnic Roma population. More than other ethnic groups, Roma had a tradition of traveling freely within the borders of the former Yugoslavia and throughout the region. In recent years, large numbers of Macedonia's Roma emigrated to Western Europe in search of work. Many are, therefore, not able to meet the fifteen-year residency requirement, even though they spent the majority of their lives in Macedonia and do not have a right to citizenship anywhere else.

The law's requirement to have a steady source of income is also, in general, more difficult for Roma to meet than other ethnic groups, due to their high levels of unemployment and poverty. Many Roma also do not have their own homes, especially those that are only now being sent back from Western Europe.

Finally, many Roma complained that the administrative fee to obtain citizenship was too high. After the law was passed in 1992, a one-year grace period allowed individuals to obtain citizenship for a U.S. \$50 fee. Today, however, the cost is U.S. \$500 — a price far out of reach for most Roma. While many Roma did obtain citizenship during the grace period, a great number were out of the country, either working or as refugees, and now must pay the higher price. The government has not allowed these people to pay the lower fee, even though they were out of the country until 1995.

Human Rights Watch/Helsinki also heard complaints that the law was being applied in a discriminatory manner against Roma. First, a number of Roma alleged that they had been denied citizenship even though they had fulfilled all of the requirements set forth in the law. Others said that officials at the Ministry of Internal Affairs did not always explain the application procedure in a clear manner. Selatin Raif, a Roma who works at the State Bank, told Human Rights Watch/Helsinki:

¹¹⁶Human Rights Watch/Helsinki interview with Erdogan Saraç, Skopje, August 8, 1995.

The officials drag the Roma along. We must fill out more and more documents, and pay money. According to the law, both parents must be born in Macedonia to get your citizenship. But [ethnic] Macedonians have no problem — only the Albanians, Turks and Roma.¹¹⁷

Former Minister of the Internal Affairs Ljubomir Frčkovski, who oversaw the administration of the citizenship law, admitted that the process was difficult. But he stated with assurance that all individuals who met the requirements of the law had been granted citizenship.¹¹⁸

According to Minister Frčkovski, as of July 1995, there were between 30,000 and 40,000 non-citizens living in Macedonia whom he expected to gain citizenship. Some 12,000 of these people were in the application process. He told Human Rights Watch/Helsinki:

¹¹⁷Human Rights Watch/Helsinki interview with Selatin Raif, Dorče Petrov, July 17, 1995.

¹¹⁸Human Rights Watch/Helsinki interview with Minister Frčkovski, Ohrid, August 6, 1995.

This is not just a problem of the Albanians. It is a problem for everyone. They must accept the new international borders. We will live with 20,000 foreigners, but we can't absorb everyone, especially from Kosovo.¹¹⁹

According to another high-level source at the Ministry of Internal Affairs, there were 143,288 people living in Macedonia without citizenship as of July 1995, allegedly mostly people from the other republics of former Yugoslavia.¹²⁰ Since the introduction of the citizenship law, 6,898 people have applied to obtain Macedonian citizenship. Of these, approximately 4,000 people have been rejected, while almost 800 were granted citizenship.

Human Rights Watch/Helsinki was not able to obtain statistics on those who had been denied citizenship. However, interviews with numerous members of Macedonia's ethnic communities, as well as foreign specialists in Macedonia, suggest that a large percentage of those denied Macedonian citizenship were members of an ethnic minority, usually Muslims. Many of them had long-standing ties to the country and were not able to obtain citizenship in another republic of former Yugoslavia.

¹¹⁹Human Rights Watch/Helsinki interview with former Minister of Internal Affairs Ljubomir Frčkovski, Ohrid, August 6, 1995.

¹²⁰Human Rights Watch/Helsinki interview, Skopje, August 7, 1995. These numbers differ from the official census results of 1994, which claim the total population of legal residents in Macedonia is 1,936,877.

V. FREEDOM OF THE PRESS

THE PRINT MEDIA

Compared to the communist era, the Macedonian press is relatively free. Censorship is forbidden and private publications represent a wide variety of views and political perspectives.¹²¹ Nevertheless, the state still exerts substantial control over the flow of information.

One major restriction to a free press stems from the state's virtual monopoly on the printing, distribution and sale of newspapers and magazines. The state-run company Nova Makedonija controls almost all of the printing presses, distribution agencies and newsstands in the country; its disproportionately high prices are a major barrier to the development of an independent press. On December 8, 1995, the government announced that the privatization process of Nova Makedonija would begin, but the process is expected to take some time.

Meanwhile, the high cost of printing and distribution has contributed to the closure of a number of opposition journals. According to Vladomir Makrov, editor-in-chief of the opposition magazine *Delo*, three papers he has worked on have not been able to compete with the state-sponsored papers because of high printing

¹²¹Article 16 of the Macedonian Constitution protects freedom of speech and the press. It states:

Freedom of speech, public address, public information and the establishment of institutions for public information is guaranteed.

Free access to information and the freedom of reception and transmission of information are guaranteed.

costs.¹²² However, low circulation (*Delo*'s circulation is currently 3,500 per week) is also a contributing factor.

To help break the monopoly, the Macedonian Soros Foundation, a local philanthropic organization, has funded a new printing press called Euro 92. Iso Rusi, in charge of media projects at the foundation, told Human Rights Watch/Helsinki that the cost of printing at Euro 92 is 60 percent lower than at Nova Makedonija, and the facility still makes a profit.¹²³

In March 1996, the government ordered the Euro 92 printing press to pay customs on newsprint it was importing from abroad, even though the Nova Makedonija company does not pay any sort of import tax. Managers at the press and a number of journalists complained that such a tax would place a heavy financial burden on the independent papers, which do not receive support from any political party or the government. As of May, the issue was still being debated.

¹²²*Overview of Current Human Rights Issues, Needs and Activities in Macedonia* (Washington D.C.: International Human Rights Law Group, April 12, 1993).

¹²³Human Rights Watch/Helsinki interview with Iso Rusi, Skopje, July 27, 1995.

Some journalists and editors also complained about mismanagement and corruption within the Nova Makedonija company. Mr. Makrov told Human Rights Watch/Helsinki that copies of his former magazine, *Epocha*, had regularly been lost by the Nova Makedonija distribution system.¹²⁴ Zoran Dimitrovski, an editor at the independent weekly newspaper, *Fokus*, told Human Rights Watch/Helsinki:

If you use Nova Makedonija, you get paid six months later. Also, they have their own newspapers, so they will hide the competition.¹²⁵

The Nova Makedonija company also produces a number of its own newspapers and magazines, all of which receive substantial subsidies from the state. They include:

Nova Makedonija - daily newspaper in Macedonian, circulation 15,000-20,000
Večer - daily newspaper in Macedonian, circulation 15,000-20,000
Puls - weekly newspaper in Macedonian, circulation 3,000 - 5,000
Flaka e Vëllazërimit - daily newspaper in Albanian, circulation 2,000-2,500
Birlik - Thrice-weekly newspaper in Turkish, circulation 700-800

Information in the three major Macedonian-language newspapers is sometimes critical of the state. For the most part, however, their content tends to reflect the views of the government. Journalists who work for the three major papers told Human Rights Watch/Helsinki that the government plays a subtle game, sometimes allowing critical views to seep into the pages of the papers, and sometimes using pressure of various kinds to control the views expressed. This is particularly true on key issues, such as elections or questions of corruption.

¹²⁴Human Rights Watch/Helsinki interview with Vladomir Makrov, Skopje, July 10, 1995.

¹²⁵Human Rights Watch/Helsinki interview with Zoran Dimitrovski, Skopje, July 28, 1995.

Specifically, many journalists complained about biased coverage in favor of the ruling Alliance for Macedonia leading up to the parliamentary elections in 1994.

Human Rights Watch/Helsinki learned of some cases where journalists at Nova Makedonija publications were transferred to less important positions after having written articles that were critical of the government. One journalist to whom this happened told Human Rights Watch/Helsinki:

It [censorship] is not so heavy-handed. People don't lose their jobs, but get put somewhere within the newspaper where they can't do damage.¹²⁶

Human Rights Watch/Helsinki also heard complaints of government repression against journalists and editors who work with newspapers not affiliated with Nova Makedonija. In particular, publications with views close to the nationalist opposition have reported a series of government attempts that, they believe, were intended to hinder their work.

Journalists at *Delo*, a magazine with political views similar to VMRO-DPMNU, told Human Rights Watch/Helsinki that they had had trouble receiving accreditation as journalists, were often denied interviews by government officials and were not always invited to government press conferences. In addition, they say, government agencies or institutions never buy advertising space, although *Delo's* low circulation may be a reason for this.¹²⁷

In February 1995, the editor of *Delo*, Vladimir Makrov, was charged with slandering then Minister of Internal Affairs Ljubomir Frčkovski. In the February 17 issue of the paper, a *Delo* correspondent accused Frčkovski of involvement in corruption and organized crime. According to the article, the minister received 60,000 DM from a company the ministry had hired to publish passports. Mr.

¹²⁶Human Rights Watch/Helsinki interview, Skopje, July 1995.

¹²⁷Human Rights Watch/Helsinki interview with Krum Velkov, Skopje, July 10, 1995.

Makrov told Human Rights Watch/Helsinki that the slander charges were political and intended to silence the opposition press.

The article in question, entitled "Frčkovski Up to His Neck...", is full of conjecture and lacks any credible evidence of the minister's illegal activities. The article only states that "there is a document, black and white" to prove Minister Frčkovski's guilt. Mr. Makrov conceded that it is "difficult to prove with documents, because it is easy to destroy documents. And we must protect our sources."¹²⁸ Mr. Makrov also admitted that none of his journalists had attempted to contact the ministry to confirm the allegations, although, he said, in other cases they had tried this and received no response. According to Macedonian law, Minister Frčkovski has the right as a private citizen to press charges for slander if he believes that he has been unjustly accused.

In the legal proceeding against Mr. Makrov there were some irregularities that may reveal a government agenda to hinder the work of the opposition press. First, on March 21, the government spokesman, Gjuner Ismail, announced at a government press conference that Minister Frčkovski would be pressing slander charges as a private citizen because of the article. The trial, which began on March 31, was subject to numerous delays, and the accusation was altered from slander of a private citizen to slander of a government official, a charge left over from the communist-era penal code. Eventually, the case was dropped.

Another case involved the alleged impounding of two issues of *Republica 7*, another journal affiliated with the nationalist opposition. Journalists at the paper claimed that they were locked out of their office by law enforcement officials who confiscated two issues of the paper. At the time, *Republica 7* was publishing a series of articles that accused the government of using eavesdropping equipment on opposition leaders and also examined nepotism in government hiring.¹²⁹ The government claimed that the owner and publisher of the journal had ordered the closing. The staff at the paper, however, maintained that they had been coerced by the government. Human Rights Watch/Helsinki was not able to determine the precise nature of the events.

The Case of Branko Gerovski

¹²⁸Human Rights Watch/Helsinki interview with Vladomir Makrov, Skopje, July 10, 1995.

¹²⁹*Overview of Current Human Rights Issues, Needs and Activities in Macedonia* (Washington D.C.: International Human Rights Law Group, April 12, 1993).

On February 17, 1995, Branko Gerovski, at the time a journalist with the Macedonian weekly *Večer*, was in Tetovo to cover the first day of classes at the Albanian university. He was present in the suburb of Male Recica to witness the violent clashes between ethnic Albanian supporters of the private university and Macedonian police. Following the fighting, as he was returning to his car, Gerovski was attacked by a group of policemen. His jaw was broken and he spent two weeks in the hospital. He told Human Rights Watch/Helsinki:

EVERYTHING WAS ALREADY PRETTY CALM AND I WAS LEAVING THE AREA TO GET TO MY CAR WHEN I RAN INTO A ROW OF POLICE COMING AS BACK-UP. I WAS SHOUTING, "I'M A JOURNALIST!", AND HAD A TAPE RECORDER IN MY HAND. BUT THE POLICE CAME AND THEY BEAT ME WITH THE BUTT OF A GUN DIRECTLY ON THE JAW, AND IT BROKE. I WAS TRYING TO ESCAPE BUT A SECOND GROUP CAME AND BEAT ME SOME MORE.¹³⁰

Gerovski later received an apology from then Minister of Internal Affairs Ljubomir Frčkovski who also assumed all of Gerovski's medical costs. Gerovski is free to press charges against the responsible policemen, but has decided, until now, not to do so.

ELECTRONIC MEDIA

State Television and Radio

Macedonia has three state-run television stations and a large number of state radio stations dispersed throughout the country. All of them generally reflect the views of the government. As with the *Nova Makedonija* publications, there is no overt censorship, but information is rarely critical of the ruling parties or official policy.

Technically, the Macedonian Television and Radio are public companies, although the state provides financial assistance for capital growth. Ninety percent of financing comes from viewer fees. Parliament selects the general manager, who, in turn, appoints his or her staff. Editors and top managers at Macedonian television told Human Rights Watch/Helsinki that there is no formal connection with parliament, but that there is a definite political influence over programming.

¹³⁰Human Rights Watch/Helsinki interview with Branko Gerovski, Skopje, July 24, 1995.

For example, all top appointments at the television and radio are negotiated beforehand.¹³¹ One top manager at Macedonian television told Human Rights Watch/Helsinki, "there must be a kind of continuous connection between the people working here and the political parties."¹³²

The second channel of Macedonian television provides programming in Albanian, Turkish, Romani, Vlach and Serbian. Seven of the 29 municipal radio stations also broadcast programs in the minority languages. According to the Macedonian Ministry of Information, in 1993, 36 of the 300 employees at municipal radio stations belonged to minority groups, including 20 Albanians.

The minority groups in Macedonia claim that they are denied equal access to the state television. Opposition parties, notably VMRO and the Democratic Party, claim that the state television and radio do not report on their activities.

Private Radio and Television

Private television and radio was not allowed in communist Yugoslavia. Article 16 of the Macedonian constitution, adopted in 1991, states that the press is free and allows for the formation of private media outlets. Based on this newly-found freedom, dozens of private radio and television stations sprung to life beginning in 1991. According to the Ministry of Information, by early 1995 there were 210 private radio and television stations operating in the country. All of these stations were legally registered with the courts and government, but none of them possessed the proper license for broadcasting, since Macedonia does not have a law to regulate the distribution of frequencies.

Despite this, all of the 210 private stations were allowed to operate. The majority rebroadcast music videos and pirated movies in a very local area, but a few had a wider distribution and produced their own programs, including news. Some journalists told Human Rights Watch/Helsinki that the government had allowed so many private stations to operate so as not to appear undemocratic early on in its

¹³¹Up until February 1996, the general director of Macedonian television was in the presidency of the Liberal Party, one of the members of the ruling coalition at the time.

¹³²Human Rights Watch/Helsinki interview, Skopje, August 6, 1995.

term. Other journalists suggested that there was a degree of corruption at the Ministry of Traffic and Communications, which is responsible for the allocation of frequencies.

Controversy began in May 1995 when the government announced without warning that eighty-eight private radio and television stations would be closed because of the unregulated use of radio frequencies. The Minister of Traffic and Communications, Dimitar Buzlevski, did not explain how the government had selected those eighty-eight stations out of 210. The criteria, he said, would be made clear at a later date.

Owners of the private stations protested that the closures were arbitrary and violated the constitutional right to a free press. Dragan Pavlovic, owner of Radio Vox in Skopje and President of the Association of Commercial Radio and Television Stations in Macedonia, told Human Rights Watch/Helsinki:

The decision to close the stations came in one moment. If the stations didn't close, then the police would take the transmitter. Ten to fifteen stations didn't stop and their transmitters were taken. But there was no law on which to base the closures. If there is no law for opening stations, how can you have a law for closing them?¹³³

A protest letter presented to the government from the Association of Commercial Radio and Television Stations said:

For more than four years the private radio and television stations have worked legally, based on the fact that they possessed all of the required licenses obtainable in Macedonia at that time. The competent Ministry for Traffic and Communication was informed of the work of these stations and made no remarks, instructions or interventions whatsoever.¹³⁴

¹³³Human Rights Watch/Helsinki interview with Dragan Pavlovic, Skopje, July 24, 1995.

¹³⁴Protest letter of the Association of Commercial Radio and Television Stations, Skopje, May 16, 1995.

Following these protests, Minister Buzlevski stated that the closures were purely a technical response to what he described as chaos in the airwaves. In August 1995, he told Human Rights Watch/Helsinki:

It began in 1994 when we realized that there were too many radio and television stations broadcasting. So we stopped the registration of future subjects [at the Ministry of Information]. This was a technical problem only. We had to take some measures to temporarily close down those who were interfering with the airwaves.

The first criteria was temporarily to close those radio and television stations that were not registered at all. Of the eighty-eight closed stations, fifty-six were not registered, thirty-two were registered. Second was to close those stations that interfered the most with the other frequencies. For example, the transmitters from housing complexes. Most of these were only broadcasting music and kitsch.¹³⁵

However, a careful analysis of the radio and television stations that were closed reveals that the stations of the ethnic minorities in Macedonia were disproportionately affected. In percentages, more stations run by ethnic Roma and Albanians were closed than those run by ethnic Macedonians. In addition, some of the key Albanian stations were forced to close, including TV ART in Tetovo and TV ERA in Skopje, both of which produced their own news on a relatively professional level. In contrast, none of the major Macedonian stations, notably A1 and Shutel in Skopje, were forced to close.

Some journalists and media analysts thought that the selection of stations to close was made by the government on a personal and political basis that crossed over ethnic lines. Others felt strongly that the ethnic component was the primary consideration. According to Iso Rusi, a journalist and media director at the Soros Foundation, approximately 70 percent of the closed stations were Albanian. TV ART in Tetovo, he pointed out, was one of the more professional stations in Macedonia with programming in three languages, Albanian, Macedonian and

¹³⁵Human Rights Watch/Helsinki interview with Minister of Traffic and Communications Dimitar Buzlevski, Skopje, August 8, 1995.

Turkish. At the same time, he said, many Macedonian stations with poor programs were allowed to continue broadcasting.

Artan Skenderi, the Director of TV ART told Human Rights Watch/Helsinki:

To control the chaos, the Ministry decided - if there's no law - they'll close the stations based on technical reasons. But they closed both TV ART and TV Era, the only two professional Albanian stations with news. They also closed TV Tera, the main Albanian television station in Bitola. Meanwhile, they also closed many unserious Macedonian stations that broadcast pornography and films, and left many of the stupid Albanian stations.¹³⁶

In July, Minister Buzlevski told Human Rights Watch/Helsinki that the government would soon present a draft law on radio broadcasting to parliament for consideration. That proposal was presented on May 13, 1996, although Human Rights Watch/Helsinki has not reviewed the bill. A number of journalists, lawyers and media experts told Human Rights Watch/Helsinki that the absence of a law on radio broadcasting was a violation of Macedonian constitutional law, which stipulates that such a law, among other important pieces of legislation, had to have been passed within six months of the new constitution in 1991. Slobodan Čašule, the former director of Macedonian Radio, told Human Rights Watch/Helsinki:

¹³⁶Human Rights Watch/Helsinki interview with Artan Skenderi, Tetovo, August 1, 1995.

Constitutional law states that certain laws must be passed within six months after the constitution, including a law on broadcasting. Without this law, the constitution holds. Therefore, arbitrarily closing down any broadcast media is in violation of the constitutional right to a free press, as outlined in article 16.¹³⁷

A number of journalists expressed concern that any forthcoming media law would exceed the boundaries of technical considerations and distribute licenses based on the content of programming. While they recognize that there must be some national standards, for example, to regulate the broadcasting of pornography, they fear that political criteria may be used. Minister Buzlevski told Human Rights Watch/Helsinki:

The basis of the new law will be Article 16 of the constitution which protects the right to a free press. The law will ban some activity, for example, programs that incite violence or broadcast the programs of religious political parties. But there will be no institutionalized censorship. Stations will have to submit only a technical plan, not anything related to their programs. A commission will decide on their right to get a frequency.¹³⁸

Another concern of journalists and private television and radio broadcasters is the use of the country's transmitters, which are currently under the control of the state. At present, none of the private radio or television stations are able to broadcast in areas farther than their local surroundings. That means there is no private radio or television station that broadcasts nationwide. Minister

¹³⁷Human Rights Watch/Helsinki interview with Slobodan Čašule, Skopje, July 20, 1995.

¹³⁸Human Rights Watch/Helsinki interview with Minister Dimitar Buzlevski, Skopje, August 8, 1995.

Buzlevski said that the transmitters belong to Macedonian television and will be dealt with in a separate law.

During 1996, many of the private radio and television stations were allowed to broadcast once again.

The Case of TV ART

The largest and most professional Albanian television station, TV ART in Tetovo, has come under repeated pressure from the government. Despite this, the station continues to produce its own programs, including news, in three languages. Director of the station, Artan Skenderi, started the station after he was removed from TV Prishtina in Kosovo by the Serb authorities. He told Human Rights Watch/Helsinki, "I want to make real news without a political color. In my work I am not an Albanian, I am a journalist."¹³⁹

The first major incident occurred on December 17, 1994, when the founding of the university in Tetovo was formally declared. Skenderi told Human Rights Watch/Helsinki:

On December 17, 1994, in Tetovo, was the declaration of the university in the Albanian language. The university organizers called us because there was a meeting at the Party for Democratic Prosperity. They didn't tell me what it was. They said, just come alone.

I went with one editor and two cameras. At the party headquarters we entered with the cameras. All of the political parties, some Albanian MPs and others from the Albanian political life were there. We recorded the whole declaration and left after twenty minutes.

Two days before the meeting, the police had called me and said, "We have permission to stop any information about the

¹³⁹Human Rights Watch/Helsinki interview with Artan Skenderi, Tetovo, August 1, 1995.

university." I answered that I wanted to see the government decision on paper. He said he would bring it.

At 12:00 a.m. [on December 17], fifteen or twenty civil police occupied the station. They ordered everybody out except me. They said "You know why we're here? Give us the tape and come with us." They put me in a van, and we went to the police station. I was eighteen hours at the station with a big psychological torture. I sat for eighteen hours in one chair without knowing why. At 1:00 a.m. about 40 policemen went to my home. They searched the entire house. They were armed with helmets, bullet-proof vests and automatic guns. They surrounded the house. I have a hunting rifle - a trophy from my father with all the proper licences. They took it. Then they let me go without any explanation.¹⁴⁰

As mentioned above, TV ART was then closed in May 1995 by order of the Ministry of Traffic and Communications. The stated reason was the lack of a license for a broadcast frequency. After substantial protest from the station and some international organizations, TV ART reopened two months later. But harassment from the Ministry of Traffic and Communications continued. An inspector from the ministry came to the station demanding to see its frequency license while Human Rights Watch/Helsinki was in Tetovo on July 31, 1995. Since then, however, the station has been allowed to operate without interferences.

¹⁴⁰ *Ibid.*

VI. VIOLATIONS OF DUE PROCESS GUARANTEES

LEGAL STANDARDS

The Macedonian constitution states that all citizens are equal before the law and provides for full due process guarantees. Article 12 states:

Persons summoned, apprehended or detained shall immediately be informed of the reasons for the summons, apprehension or detention and on their rights. They shall not be forced to make a statement. A person has a right to an attorney in police and court procedure.

Persons detained shall be brought before a court as soon as possible, within a maximum period of 24 hours from the moment of detention, and the legality of their detention shall there be decided upon without delay.

Detention may last, by court decision, for a maximum period of 90 days from the day of detention.

Persons detained may, under the conditions determined by law, be released from custody to conduct their defense.

Article 13 guarantees a person's innocence until proven guilty, as well the right to legal redress when a person has been "unlawfully detained, apprehended or convicted." Article 15 guarantees the right to appeal.

In addition, international human rights instruments ratified by Macedonia guarantee the rights of defendants to a free and fair trial before an independent court. Specifically, the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to be informed of the charges and access to a lawyer.

DUE PROCESS VIOLATIONS

Despite these legal guarantees, Macedonian citizens are often denied their basic right to due process. The constitution states that a person must be arraigned in court within twenty-four hours of arrest, but police do not always meet this deadline for filing charges. In some cases, prisoners were held in pre-trial detention longer than the ninety days allowed by law.

According to Macedonian law, the accused must be informed of his or her legal rights and the reason for arrest or detention. The accused is also allowed to contact a lawyer at the time of arrest and have a lawyer present during investigation and court proceedings. However, there are many cases in which police failed to inform detainees of the reason for their detention, did not properly inform them of their rights and did not allow them access to a lawyer. There are also credible claims of physical abuse by police during detention.

Machmut Jusufi, a lawyer and member of the Macedonian Helsinki Committee, told Human Rights Watch/Helsinki:

In Macedonia there are two constitutions. One is written and the other unwritten. What is written is used for external use while the other is for application. For example, according to the law, you can't enter a house without permission. People are allowed a lawyer during the police investigation. But these rights are rarely allowed.¹⁴¹

Part of the problem stems from Macedonia's slow pace of legal reform. For example, the Code of Criminal Procedure dates from the communist era and still allows for pre-trial detention greater than ninety days, which is in contradiction to the current constitution. A ruling by the Constitutional Court in March 1995 decided that the new constitution takes precedence over any communist-era legislation, but a great confusion remains in the courts, resulting on occasion in due process violations. According to some lawyers, as much as 70 percent of Macedonia's current laws are left over from the communist era.

¹⁴¹Human Rights Watch/Helsinki interview with Machmut Jusufi, Tetovo, August 1, 1995.

Savo Kocarev, a prominent lawyer who helped draft the new constitution, told Human Rights Watch/Helsinki:

Many of our laws are not in accordance with the new constitution. The Constitutional Court has made some decisions on contradictions regarding the Penal Code and the Code of Criminal Procedure, but there are still many conflicts.¹⁴²

Human Rights Watch/Helsinki interviewed approximately fifteen prisoners, half of them individually, during a visit to Idrizovo Prison, Macedonia's largest detention facility. Many of the prisoners complained about due process violations, especially while they were being held in police stations. The most common complaint was that police did not inform them of the reason for their arrest or provide them access to a lawyer.¹⁴³ One middle-aged male prisoner told Human Rights Watch/Helsinki:

There is no rule of law here. In my trial I could hardly see my lawyer. I wasn't even sure why I was arrested, so how could I defend myself.¹⁴⁴

Human Rights Watch/Helsinki is also concerned about the politicized nature of some court proceedings. The separation of powers is guaranteed in the Macedonian constitution, but, on occasion, there seems to be political interference in the work of the courts. This was especially evident during the cases of the

¹⁴²Human Rights Watch/Helsinki interview with Savo Kocarev, Skopje, July 22, 1995.

¹⁴³Human Rights Watch/Helsinki interviews, Idrizovo Prison, July 25, 1995.

¹⁴⁴Human Rights Watch/Helsinki interview, Idrizovo Prison, July 25, 1995.

Albanian paramilitary and the organizers of the university in Tetovo. (See section on the Albanian minority.)

VII. ABUSES BY LAW ENFORCEMENT OFFICIALS

LEGAL PROTECTIONS

Article 11 of Macedonia's constitution states:

The human right to physical and moral dignity is irrevocable.

Any form of torture, or inhuman or humiliating conduct or punishment is prohibited.

Macedonia has also ratified the major international human rights documents that protect individuals from lethal force and cruel, inhuman and degrading treatment or punishment, such as the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the U.N. Code of Conduct for Law Enforcement Officials¹⁴⁵, the U.N. Body of Principles for the Protection of All Persons Under Any Form of Detention and Imprisonment¹⁴⁶ and the U.N. Standard Minimum Rules for the Treatment of Prisoners (and Procedures for Effective Implementation of the Rules).

ARBITRARY SEARCHES AND DETENTIONS

Human Rights Watch/Helsinki heard credible reports of police who illegally searched private homes or detained individuals without a proper warrant. On numerous occasions, Macedonian citizens of all ethnicities have been called into

¹⁴⁵General Assembly of the United Nations, Resolution 34/169, December 17, 1979.

¹⁴⁶General Assembly of the United Nations, Resolution 43/173, December 9, 1988.

police stations for so-called "informative talks." Such cases of arbitrary searches and detentions mentioned elsewhere in this report include those of Artan Skenderi, director of TV ART, and Machmut Jusufi, a lawyer in Tetovo.

Many unauthorized searches on private homes were reportedly committed in December 1995 in connection with investigations into the assassination attempt on President Gligorov. Allegedly, police in Skopje failed to present proper search warrants, as is required by Macedonian law.

According to the United Nations Special Rapporteur on former Yugoslavia, Elisabeth Rehn, a Macedonian citizen, Boris Todorov, was allegedly taken from his Skopje home by police on November 13, 1995, in connection with the assassination investigation.¹⁴⁷ The police reportedly searched his home without a warrant, confiscated his personal items and held him in detention for three days without allowing him to contact a lawyer or his family. In response to an inquiry from the Special Rapporteur, the Macedonian Ministry of Foreign Affairs claimed that Todorov's detention had been legal.

The Special Rapporteur also reported on an incident in the town of Strumica that occurred in August-September 1995. Twenty persons were allegedly called to the police station for five to six hours every day during a period of approximately two weeks. They were not charged with any criminal offence and reportedly were denied access to a lawyer.

EXCESSIVE USE OF FORCE BY POLICE

The use of excessive force by police continues to be a problem in post-communist Macedonia. According to the Macedonian Helsinki Committee, a local human rights group, police violence is the country's number one human rights

¹⁴⁷"Situation of human rights in the territory of the former Yugoslavia," Report submitted by Ms. Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights, March 14, 1996.

problem.¹⁴⁸ Of particular concern was the unnecessary use of force by police in police stations.

¹⁴⁸"Annual Report on Human Rights in the Republic of Macedonia in 1995," Macedonian Helsinki Committee, Skopje, January 1996.

Members of the United Nations Civilian Police (Civpol), whose job it is to monitor the work of the Macedonian police, told Human Rights Watch/Helsinki that there were still many instances when police used excessive force, especially during the twenty-four hour period of detention in police stations. Because of the U.N.'s mandate, however, they were only able to investigate alleged cases of police violence after they had occurred, and often they were not informed of the incident until a good deal of time had elapsed.¹⁴⁹

Former Minister of Internal Affairs Ljubomir Frčkovski, who oversaw the police force, said there has been a serious attempt to confront the problem. Police training has been expanded to include a four-year college and many of the communist-era officials have been replaced. Minister Frčkovski told Human Rights Watch/Helsinki that there were fifty-four cases in which police "overstepped their duties" in the period 1994-1995. This includes the excessive use of force in public places or in police stations. In all fifty-four cases, he said, the responsible police officer lost his job.¹⁵⁰

In its annual report for 1995, the Macedonian Helsinki Committee cited a number of cases where police used unnecessary force. On August 25, 1995, for example, two police officers broke into a home in the Radisani section of Skopje without authorization. Without any explanation, they attacked and injured a group of teenagers who were having a private party. The committee protested the action, and the two officers were demoted.

On December 2, 1995, a policeman apprehended a ten-year old boy who was selling smuggled cigarettes in the Bit Pazaar section of Skopje. Witnesses saw the police beat the boy, even though he had offered no resistance.

¹⁴⁹Human Rights Watch/Helsinki interview with Adam Kuna, Sector Chief of Civpol, Skopje, August 10, 1995.

¹⁵⁰Human Rights Watch/Helsinki interview with Minister Ljubomir Frčkovski, Ohrid, August 6, 1995.

An often-cited case of police violence occurred on November 6, 1992, also in the Bit Pazaar. Thousands of ethnic Albanians demonstrated after the Macedonian police allegedly beat a teen-aged Albanian cigarette vendor. Three ethnic Albanians and one Macedonian were killed in the clashes that ensued. More than twenty people were injured, including ten police officers. OSCE Monitors concluded that the police had used excessive force.¹⁵¹ Minister Frékovski told Human Rights Watch/Helsinki that six police officers had lost their jobs and two had been criminally prosecuted.

Another case involving ethnic Albanians occurred on February 17, 1995, the first day of the university in Tetovo (see section on the Albanian minority). Police armed with riot gear and automatic weapons clashed with ethnic Albanians, resulting in the death of an ethnic Albanian man. In total, approximately fifty people were injured, including at least twelve police officers. Witnesses told Human Rights Watch/Helsinki that the police used excessive force when dealing with the crowd. According to a public statement by the Macedonian Helsinki Committee:

On Friday, February 17, around 2:30 P.M., in the Mala Recica suburb of Tetovo, the police attempted to expel the crowd after which many people started to throw stones at the police. The police then resorted to the use of teargas, during which time a firearm shot by the crowd of people was heard. The precise location from where the shot came could not be determined, but the assumption is that the shot originated from one of the neighboring houses.

¹⁵¹United States Department of State, *Country Reports on Human Rights for 1992*, Washington D.C., February 1993.

The police answered the shot with the use of firearms, resulting in tragic consequences: around twenty people (policemen and civilians) were lightly and seriously injured, among them the journalist Branko Gerovski, who is a member of the Executive Board of the Helsinki Committee for Human Rights of the Republic of Macedonia. The most tragic moment was the death of the citizen Abduselam Emini from the neighboring village of Lised by a single bullet (according to the findings of forensic expert and photographs shown by the Deputy Minister of Interior Affairs Dime Gurev).¹⁵²

This description is consistent with reports from other witnesses provided to Human Rights Watch/Helsinki. It is unclear, however, whether the police fired their weapons in the air, as the police maintain, or straight ahead, as some ethnic Albanians claim. Allegedly, there were bullet holes in the houses directly behind the crowd of Albanians which would indicate that the police had fired directly into the crowd. However, in a visit to the Male Recica site in August 1995, Human Rights Watch/Helsinki found no such evidence. OSCE observers reported seeing bullet holes five meters (approximately fifteen feet) up.

¹⁵²Public statement of the Macedonian Helsinki Committee for Human Rights, February 20, 1995.

The minister of internal affairs at the time, Ljubomir Frčkovski, told Human Rights Watch/Helsinki that he had “no clear evidence of excessive violence.”¹⁵³ Despite this, he said, three policemen have been removed from the force.

The political opposition has also complained of arbitrary arrests and mistreatment by police. On January 25, 1996, President of VMRO-DP, Bladimir Golubovski, announced that he and his son, Roman, had been arbitrarily arrested for a traffic violation and physically abused by police.¹⁵⁴ He claimed that the arrest was an attempt to hinder his campaigning efforts for the local elections that were taking place in Skopje. The Ministry of Internal Affairs disputed the charge and pressed charges against Roman Golubovski for assaulting a police officer.

The greatest victim of police violence, however, is the common criminal who doesn't have a political organization to voice his or her complaints. During interviews at Idrizovo prison, Macedonia's largest detention facility, some convicted criminals complained to Human Rights Watch/Helsinki about beatings in police stations. One woman said:

I was taken into the police station in Bit Pazaar and beaten by the police. Then I was threatened by the inspector. Never was I allowed a phone call or to get a lawyer.¹⁵⁵

Another prisoner said:

¹⁵³ *Ibid.*

¹⁵⁴ MILS News, Skopje, January 25, 1996.

¹⁵⁵ Human Rights Watch/Helsinki interview, Idrizovo prison, July 25, 1995.

I was at the police station a long time without a lawyer. The police beat me and put me in detention for a long time. After a while, I confessed because I was afraid.¹⁵⁶

¹⁵⁶Human Rights Watch/Helsinki interview, Idrizovo prison, July 25, 1995.

Another case was mentioned in the U.S. Department of State's annual report on human rights for 1995. According to the report, Jove Bojkovski claimed that he was abused, fired at and severely wounded during his detention in a police station in April 1995. The police reportedly admitted that Bojkovski was in custody at the time, but claim that the gunshot wound was self-inflicted.¹⁵⁷

PRISON CONDITIONS

The chief international human rights documents clearly affirm that human rights extend to persons who are incarcerated. Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights (ICCPR) prohibit torture, cruel, inhuman or degrading treatment or punishment without exception or derogation. Article 10 of the ICCPR goes on to mandate that: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Furthermore, several international documents elaborate on the specifics regarding the human rights of persons deprived of liberty, formulate guidance as to how governments should achieve compliance with their obligations under international human rights law, and provide an authoritative interpretation of the standards that are binding for governments. These include the United Nations Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment and the Basic Principles for the Treatment of Prisoners.

Macedonia currently has eight detention facilities, including one specially designated for detainees under the age of eighteen. In July 1995, there were 1,200 prisoners, 50 of whom are juveniles. Officials at the Ministry of Justice, which is responsible for the prison system, told Human Rights Watch/Helsinki that there had been substantive change since Macedonia's independence in 1991, to bring the prisons up to international standards. Branko Naumoski, Assistant Minister of Justice, said:

¹⁵⁷United States Department of State, *Country Reports on Human Rights for 1995*, Washington D.C. February 1996.

Prisoners may complain about the food or other conditions, but this is due to the economic conditions. Concerning their rights, there is no problem. We want to have everything in accordance with international standards to protect prisoners and their rights.¹⁵⁸

The Ministry of Justice allowed Human Rights Watch/Helsinki to visit Macedonia's largest detention facility, Idrizovo, located just outside Skopje's city limits. Officials at the prison were helpful; Human Rights Watch/Helsinki visited all areas of the facility and spoke to prisoners in private.

Idrizovo's 600 prisoners are divided into three security levels: low, middle and high. In general, the conditions seemed to conform with international standards. Prisoners had adequate space, were allowed to use the telephone and received newspapers and mail. Prisoners who spoke privately with Human Rights Watch/Helsinki said that there had been an improvement since 1991. Still, some prisoners complained about the poor quality and inadequate quantity of food. They did not complain about the use of violence by prison guards.

The major concern regarding conditions was the physical state of the maximum security building, a dilapidated structure built fifty years ago. Warden Ivan Cvetanovski told Human Rights Watch/Helsinki that the Minister of Justice had approved a new building, but the project was being held up due to lack of funds.¹⁵⁹

Some prisoners also expressed their concern that the prison did not separate criminals who had committed crimes of differing severity, thereby mixing murderers with petty thieves. International standards do not require the prison to separate prisoners based on the severity of the crimes, but do stipulate that a prisoner's physical safety and integrity must be protected.

¹⁵⁸Human Rights Watch/Helsinki interview with Assistant Minister Branko Naumoski, Skopje, July 21, 1995.

¹⁵⁹Human Rights Watch/Helsinki interview with Warden Ivan Cvetanovski, Idrizovo Prison, July 25, 1995.

The Idrizovo Riot

By far the most serious incident in Idrizovo was a prisoners' riot that occurred in March 1995. Prisoners who spoke with Human Rights Watch/Helsinki, journalists who visited the prison and members of the international diplomatic community all said that the police used excessive force when quashing the revolt.

According to Ministry of Justice and prison officials, a large group of prisoners occupied a building in the prison complex on the afternoon of March 23, 1995. Their main demand was allegedly to receive an amnesty.¹⁶⁰ Warden Ivan Cvetanovski told Human Rights Watch/Helsinki:

They climbed on the roof and broke things. They had knives and sticks and were waving a sign that said, "We Want Amnesty!" They were told that an amnesty cannot come this way and that they should write down their demands and delegate a committee to negotiate. They even had a chance to contact the television.

We negotiated for five days, while some of them stayed on the roof. Police then entered the building. On the morning of the 28th, police stormed the building and there was conflict. There were minor injuries, but nothing serious.¹⁶¹

Assistant Minister of Justice Branko Naumovski told Human Rights Watch/Helsinki:

No one was hurt badly - just some scratches. The prisoners had the possibility to capitulate before the police struck. I am confident that they were not hurt as much as they did damage.¹⁶²

¹⁶⁰Prisoners in Macedonia had already received two separate amnesties since independence in 1991; both reduced their sentences by 25 percent.

¹⁶¹Human Rights Watch/Helsinki interview with Ivan Cvetanovski, Idrizovo Prison, July 25, 1995.

¹⁶²Human Rights Watch/Helsinki interview with Assistant Minister Branko Naumovski, Skopje, July 21, 1995.

Interviews with prisoners, some of whom took part in the revolt, revealed a different account of the events. One prisoner told Human Rights Watch/Helsinki:

The violence was completely unnecessary. We didn't fight the guards, they attacked us. We were protesting against the conditions here.

The warden wanted to negotiate, but we wanted to stay on the roof. Then the Ministry of Interior intervened. The police entered the building and the prisoners didn't resist. The initiators were separated and some of them were beaten.¹⁶³

Another prisoner said:

We wanted our rights. We demanded better living conditions, like better food. But the police came and beat us. For one month afterwards we were beaten.¹⁶⁴

The Macedonian Helsinki Committee also commented on the unnecessary use of violence. In its annual report for 1995, the committee said:

[The prisoners] claimed it was not a matter of making a rebellion, but a strike. While it lasted, the prisoners were sitting on the roof of the prison building. The government decided to stifle the rebellion. After very brief negotiations, the prisoners decided to give up striking, but then the police began to use physical force. The whole event, with the pictures of brutal and unnecessary violence, was broadcast directly on the national television, thereby many saw the hidden message for a wider public.

Then Minister of Internal Affairs Ljubomir Frčkovski admitted that force had been used, but adamantly believed that the police action had been professional and appropriate. He told Human Rights Watch/Helsinki:

¹⁶³Human Rights Watch/Helsinki interview, Idrizovo prison, July 25, 1995.

¹⁶⁴Human Rights Watch/Helsinki interview, Idrizovo prison, July 25, 1995.

Idrizovo was a good job. There was not a single broken arm in the whole incident, only light injuries. In most cases of a revolt there is a tough response. But here there were not any serious injuries. Everything was videoed and journalists were present. Maybe that was a bit of a shock, but it was a useful shock.¹⁶⁵

Human Rights Watch/Helsinki recognizes that the use of force may be necessary when confronting a prison revolt. However, there is reason to believe that police forces used violence more than was required to bring the revolt under control. Allegations of abuse against participants after the revolt, presumed as a form of punishment, are especially troublesome. Human Rights Watch/Helsinki calls on the Ministry of Justice to undertake a thorough investigation into the incident to determine if the police forces acted in accordance with international law, which protects prisoners from unnecessary physical violence. Any individuals found guilty of violations should be held accountable before the law.

¹⁶⁵Human Rights Watch/Helsinki interview with former Minister of Internal Affairs Ljubomir Frčkovski, Ohrid, August 5, 1995.

VIII. THE POLITICAL PROCESS

The new constitution states that Macedonia is an independent republic rooted in democratic principles. The division of state powers, political pluralism and respect for human rights are all fundamental values enshrined in the constitutional order.¹⁶⁶

Despite this, the young country is still trying to overcome its legacy as a one-party, communist state. Many improvements have been made, but there are still cases when the ruling coalition utilized its control of the media, interfered in the judiciary or harassed the political opposition. All of these constitute violations of both Macedonian and international law.

FREE AND FAIR ELECTIONS

Macedonia has had two parliamentary elections since declaring its independence, one in 1991 and the other in 1994. Both resulted in victories for the Alliance for Macedonia, a coalition of the Social Democrats (successors to the Communist Party), the Liberal Party and the (ethnic Albanian) Party for Democratic Prosperity.¹⁶⁷

¹⁶⁶Constitution of the Republic of Macedonia, article 8.

¹⁶⁷The Liberal Party left the coalition in February 1996.

The second elections, however, occurred amid considerable controversy.¹⁶⁸ The main opposition party, the nationalist oriented VMRO-DPMNU, claimed that there were violations in the first round of voting, including altered voting lists and manipulation of voter registration. In protest, it boycotted the second round and is therefore not represented in parliament today.¹⁶⁹

Representatives of the minority groups, most notably the Albanians, complained about disproportional districting that diluted the ethnic vote. Macedonia's restrictive citizenship law, they claimed, also left many ethnic Albanians without the right to vote.

¹⁶⁸Two members of the electoral commission, Raphael Cherepnalkouski and Stavre Džikov, resigned to protest what they viewed as irregularities.

¹⁶⁹Voter turn-out in the second round of the elections was 57.52 percent, compared to 77.76 percent in the first round. VMRO-DPMNU declared the elections invalid and stated that the decisions of the new parliament are void.

Lastly, there were complaints that the state-run media did not provide objective coverage during the campaign period. Opposition parties claimed they did not have equal access to state television and radio and that coverage was slanted in favor of the incumbent Alliance for Macedonia.¹⁷⁰

Despite this, the elections were declared free and fair by the Council of Europe. Monitors announced that there had been some voting irregularities, but concluded that the elections had been "a significant step towards democracy."¹⁷¹ One member of the delegation dissented with the council's opinion, citing government control of the media, the altered electoral lists and the lack of secret ballots.¹⁷²

According to the opposition party VMRO-DPMNU, government manipulation of the voting lists severely affected the outcome of the vote. Boris Trajkovski, VMRO's special advisor on foreign affairs, told Human Rights Watch/Helsinki:

One person would be on the voter registration list twenty or thirty times. I, for example, was on the list two times, once in Strumica and once in Skopje. I left Strumica twenty years ago, but I'm still on the list. Also, the voting lists should have been made public

¹⁷⁰Many journalists also told Human Rights Watch/Helsinki that the state media's coverage of the elections was biased in favor of the government.

¹⁷¹"Council of Europe Information Report on the Elections in the Former Yugoslav Republic of Macedonia," December 15, 1994. Doc. 7205, Addendum I, p. 8.

¹⁷²*Ibid*, p. 15.

eight days before the election. But they came out the day before.¹⁷³

¹⁷³Human Rights Watch/Helsinki interview with Boris Trajkovski, Skopje, July 21, 1995.

Dosta Dimovska, Vice-President of VMRO-DPMNU, mentioned voting district 108, polling station 30, as an example of voter list manipulation. Located in the Kisela Voda district of Skopje, the district was won by VMRO in 1990. At that time, she claimed, there were 1,300 people on the voter list. In 1994, she said, there were only nineteen, although Human Rights Watch/Helsinki was not able to confirm her numbers.¹⁷⁴

Dimovska told Human Rights Watch/Helsinki that VMRO organized a 50,000 person demonstration in Skopje on October 19 to protest the voting irregularities. The police were present, but no incidents occurred. VMRO then organized a parallel election, in which, they claim, 500,000 people participated. A candidate for the party from Ohrid, Lambo Arnaudov, was allegedly held by police for four hours and then released after a protest from European Union monitors.¹⁷⁵ Some party supporters, Dimovska claimed, were also arrested in the village of Lisische, and some youth activists for the party were detained by the police in Skopje and beaten.

Human Rights Watch/Helsinki was not able to verify all of these claims. However, an official from the Organization for Security and Cooperation in Europe confirmed that a group of ten VMRO activists had been detained for unknown reasons by the police shortly after the first round of the elections. The OSCE mission in Skopje called the Ministry of Internal Affairs and urged their release, which was granted shortly thereafter.¹⁷⁶

¹⁷⁴Human Rights Watch/Helsinki interview with Dosta Dimovska, Skopje July 21, 1995.

¹⁷⁵Luchozar Toshev, a member of the Council of Europe delegation monitoring the elections, also mentioned Arnaudov's detention in his dissenting opinion on the Council's election report. Council of Europe Election Report, Appendix IV.

¹⁷⁶Human Rights Watch/Helsinki interview, Skopje, August 9, 1995.

Human Rights Watch/Helsinki also heard credible reports that some polling stations were closed suddenly on election day in areas inhabited primarily by VMRO supporters. Some voters allegedly had to travel by foot up to ten miles to reach the nearest polling station.

In December 1995 a special election was held in voting district 114 to fill a vacant spot in parliament. The voting had to be conducted three times due to violations. First the MAAK-Conservative Party alleged that 2,000 phantom names had been put on the electoral list. Then VMRO-DPMNU complained that two unidentified groups had visited voters in the communities of Nikola Karev, Dame Gruev and Jane Sandanski to tell them that the VMRO-DPMNU candidate, Vladimir Golubovski, was no longer running. After the third voting round, Golubovski complained that he and his son had been arbitrarily detained by police and were physically abused in custody.¹⁷⁷ In the end, the election was won by Andi Bajram from the Party for the Complete Emancipation of Roma.

Human Rights Watch/Helsinki is not in a position to determine whether the 1994 parliamentary elections or subsequent elections truly were free and fair. However, based on interviews and research conducted in Macedonia, it seems that there were enough procedural violations to merit a thorough investigation into the electoral process. As of May 1996, the government had not yet undertaken such an examination. There have also been no attempts by the government to correct the clearly disproportionate voting districts that violate the one person-one vote principle, possibly at the expense of the country's ethnic minorities.

HARASSMENT OF THE POLITICAL OPPOSITION

Since 1991, the nationalist opposition party VMRO-DPMNU has complained of harassment by the Macedonian government. Dosta Dimovska told Human Rights Watch/Helsinki:

The government is using all measures to marginalize us. Mainly they use the media. But also our members are routinely harassed. I got an anonymous call this morning telling me that I would be raped and killed. It happens often.¹⁷⁸

¹⁷⁷See section on the excessive use of force by police.

¹⁷⁸Human Rights Watch/Helsinki interview with Dosta Dimovska, Skopje, July 21, 1995.

VMRO officials also complained to Human Rights Watch/Helsinki about listening devices in personal and office telephones, as well as infiltrations into the organization by the secret police that, they claim, are intended to damage the party. Human Rights Watch/Helsinki was not able to confirm these allegations. After the assassination attempt on President Gligorov in October 1995, a number of VMRO-DPMNU activists were arbitrarily detained in connection with the investigation.

Political organizations claiming to represent Macedonians with a Bulgarian identity have also complained of harassment by the state. According to Vladimir Paunkovski, central committee member of the Internal Macedonian Revolutionary Organization-Union of Macedonian Societies (IMRO-UMS), the government refused to recognize IMRO-UMS as an organization, even though they had submitted all of the necessary documents. He reported various forms of harassment, culminating in his alleged detention by officers of the secret police from October 25 - October 29, 1995, when he wanted to attend a Slavic studies conference in Austria. Human Rights Watch/Helsinki has not verified any of Paunkovski's claims.

Human Rights Watch/Helsinki also received reports of harassment from the Party for Human Rights, another organization claiming to represent ethnic Bulgarians in Macedonia. Allegedly, the party was banned and its leader, Ilija Ilievski, had books confiscated on the Macedonian-Bulgarian border. Human Rights Watch/Helsinki had not verified any claims made by IMRO-UMS or the Party for Human Rights.

IX. ROLE OF THE INTERNATIONAL COMMUNITY

The international community's response to potential conflict in Macedonia has been markedly different from its work in other parts of the world, especially the other republics of the former Yugoslavia. Aware of Macedonia's sensitive geopolitical position in the southern Balkans, the United Nations deployed a preventive force in advance of violent conflict in order to deter the possibility of war. Other organizations, such as the Organization for Security and Cooperation in Europe (OSCE) and the United Nations Conference on Former Yugoslavia, have also worked closely with the Macedonian government and ethnic groups in the country to prevent a spill-over of the war that has ravaged Bosnia and Croatia.

Governments realized that, unlike in Bosnia, fighting in Macedonia could not easily be contained. With its four international borders and overlapping ethnic groups, there is a great danger that conflict in Macedonia could spin out of control, drawing in Serbia, Albania, Bulgaria, Greece and Turkey.

Faced with this nightmare scenario, the international community initiated a broad array of preventive measures, both through established institutions and behind-the-scenes diplomacy. The stated goal has always been to preserve Macedonia's territorial integrity and regional stability.

Thus far, both have been achieved. Despite adverse conditions, Macedonia has avoided the violent conflict that destroyed so much of the former Yugoslavia. However, in an attempt to preserve the status quo, the international community has tended to downplay the violations of human rights that occur in Macedonia. Very little criticism is directed against a Macedonian government that is seen as a stabilizing force. A European diplomat familiar with the OSCE mission in Macedonia told Human Rights Watch/Helsinki:

The OSCE is not writing all of the truth. There is no parliament here, no formal political parties, and there are human rights violations. There is no real democracy, and there is a certain

domination by the [ethnic] Macedonians. But the OSCE can't write that because it makes the situation unstable.¹⁷⁹

Certainly, long-term stability is a noble goal. However, human rights violations should not be tolerated in order to achieve it. A lasting peace can only take root when there is the institutionalization of democratic norms that guarantee full respect for human rights.

THE UNITED NATIONS

¹⁷⁹Human Rights Watch/Helsinki interview, Skopje, August 9, 1995.

Following a request from President Kiro Gligorov, the U.N. Security Council authorized the full deployment of a U.N. Protection Force (UNPROFOR) to the Former Yugoslav Republic of Macedonia on December 11, 1992.¹⁸⁰ The governments of Sweden, Norway and Finland committed 700 troops; the U.S. agreed to send an additional 300 troops six months thereafter. As of April 1996, there were 1,120 peacekeeping soldiers in the country, 549 of whom were American.

The purpose of UNPROFOR, later renamed the Preventive Deployment Force (UNPREDEP)¹⁸¹, is to prevent the spread of the war. The message was particularly intended for Serbia, which had not yet recognized the independent Macedonian state and, on occasion, had sent soldiers into Macedonian territory along the border. There was also concern that the conflict in Kosovo between Albanians and Serbs could erupt and spill over into Macedonia. Such a move would severely affect inter-ethnic relations in Macedonia, as well as provide a possible pretext for a Serbian intervention. Finally, there had been a number of confirmed killings along the Macedonian-Albanian border, usually police efforts to stop smugglers, that were damaging relations between Skopje and Tirana.

The mission's primary work was, and still is, to monitor Macedonia's border with Albania and Serbia. Soldiers are deployed at strategic locations to observe and report on actions that threaten the country's territorial integrity.

In addition, the U.N. mission deals with Macedonia's internal threats to stability, particularly its fragile inter-ethnic relations. Civil affairs officers maintain regular contact with government officials and leaders of the ethnic communities and facilitate a dialogue among them. In general, the U.N. mission encourages moderate

¹⁸⁰U.N. Security Council Resolution 795.

¹⁸¹In March 1995, UNPROFOR was divided up into three parts: UNPROFOR, UNCRO and UNPREDEP to deal with Bosnia, Croatia and Macedonia respectively. UNPREDEP's mandate did not change, although it now reports directly to U.N. headquarters in New York.

elements on all sides to work within parliamentary structures and maintain open lines of communication

Finally, UNPREDEP acts as a liaison between the Macedonian government and the leadership of the former Yugoslavia in Belgrade. It also helps to coordinate the work of the many organizations active in the country, such as the OSCE, International Red Cross and MACSAM, the EU team that monitored the U.N. sanctions.

The Macedonian government, leaders of the ethnic groups and public opinion are all appreciative of the role UNPREDEP has played in protecting the country from outside aggression. There is almost universal agreement that the U.N.'s presence has helped to deter potential aggressors. On a couple of occasions, UNPREDEP also helped settle border disputes between Macedonia and Serbia that could have become more serious.¹⁸²

Regarding the U.N.'s work on domestic issues, opinions are more diverse, but generally of a positive nature. Both the government and leaders of the ethnic groups believe that UNPREDEP helped avoid potential violence and created a space for dialogue.

In a few instances, UNPREDEP soldiers and officials intervened at potentially explosive scenes to calm the situation. When the police tore down two illegal schools established by ethnic Turks in the region of Zhupa, for example, UNPREDEP showed up to investigate the situation and act as a liaison between the organizers and the police. Similarly, UNPREDEP soldiers and members of the U.N. civilian police arrived in the village of Batinice on June 20, 1995, when the police wanted to tear down a mosque that didn't have the proper building permit. The mayor of the village told Human Rights Watch/Helsinki:

UNPREDEP came, along with Ukrainian and Dutch civilian police. The commander of UNPREDEP came at 11:00. He gave

¹⁸²The Serbs and Macedonians disagree on the actual location of their common border, which, until 1991, was just an inner-state boundary.

me his card and said that I should contact him for anything. The [Macedonian] police didn't come back.¹⁸³

The U.N. also runs a civilian police force, which is supposed to monitor the work of the local police, especially with regard to human rights. Members of the force told Human Rights Watch/Helsinki that there have been violations, especially regarding the treatment of detainees during the first twenty-four hour period of detention. Often, however, the U.N. has been denied access to investigate the case. Adam Kuna, sector chief of the civilian police, told Human Rights Watch/Helsinki:

¹⁸³Human Rights Watch/Helsinki interview with Azem Sejdiu, Batinici, July 17, 1995.

Because of our mandate, it is not so easy to collect proof and to clearly state that the police violated the law... We can not investigate, we can only look at their investigation. And we are rarely informed in proper time. We find out about cases much later.¹⁸⁴

To investigate human rights abuses, the U.N. also has a field office of the Center for Human Rights in Skopje. Its findings are reported to the U.N.'s special rapporteur for human rights in the former Yugoslavia. Periodic reports appear in which the rapporteur highlights the areas of particular concern. In Macedonia, this has focussed on police abuse, minority rights and legal guarantees to ensure an independent judiciary and the rule of law.

ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE)

The OSCE deployed a spill-over mission in Macedonia in September 1992. The eight-member mission is mandated to monitor internal developments, promote stability and prevent possible conflict in the region. Specifically, the mission maintains regular contact with all political actors, such as government officials, leaders of the ethnic communities, nongovernmental organizations and the media, facilitates the work of international organizations working in the country and investigates specific complaints regarding political grievances and violations of human rights. In a way, the mission acts as an kind of international ombudsman where individuals and groups can register their complaints. The mission reports its findings to its headquarters in Vienna and to the local authorities.

When needed, the mission mediates to help solve disputes, such as during the university crisis in Tetovo or the 1994 parliamentary elections. Deputy Head of the mission, General Giorgio Blais, told Human Rights Watch/Helsinki:

¹⁸⁴Human Rights Watch/Helsinki interview with Adam Kuna, Skopje, August 10, 1995.

We tried to mediate, I should say unsuccessfully, in Tetovo. We tried to convince [rector of the university] Sulejmani not to be so strong in his position. We observed the events and tried to calm the police. We have no tools, so we just tried to mediate.¹⁸⁵

On other occasions, the OSCE has helped convince the government or leaders of the ethnic communities to take a more moderate approach. For example, an intervention by the mission helped convince the government to release ten VMRO party members who had been detained on the second day of the 1994 elections. The mission also helped persuade the Party for Democratic Prosperity not to withdraw from the government on a number of occasions.

The mission actively monitors developments that affect human rights, such as important trials, new legislation and issues related to minority rights. Members of the mission told Human Rights Watch/Helsinki that they have some success in correcting individual human rights violations, like specific instances of police abuse, but are less successful when it comes to larger issues, such as minority rights policy.

Partially the OSCE is successful in deterring human rights violations simply because, as one OSCE mission member put it, "they know that we know."¹⁸⁶ On occasion, however, the mission has taken a more direct approach, such as during the trial of the ten ethnic Albanians accused of organizing a para-military organization. During the trial, the mission sent the government a list of concerns about the lack of due process and the defendants' right to a fair trial. (See section on the Albanian minority.)

A fundamental problem with the OSCE mission is that it is in Macedonia at the invitation of the government. Technically, the government can revoke the mission's mandate within fifteen days. Thus, the mission's reporting may be

¹⁸⁵Human Rights Watch/Helsinki interview with General Giorgio Blais, Skopje, August 9, 1995.

¹⁸⁶Human Rights Watch/Helsinki interview with OSCE mission member, Skopje, August 7, 1995.

tempered by its need to survive. All of the mission's reports make their way back to the Macedonian government. Human Rights Watch/Helsinki heard that, on occasion, the government has complained directly to the mission that their reporting was "hurting Macedonia's image."

A larger problem, however, is that the OSCE's reporting must be in conjunction with the larger policy aims of the international community, that is, to maintain stability. A diplomat in Skopje told Human Rights Watch/Helsinki:

The mission must preserve stability, which means the status quo.

The current head of the mission thinks that Macedonia must enter the Council of Europe, and OSCE reporting should not hurt that.¹⁸⁷

Despite this, representatives of the minority groups are generally satisfied with the OSCE mission as a place where they can lodge their grievances. There is a general opinion that greater violations of minority rights would take place if the mission were not present.

Regarding minority rights, the OSCE is also involved through the work of Max van der Stoep, the OSCE's high commissioner for minority rights. Van der Stoep's office has undertaken a number of trips to Macedonia to investigate the status of minority rights and regularly makes suggestions to all sides on ways to improve the situation.

¹⁸⁷Macedonia became a member of the Council of Europe in November 1995. Human Rights Watch/Helsinki interview, Skopje, August 1995.

X. UNITED STATES GOVERNMENT POLICY

Since 1991, the United States has placed great emphasis on maintaining stability in Macedonia. U.S. policymakers understood that, unlike in isolated Bosnia, conflict in Macedonia could easily ignite the region.

The most visible sign of U.S. support is the approximately 550 U.S. soldiers currently participating in the United Nations Preventive Deployment Forces (UNPREDEP). In addition, U.S. aid to the Macedonian government totals approximately U.S. \$25 million a year.¹⁸⁸ According to Minister of Defense Blagoj Handziski, the United States has provided Macedonia with U.S. \$2.5 million for international military training and education of senior officers.¹⁸⁹

In November 1995 Macedonia became a member of NATO's Partnership for Peace. Since then, Macedonia and the United States have exchanged numerous military delegations and participated in joint military exercises under the program "Bridge to America." The Macedonian military is cooperating closely with the National Guard from the U.S. state of Vermont.

At times, however, U.S. support for Macedonia has been limited due to protests from Greece. Greece imposed its trade embargo on Macedonia just days after the U.S. announced its decision to open a liaison office in 1992. Full diplomatic ties between the U.S. and Macedonia were not established until late 1995, when Macedonia and Greece signed an interim accord that lifted the embargo

¹⁸⁸Human Rights Watch/Helsinki interview with Victor Camras, Chief of Mission, United States Liaison Office, Skopje, July 18, 1995.

¹⁸⁹*Nova Makedonja*, December 12, 1995.

in return for a change of the Macedonian flag. A U.S. mediator was active in negotiations between the two sides. The first American ambassador to Macedonia, Christopher Hill, was named by President Clinton in March 1996 and is still awaiting congressional approval.

APPENDIX: Human Rights Watch/Helsinki Policy Statement on Citizenship Legislation in the Republics of the Former Socialist Federal Republic of Yugoslavia (SFRJ)

This policy statement addresses the effects of new citizenship laws on the rights of only those individuals who resided in a republic of the the former SFRJ at the time of each republic's independence, and not the rights of new immigrants (i.e., people who applied for citizenship after the republic's declarations of independence or after the dissolution of the SFRJ).

We believe that principles of international human rights must be used to evaluate the proposed citizenship laws. This policy statement identifies some of the considerations that we urge all ex-republics to take into account in fashioning their laws.

A. General Considerations

1. Applicability of International Human Rights Law in All Republics Formerly Part of the SFRJ

The requirements of customary international human rights law are fully in force with the effect of law in the republics of the former SFRJ. In addition, the SFRJ had ratified and accepted many of the major human rights treaties and other international documents. Croatia, Bosnia-Herzegovina, Slovenia and Macedonia have either expressly acceded to most international human rights documents or have acknowledged their applicability. The same states also have formally accepted the OSCE human rights agreements.

On April 27, 1992, the former SFRJ republics of Serbia and Montenegro joined to form a rump Yugoslav state, the Federal Republic of Yugoslavia (FRY), but it remains largely unrecognized by the international community. Nevertheless, the FRY has expressed its wish to be recognized as the successor state to the SFRJ and thereby retain membership in international organizations. Such a statement also implies that the FRY is willing to accede to international agreements to which the former SFRJ was a party. Therefore, for the purposes of this policy statement, all international obligations assumed by the former SFRJ will be transferred to the FRY.

2. The Need to Strengthen Rather Than Diminish Protection of Human Rights in the Republics of the Former SFRJ

It is a moral, political, and legal obligation of each of the republics of the former SFRJ to protect human rights within its territory. In no event should the establishment of independence serve as a pretext for cutting back on the rights to which former citizens of the former SFRJ are entitled under international human rights law.

3. The Obligation to Ensure Protection of the Rights of All Persons Subject to Governmental Authority, Whether or Not They Are Formally "Citizens"

Most aspects of international human rights law apply to "everyone" or to "all persons," regardless of citizenship or nationality. A government's obligations do not end with ensuring the rights of only its citizens.

4. The Obligation to Minimize Statelessness

Because citizenship is the principal mechanism through which people take part in governmental affairs, it is incumbent on the former republics to develop and implement their citizenship laws in a manner that avoids rendering individuals stateless. We therefore urge the new states of the former SFRJ to ratify the 1961 Convention Relating to the Status of Stateless Persons.¹⁹⁰

5. Obligations With Respect to Persons Who May Also Have Links to Another State or Republic

Avoidance of statelessness does not exhaust the responsibilities of the new states with respect to persons who may have links to more than one republic or state. If proposed citizenship legislation would adversely affect an individual's human rights, objection on human rights grounds is warranted even if he or she qualifies for citizenship (or another status such as permanent residence or asylum) in another state.

6. Prohibition of Arbitrary Deprivation of Citizenship

Under Article 15 of the International Covenant, a person may not be arbitrarily deprived of citizenship (nationality).

¹⁹⁰ Croatia is a party to the Convention.

B. Specific Considerations

1. Claims Based on Duration of Residence and Reasonable Expectations

In the context of the dissolution of the SFRJ, claims based on a reasonable expectation of continuing residence deserve special attention. Disrupting expected residence may impose serious hardships on individuals whose jobs, families, and other relationships depend upon being able to continue living where they have been living. International human rights principles safeguard the reasonable expectations of individuals who, as citizens of the former SRFJ, have been living in one of the former republics that has now established independence. The rights of those individuals to continue in their habitual residence should not be impaired because of political changes in the world around them.

Two sets of citizenship requirements would therefore be preferable: one applicable to people who settled in the former republic before the establishment of independence and one applicable to those migrating to it thereafter. This arrangement prevents imposing a hardship on those residents who could not have reasonably foreseen a change in their legal status.

Persons with established ties of residence to a former republic should be presumptively eligible for citizenship in the state the republic has become, whether or not other criteria for citizenship (such as *jus soli* or *jus sanguinis*¹⁹¹) would be

¹⁹¹ Under the principle of *jus soli*, one gains citizenship by dint of being born on the territory of a country. U.S. citizenship is based on the principle of *jus soli*. The child of a non-citizen born in the U.S. automatically becomes a citizen.

Jus sanguinis is the principle by which one acquires citizenship through, literally,

met. Accordingly, Human Rights Watch/Helsinki opposes any proposed citizenship laws that mandate excessively long periods of residence or other restrictive conditions as a qualification for citizenship for persons who were citizens of the SFRJ with a settled place of residence in the former republic at the time of independence.

Persons with a reasonable expectation of continued residence who do not elect or qualify for citizenship of that state should be allowed to remain in their place of habitual residence in any event, and to return there after temporary absences. Human Rights Watch/Helsinki opposes any bills or laws that require involuntary change of residence, whether or not the affected persons are "citizens."

2. Claims Based on Family Ties

International human rights law, e.g. Article 23 of the International Covenant on Civil and Political Rights, protects the family as a social unit and the right of persons to marry and found a family. Proposals that give greater weight to an individual's ancestry or ethnicity than to his or her present circumstances could disrupt family life by allocating citizenship entitlement to one but not both spouses, to a child and one parent but not to the other parent, or on other similarly arbitrary lines. For the reasons previously suggested, political changes extraneous to an existing family unit should not impair the rights or expectations of the members of that unit. Accordingly, Human Rights Watch/Helsinki opposes citizenship proposals that would have the effect of arbitrarily dividing a family into citizens and non-citizens.

"blood." One is considered a citizen of country X if his or her parents were also citizens of country X. The German, and many European, systems of granting citizenship are based on the principle of *jus sanguinis*. For example, a child of Turkish migrant workers born in Berlin does not automatically acquire German citizenship. However, an ethnic German born in Russia is automatically considered a German citizen even if his or her ancestors left Germany two hundred years earlier.

3. Proposed Disqualifications on Grounds Such as Medical Needs, Criminal Status or Political Affiliation

Certain citizenship proposals deny eligibility for citizenship in a country to persons who have been convicted of a crime or who were under criminal prosecution, have received treatment for alcoholism or drug addiction, or who belong or have belonged to certain political groups such as the Communist Party apparatus.

a. Denying citizenship to previously convicted criminals effectively adds an additional, *ex post facto*, and heavier penalty to the convicted person's punishment. Imposing penalties heavier than those that applied at the time a crime was committed violates Article 15 of the ICCPR.

b. Excluding persons who have received treatment for alcoholism or drug addiction is a cruel punishment that would discourage people from seeking needed treatment. Article 7 of the ICCPR, which prohibits "inhumane or degrading treatment or punishment," protects individuals against this exclusion. Denying citizenship on these grounds creates a new penalty that represents an attempt to criminalize an individual's past act of having registered at a clinic for substance abuse. Finally, it creates categories of people who are targets of discrimination on the basis of status or state of being that is beyond their control. This kind of discrimination is forbidden by Article 26 of the ICCPR.

c. Excluding categorically persons who worked for the Yugoslav Army (JNA), the League of Communists or any other institution, on the grounds that they perpetrated grave abuses of human rights, collectively punishes individuals and violates the ICCPR's Article 22 (on freedom of association). Before such a person is denied citizenship, he or she should be *individually* proven culpable in a court of law for specific crimes that were outlawed at the time of the acts in question. The record of each citizenship applicant should be judged individually, with the appropriate recourse to judicial institutions.

Even though similar political and medical tests are or have been used as criteria for immigration or naturalization eligibility in various countries (including the United States), Human Rights Watch/Helsinki believes that a fundamentally different situation is presented when such criteria are applied not to determine eligibility for admission of new entrants into a given state, but rather to determine how citizenship entitlements should be allocated when an existing state (such as the

SFRJ) fragments into smaller units. Persons falling into the above medical, political, or similar categories were already citizens of the SFRJ; by virtue of falling into these categories, they could not have been involuntarily expatriated by the SFRJ. They should not be worse off by virtue of political developments occurring in the territory of the former SFRJ.

Human Rights Watch/Helsinki opposes eligibility tests such as those suggested above, to the extent that they are applied to deny citizenship to persons whose ties with the former republics would otherwise qualify them for citizenship.¹⁹²

¹⁹² Because different equitable considerations are at issue, this policy statement does not address whether any of the above criteria would be legitimate if applied to admission of new entrants (i.e., to immigrants, or to naturalization of persons who would not otherwise qualify for citizenship).