

RUSSIA / CHECHNYA

Report to the 1996 OSCE Review Conference

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SUMMARY

The August 31, 1996 Khasavyurt agreements, which brought a fragile peace to Russia's breakaway republic of Chechnya, have put at least a temporary end to the most hideous violations of human rights and humanitarian law committed in Russia since the break-up of the Soviet Union. However, the legacy of abuse in Chechnya lingers: more than 1,400 Chechens and 1,900 Russian troops remain missing; mass graves contain unidentified bodies; bartering for individuals continues in spite of an "all for all" prisoner exchange envisaged in the Khasavyurt agreements; land mines pose a constant threat to civilians; and the complete failure — especially on the part of Russian forces — to hold accountable those responsible for crimes against civilians in the short run deepens an already profound Chechen mistrust of the Russian government, and in the long run will jeopardize a lasting peace. Steps can and must be taken now to guarantee that the new government of Chechnya will respect the basic rights of individuals.

Human Rights Watch/Helsinki submits this report to the 1996 Organization for Security and Cooperation in Europe (OSCE) Review Conference for two principal reasons. First, we wish to draw attention to the failure of both the Russian and Chechen sides to fully comply with the provisions of the Code of Military Conduct (hereinafter "Code of Conduct"). We note that the Code was adopted by the OSCE before the war in Chechnya broke out in December 1994. Second, we wish to provide an updated overview of current human rights and humanitarian law violations in Chechnya based on documentation from a joint Human Rights Watch/Helsinki - Memorial field investigation from October 11 to 22, 1996, in which two of our representatives traveled throughout the republic. These fresh findings reinvigorate our call for the OSCE immediately to adopt and implement measures to improve human rights conditions in Chechnya and inspire additional recommendations for action to be taken now and during the December Lisbon summit.

Human Rights Watch/Helsinki takes no position on the question of Chechnya's independence. Our sole concern lies with the protection of civilians and respect for human rights and humanitarian law. We refer to the area as Chechnya, rather than the Chechen Republic or the Chechen Republic of Ichkeria as a matter of principle to avoid the issue of Chechnya's sovereignty.

In establishing the Assistance Group in Grozny, the OSCE made an important contribution to seeking an end to human rights violations in Chechnya. In 1995 the Assistance Group worked tirelessly to facilitate negotiations; in 1996, the group spoke out frequently and sharply against abusive conduct in the Chechnya war, including in a valuable March 25 report on human rights violations. Assistance Group head Tim Guldemann, undaunted by repeated calls for his removal by Russian politicians and commanders, publicly raised concerns about such abuse on numerous occasions. To our great disappointment, however, the Permanent Council of the OSCE made no noticeable effort to pressure Russia on accountability for humanitarian law violations, squandering the unique influence the OSCE enjoys as the only intergovernmental organization with a mandate in Chechnya.

RECOMMENDATIONS

Human Rights Watch/Helsinki urges the OSCE Assistance Group to:

- assign at least one Assistance Group member exclusively with responsibility for human rights;
- condemn the practice of hostage-taking and "bargaining" through the exploitation of detainees; and seek satisfactory responses from the Chechen command on cases as they come to light;
- insist that both sides unilaterally release all prisoners and hostages as a matter of principle and not based on reciprocity;
- contract a team of international forensic experts to assist Russian state forensic experts in exhuming mass graves and identifying the contents;

- as a matter of priority, travel extensively in northern Chechnya to examine claims of political persecution against those who opposed the Dudayev independence movement and the current government;
- as a matter of priority, call on the Chechen side to be responsive to the security needs of non-Chechens in Chechnya;
- initiate a visit by international mine removal experts to work with the OSCE's Joint Commission to conduct a comprehensive survey of mines locations; and
- produce a mines awareness brochure and distribute it widely throughout Chechnya in Russian and Chechan translation, especially in rural areas.

Human Rights Watch/Helsinki urges the Office of Democratic Institutions and Human Rights of the OSCE to:

- dispatch a mission as soon as possible to facilitate conditions for free and fair elections, including:
 - means to register voters;
 - possibility for free distribution of information concerning candidates and exchange of views on a range of political issues;
 - examination of claims of political persecution against supporters of the Doku Zavgayev government; and
- conduct training seminars for the Chechen Procuracy and Ministry of the Interior (MVD) on :
 - police recruitment, focusing on the importance of screening out police recruits who were formerly combatants and who violated humanitarian law;
 - civil rights and law enforcement; and
 - international human rights instruments (including the Helsinki Final Act, U.N. conventions, European conventions, and their application in post-war Chechnya. Such seminars should envisage *in situ* follow up by ODIHR or other OSCE bodies.

Human Rights Watch/Helsinki urges the OSCE Permanent Council to:

- demand unfettered ICRC access to those forcibly detained throughout Russia, including within Chechnya, in relation to the war in Chechnya (this will require that Chechen investigative organs receive unrestricted access to Russian bases at Khankala and Severnyi) and to remaining Russian bases throughout Chechnya to monitor conditions in detention, search for the missing, and hold abusers legally accountable;
- demand compliance with point 12 of the October 3 Chernomyrdin-Yandarbiyev agreement, which allows both sides access to mass graves;
- urge the Russian side to facilitate an earnest search throughout the Russian Federation by the criminal justice system for those missing as a result of the war in Chechnya, since past efforts have proven inadequate;
- in accordance with paragraphs 30 and 31 of the OSCE Code of Military Conduct, call on the authorities of both sides to hold accountable those who have caused human rights violations in Chechnya. Those guilty of intentionally or indiscriminately killing civilians, illegally detaining and beating civilians or committing other violations of international humanitarian law must be brought to justice;
- oppose an amnesty that would apply to human rights violators, as this would contradict OSCE standards on individual accountability;

- in accordance with paragraph 38 of the Code of Conduct, request that the Russian government provide a full accounting of the mechanisms available in Russia to implement the accountability required under paragraphs 30 - 31 of the Code of Conduct;
- in accordance with paragraph 38 of the Code of Conduct, request from the Russian government a full account of the initiatives it has undertaken to document, investigate, and prosecute violations of human rights and humanitarian law in Chechnya;
- appoint a high-ranking international lawyer as its envoy, independent of the Assistance Group, to monitor and report on the progress of Russian and Chechen authorities to bring about individual accountability. The OSCE envoy should be stationed in Moscow and work closely with Russian authorities in documenting violations of human rights and humanitarian law in the Chechen conflict and in overseeing legal and disciplinary measures. He or she should report regularly to the OSCE Permanent Council on the progress of implementing paragraphs 30 and 31 of the Code of Conduct; and
- ensure that all trials conducted in relations to the Chechnya war be adjudicated before an independent tribunal and with scrupulous respect for international standards of due process.

BACKGROUND

Twenty months of war devastated the Russian Federation's republic of Chechnya, killing between 18,500 and 80,000 civilians — between 1.6 and 7.3 percent of the republic's pre-war population of 1.1 million. A reported 3,826 Russian troops were killed, 17,892 were wounded and 1,906 are still missing in action.¹ In addition, 1,432 Chechens, remain missing.² From the very beginning, the war was characterized by massive, appalling violations of humanitarian law. The Russian side indiscriminately and disproportionately shelled and bombed civilian areas³; directly attacked civilians during hostilities and during peacetime;⁴ systematically detained males upon leaving villages for filtering⁵ and tortured or otherwise mistreated these detainees;⁶ used civilians as barter in exchange for servicemen; and in isolated incidents used civilians as human shields⁷. The Chechen side relied on massive hostage-taking as a military strategy,

¹According to Gen. Alexander Lebed, Associated Press, October 3, 1996 - 9:26 a.m. EDT.

² Human Rights Watch/Helsinki interview with Khussein Khamidov, Victims of War, Grozny October 17, 1996.

³ See, Human Rights Watch/Helsinki, *Russia's War in Chechnya: Victims Speak Out*, Vol. 7, No.1 (January 1995); *Russia's War in Chechnya, New Report from the Field*, Vol.7, No. 2 (January 1995); *Three Months of War in Chechnya* Vol. 7, No. 3 March 1995); *Russia: Partisan War on the Eve of the WWII Commemoration* Vol. 7, No. 8 (May 1995), and *Caught in the Crossfire: Civilians in Gudermes and Pervomaiskoe*, Vol. 8, No. 3 (D) (March 1996).

⁴ See, for example, Memorial Human Rights Center, *By All Available Means: The Russian Federation Ministry of Internal Affairs Operation in the Village of Samashki: April 7-8, 1995*, Moscow, 1996

⁵Filtering - the process by which Chechen males are detained in order to ascertain whether they are fighters and to gather intelligence on the Chechen military.

⁶ See, Memorial Human Rights Center, *Conditions in Detention in Chechen Republic Conflict Zone. Treatment of Detainees*, Moscow, 1995.

⁷ See Memorial Human Rights Center, *The Seizure of Hostages and the Use of Civil Population by Federal Troops of Russia as a "Human Shield" During the Armed Conflict in Chechnya* Moscow, September 1996,

instigated military hostilities in areas full of civilians;⁸ in isolated incidents summarily executed prisoners; and used civilian objects as cover for defensive and offensive positions.

Previous cease-fire agreements — in July 1995, following the Budyennovsk hostage raid and in June 1996, on the eve of presidential elections in Russia — collapsed soon after they were signed. The Khasavyurt agreements, signed on August 30 after intense fighting in Grozny, are more comprehensive than, and have so far outlasted, their predecessors. Under the agreements, all but about 10,000 to 15,000 of the 55,000 Russian troops deployed in Chechnya have been withdrawn; those remaining are mostly the 101st and 205th Brigades, whose continued deployment, mostly in Grozny, the Chechen side categorically rejects. Notably, the agreements also called for an “all for all” exchange of those forcibly detained, provided for joint Russian-Chechen command points (hereinafter, joint *kommandaturas*, after the Russian word) to carry out law enforcement functions, and the establishment of a Russian-Chechen United Commission (hereinafter, the United Commission), a political body charged with resolving a range of socio-economic issues, among them, restoring economic relations between Moscow and Chechnya, fighting crime, and post-war reconstruction.

The Khasavyurt agreements postponed a final decision on the legal status of Chechnya until December 31, 2001. Members of the pro-Moscow government, led by Doku Zavgayev, no longer hold public office, but most other government personnel have remained unchanged.

LEGAL OBLIGATIONS

The current legal status of Chechnya is undefined: Russian officials insist that Chechnya is undisputedly a subject of the Russian Federation and that Russian law must apply there; Chechen officials insist on the independence of Chechen government institutions (but are careful to state their willingness to cooperate with Russian governmental and legal bodies) and allow that Russian law may apply so long as it does not contradict Chechen law. Regardless of whether Chechnya is ultimately recognized as an independent state, Human Rights Watch considers that Chechen officials are obligated to uphold those human rights instruments to which Russia is a party.⁹ Those instruments include among others the International Covenant on Civil and Political Rights, the International Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, and the Helsinki Final Act.

⁸ See *Caught in the Crossfire* and *The Seizure of Hostages*.

⁹See, e.g. The Vienna Convention on State Succession in Respect of Treaties, Art. 34, United Nations Document A/CONF.80/31 of August 22, 1978, as corrected by A/CONF.80/31/Corr.2 of October 27, 1978 (treaty obligations of predecessor State continue in force in successor State formed by separation). The Human Rights Committee has taken the view that human rights treaties such as the ICCPR devolve with the territory, and that States continue to be bound by the obligations under the Covenant entered into by a predecessor State. See, “Human Rights Committee Concludes Review of Report on Hong Kong,” UN Information Service press release, October 24, 1995.

During the armed conflict both Russian and Chechen forces were obliged to uphold Common Article 3 of the 1949 Geneva Conventions and Protocol II, to which the Russian Federation is a party, as well as customary international law. The application of these laws does not imply any recognition of the independence of Chechnya or the belligerent status of the Chechen forces; rebel fighters and commanders were, however, bound to observe these standards even though they lacked the capacity to sign the Geneva Conventions.¹⁰ Because the Chechen forces are not recognized as privileged combatants in an international armed conflict, they may be tried and punished by the Russian government for common crimes; nor do they enjoy prisoner of war status under the Geneva Conventions if captured. Russia may, however, agree to treat captives as prisoners of war, and the Chechen forces may do the same. Common Article 3, which governs the conduct of internal armed conflicts, states:

- (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

The provision goes on to list specific acts which are prohibited "at any time and in any place whatsoever" with respect to persons who take no active part in hostilities. "Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture" is the first set of acts explicitly condemned by Article 3. Protocols I and II of the Geneva Conventions elaborate on this and other prohibited acts, such as hostage-taking, as well as the observance of "humane treatment."

In addition, Russian and Chechen forces are bound by the OSCE Code of Conduct, paragraph 36, which obliges all states involved in internal conflicts to ensure that the use of force by their armed forces "must be commensurate with the needs for enforcement" and that "armed forces will take due care to avoid injury to civilians or their property."

MISSING PERSONS, THOSE FORCIBLY DETAINED, AND EXCHANGES

For the relatives and loved ones of more than 3,400 missing Russian soldiers and Chechens, the anguish of war in Chechnya is not over. As of mid-October, a list of the missing compiled by the nongovernmental organization Victims of War included 1,432 residents of Chechnya.¹¹ The true number of missing residents may be much higher, since the list is based not on a comprehensive survey of the population but rather on the reports of relatives and loved ones who sought out Victims of War and the United Commission. As many as one-third of those Chechnya residents and an unknown number of Russian soldiers reported missing may in fact be dead; since March 1995, Victims of War has participated in the exhumation of 926 bodies from mass graves and has successfully identified 426 of them. More unidentified bodies lay in approximately eighty mass graves within Chechnya,¹² but lack of resources and lack of will on the Russian side have thus far prevented exhumations from taking place.¹³ Chechnya Procurator Khasan Serbiyev reported that he expected corpses to be found during the process of road repair and noted that new corpses continually

¹⁰ The commitment made by a State not only applies to the government but also to any established authorities and private individuals within the national territory; thus they bear the same obligations to the same extent as the State. International Committee of the Red Cross, *Commentary on the Additional Protocols of 1977* (International Committee of the Red Cross, Geneva: 1987) ("ICRC Commentary") at 1345.

¹¹ Human Rights Watch/Helsinki interview, Grozny, October 17, 1996. Sixteen of these are children. Russian state forensic medical teams were supposed to send computer programs to Grozny to help identify bodies in mass graves, but as of this writing Victims of War has not received them.

¹² Human Rights Watch/Helsinki interview with Khussein Khamidov, Victims of War, Grozny, October 17, 1996.

¹³ Russian forensic teams in Rostov identified the bodies.

turned up. In addition, district procuracies throughout Chechnya are searching for about 200 missing persons, many of whom also figure on the Victims of War list.¹⁴ Human Rights Watch/Helsinki is deeply concerned about the possible existence of mass graves elsewhere in Russia containing filtration camp victims. According to Victims of War, Russian officials in locations where mass graves are thought to exist, in defiance of the October 3 Chernomyrdin-Yandarbiyev agreement, have hindered the exhumations by claiming they have no bodies or by demanding bribes.¹⁵

A partial analysis, by Victims of War, of 264 of the list of 1,432 missing found that at least 139 were still being forcibly detained by the Russian side. By crude extrapolation, this suggests that almost half of those Chechens who are missing are alive and being forcibly detained. Despite the obligation by both sides to release all such individuals, exchanges in fact occur painfully slowly (see below), and relatives frequently do not know that their loved one has been detained, rather than killed, until after he is released. In addition, Russian authorities have repeatedly presented obstacles to ICRC access to persons detained in connection with the conflict by insisting that the ICRC must first get the permission of the presiding judge.

¹⁴ Human Rights Watch/Helsinki interview, Grozny, October 17, 1996.

¹⁵ Human Rights Watch interview with Khussein Khamidov, Victims of War, Grozny, October 17, 1996.

Some of the missing were initially detained by Russian forces as late as August, shortly before the cease-fire agreement was reached. Aslambek Karmayev, for example, reported to Human Rights Watch/Helsinki that on August 24 a group of Russian soldiers detained his father, sixty-seven-year-old Alexei, in the courtyard of his neighbors' home in Grozny. Aleksei Karmayev had previously complained of looting to the headquarters of the nearby 276th Motorized Regiment and sought successfully to have his property returned to him.¹⁶

Of a Russian Ministry of Internal Affairs list of 2,000 Chechens in detention in Russia, only nine cases were individuals sentenced for crimes related to the war and were on the Victims of War list;¹⁷ an unknown number of forcibly detained Chechens may well be lost in the Russian criminal justice system, having been seized and then taken for "filtering" outside Chechnya to Mozdok (in North Ossetia), Piatigorsk (in Stavropol district or *krai*) or Stavropol city. They may have been tried and sentenced by a court for their involvement in the war and may be currently serving their prison terms somewhere in Russia¹⁸ without benefit of counsel and the ability to contact their relatives.¹⁹

General Aslan Maskhadov, head of Chechen forces and now premier of Chechnya, told Human Rights Watch/Helsinki, "We gave orders to all commanders to provide all information about prisoners, and they produced this information."²⁰ However, the lack of a centralized list of, and a centralized holding place for, Russian prisoners in Chechen detention, creates havoc for establishing the true number of Russian missing. General Maskhadov also acknowledged that Chechen families may be holding prisoners in their homes. Human Rights Watch/Helsinki, received an alarming first-hand report of a family that had "privately" seized and was holding a Russian soldier as an "insurance

¹⁶ Human Rights Watch/Helsinki interview, Grozny, October 15, 1996.

¹⁷ According to a list of 2,000 Chechens in detention that the Russian side gave Victims of War on October 16, 1996.

¹⁸ See Masha Gessen, "Mothers in Arms," *The New Republic*, September 16 & 23, 1996, pp. 20-21.

¹⁹ The Chechen side is deeply suspicious of the list of 2,000 ethnic Chechens in prison provided by the Russian government. This is due in part to half-baked efforts by the Russian Corrections Department to cooperate in finding those on Mr. Khuseynov's list of more than 1,300 missing after the June 1996 cease-fire. The Corrections Department responded that forty such individuals had been in detention but were released, although they all had been both detained and released *before* 1993, obviously having had nothing to do with the war. No information whatsoever had been proffered on the current whereabouts of any of the 1,300. Human Rights Watch/Helsinki interview with Olga Trusevich, Memorial Human Rights Center, October 30, 1996.

²⁰ Human Rights Watch/Helsinki interview, Argun, October 16, 1996.

policy” until their relative was returned by the enemy side. This illegal practice is believed to be widespread in Chechnya. Both private families and commanders move Russian soldiers from one place to another, which further complicates the process of finding missing soldiers. Human Rights Watch/Helsinki interviewed the mother of one such soldier, whom Chechen fighters had captured in Urus-Martan in December 1995 and then transferred to another unit in Argun in February 1996.²¹

Human Rights Watch/Helsinki is alarmed by hearsay concerning summary executions in late August after the end of the fighting; it is possible that some of the missing have been executed.²² According to confidential sources, a Chechen commander admitted that after the August events, his fighters summarily executed some captives under “martial law”.

²¹Human Rights Watch/Helsinki interview, Argun, October 16, 1996.

²²The sources of these rumors must remain confidential.

Finally, the many mass graves in Chechnya are likely to contain the bodies of Russian soldiers.²³ Soldiers' mothers on a desperate search to find their sons literally live at the Khankala military base and routinely attend exhumations;²⁴ one such mother told Human Rights Watch/Helsinki that in ten months, only ten mothers had found their sons alive.

The process of exchange of those forcibly detained, now under the authority of the United Commission, has unfolded at a halting pace because both parties violate the "all for all" principle enshrined in the Khasavyurt agreements. Neither side has a centralized list of detainees, perhaps because they both claim not to be holding any more detainees. The resulting, unacceptable "barter" for individuals is a self-perpetuating process, as each side seizes a hostage to increase its leverage. The OSCE Assistance Group observes the exchanges and provides a neutral site for the exchanges to take place.

TORTURE IN DETENTION

Throughout the war, Russian forces systematically beat, tortured or otherwise mistreated Chechens in captivity, blatantly violating their obligations under the Geneva Conventions and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Russian forces held Chechens in so-called "filtration camps" or "filtration points." Russian and international human rights organizations and inter-governmental organizations condemned torture in these camps.²⁵ By the summer of 1996, most official filtration points in and near Chechnya were closed, but recent Human Rights Watch/Helsinki interviews with victims confirmed that Russian forces, obviously undaunted by any threat of being held criminally responsible for their actions, continued to torture Chechen captives at PAP-1, the one remaining official filtration camp in Grozny,²⁶ at "unofficial" filtration points, at the Khankala military base, and in the filtration point in Piatigorsk. Because so many Chechens remain in detention, and because the Russian Ministry of Internal Affairs has failed adequately to respond to documentation of torture in detention, Human Rights Watch/Helsinki considers that the subject warrants the continued attention of the international community. Hence we describe a few cases below, gathered during our October field investigation:

²³Press reports frequently alleged that Russian forces dumped the bodies of their own soldiers, unidentified, into mass graves.

²⁴As of this writing, between seventy and eighty women were living at Khankala, and many more live elsewhere in Chechnya as they search for their sons.

²⁵ See, Memorial Human Rights Center, *Conditions in Detention in Chechen Republic Conflict Zone. Treatment of Detainees*, Moscow, 1995.

²⁶ PAP-1 was closed in June 1996.

- A victim who was detained in PAP-1 filtration camp in Grozny in May reported to Human Rights Watch/Helsinki that he and about seventeen other men were detained by Russian troops as they were repairing heating pipes in the center of Grozny. Upon his arrival at PAP-1 he was beaten for a half hour, mostly across his back, kidneys, and ribs. Upon his release he was forced to sign a statement claiming that he had not been beaten. The doctor who treated him after his release confirmed that a rib had been broken, that he had suffered damage to his chest cage and multiple contusions and bruises, and that he must have been beaten routinely.²⁷

²⁷Human Rights Watch/Helsinki interview, Grozny, October 13, 1996.

- Movsar Tembulatov, chief doctor of city Hospital No. 9 in Grozny, described to Human Rights Watch/Helsinki the case of a thirty-year-old patient who sought treatment in early 1996 after having been severely beaten in a filtration point, presumably PAP-1. The man had been hung horizontally “like a sheep” and beaten all over. Dr. Tembulatov testified that the man’s groin and hips were completely black and that he had sustained broken ribs.²⁸
- Russian forces detained thirty-eight-year-old Saidash Shamakhurov at the Khankala base, beat him for twelve days, causing him to lose consciousness repeatedly, breaking four ribs, inflicting bruises and multiple contusions, and causing open wounds in the area under his shoulders and around his kidneys. In addition to beating Mr. Shamakhurov, the Russian military interrogators reportedly stuck needles under his fingernails and forced him to the ground in a split while kicking him. His tormentors, who wore masks, were attempting to make him confess to being a rebel commander and to reveal the locations of Russian prisoners of war. At one point during his detention, a senior Russian officer visited Mr. Shamakhurov, and clearly had knowledge of the torture he had been subjected to but apparently did nothing to stop it or to punish the perpetrators. The victim required a month of home treatment to recover.²⁹
- Ramzan Akhmedov told Human Rights Watch/Helsinki that he was beaten every day of his thirteen-day detention at Khankala with a sack over his head, a technique that intensifies the terror. His captors subjected him to a mock execution and skinned his thigh with a knife.³⁰ Sultan Kacheev, the Chechen commander who participated in Mr. Akhmedov’s exchange, described to Human Rights Watch/Helsinki the bruised corpses of two Chechens, presumably the result of beatings, who were exchanged along with Mr. Akhmedov for Russian soldiers.
- Before Russian troops re-took control over Samashki in March, they warned civilians to evacuate. Russian troops later detained ninety-one men who had attempted to leave the village under these warnings. Among them was Murat Ganiyev, who told Human Rights Watch/Helsinki that a group of seventy-five men were held in a sand pit near the village checkpoint and beaten by soldiers before being transported to Piatigorsk, where he himself was blindfolded and beaten before being sent on to Stavropol. He reported that the beatings had caused bruises and open cuts so bad that his shirt had been covered with blood. The details of his detention and beatings and the beatings he witnessed³¹ were confirmed in a June 31 letter from N.T. Saprunov, a military procurator from the Inter-regional Caucasus Military Procuracy to the Chechnya procuracy. The letter stated that of ninety-one Chechen detainees in the Stavropol and Piatigorsk pre-trial facilities, half had sustained open bleeding, cuts, hematomas (mostly to the back, face and legs), and internal bleeding due to beatings inflicted during transport to Piatigorsk.

²⁸Human Rights Watch/Helsinki interview, Grozny, October 13, 1996.

²⁹Human Rights Watch/Helsinki interview, Alakhazurovo, October 21, 1996

³⁰Human Rights Watch/Helsinki interview, Starye Atagi, October 18, 1996.

³¹The beatings he witnessed in Piatigorsk were by sound only, as he was blindfolded. Human Rights Watch/Helsinki interview, Samashki, October 14, 1996.

DEMINING

Both parties to the conflict widely used anti-personnel and anti-tank mines as a defense tactic to protect bases, roads, checkpoints and other strategic areas. Authoritative international organizations believed that for the most part both sides used mines within the framework of military strategy, and that mines were not used in a manner intended to harm civilians.³² However, carelessness in the laying of mines, the failure adequately to mark off mined areas, sloppy demining, and the inherently indiscriminate nature of land mines contributed to as many as 500 civilian mine casualties during the first year of the war, according to international relief organizations. After the conclusion of the Khasavyurt agreement, the United Commission facilitated an agreement between the two parties on demining. The process to date, however, has been disorganized, according to a well-informed observer.

A major impediment to the demining processes is that neither Russian nor Chechen forces possess maps of minefields, which perhaps explains why demining occurs in response to individual complaints rather than as a systematic effort. Major Gen. Nikolai Shvetsov, co-commander of the joint kommandatura, explained to Human Rights Watch/Helsinki that the lack of maps was due both to the hasty withdrawal of Russian forces from their bases throughout Chechnya, during which “everything was lost in the hurry,” and to the fact that for many areas Russian forces had no such maps.³³ Demining teams duly respond to reports of mines: during the five-day period prior to Human Rights Watch/Helsinki’s mission, for example, four locations had been demined on the basis of individual complaints. Yet this rather haphazard approach to demining poses obvious dangers for civilians, especially in rural areas where entire fields may be mined. The threat of civilian deaths and injuries will increase with time, as people forget where minefields were once located. Civilian mine casualties are not yet at a crisis level, but their occurrence is all the more tragic because they are preventable. Human Rights Watch/Helsinki learned, for example, of two children who had become mine casualties since the end of hostilities in August. We interviewed several very recent victims of mine explosions: a shepherd who lost his leg on October 6, 1996, to a mine explosion as he was herding sheep in the Andreev valley near Grozny; a farmer whose tractor blew up on an anti-tank mine on September 30, causing him to lose his leg and killing one his co-workers; and another farmer in the Vedenov region whose tractor exploded on a mine in mid-August, damaging his kidneys, spine and spleen.³⁴ Two other civilians testified to the injuries and amputations they had suffered as a result of mines prior to the Khasavurt agreements, in January and May respectively.

ACCOUNTABILITY

The systematic nature of human rights and humanitarian law violations throughout the conflict is matched by a systematic failure to punish such abuse. Moreover, the feeble steps that the Russian military procuracies have made to investigate abuse relate strictly to common crimes committed against civilians that are unrelated to hostilities. The Russian military and Russian politicians refuse to acknowledge the need to punish individuals for indiscriminate and disproportionate attacks and attacks on civilians that took place during hostilities. During the August peace negotiations, the Russian side reportedly balked at the notion of including accountability on the agenda, and the efforts

³²Source requested anonymity.

³³ Human Rights Watch/Helsinki interview with Maj. Gen. Alexander Nikolaevich Shvetsov, co-commander of the Joint Kommandatura, Grozny, October 21, 1996. Regarding maps, Maj. Gen. Shvetsov stated, “I think they do not exist.”

³⁴ Human Rights Watch/Helsinki interview with Tunko Malayev, Oktyabrskaya village, Vedenov district, October 15, 1996.

of Russian investigatory agencies throughout 1995 and 1996 resulted in a mere handful of convictions. This is shocking given the widespread nature of the abuse.

In June 1996, the Chechen procuracy³⁵ investigated and forwarded 342 cases of crimes allegedly committed throughout the war by Russian soldiers to the Military Procuracy in Grozny (which has jurisdiction over the army) and the Inter-regional Northern Caucasus Military Procuracy (which has jurisdiction over MVD troops and special forces), with a request to investigate them as criminal cases. The largest number of such cases related to direct attacks on civilians (e.g. murders, shootings of shepherds, cutting off of ears, dropping corpses from helicopters). Human Rights Watch/Helsinki took detailed testimony from multiple witnesses to two summary executions that were among this group of cases. On March 20, according to witnesses, seven Russian soldiers landed by helicopter at a dairy plant near the village of Nagornoye, apparently suspecting that the dairy workers were harboring arms. The soldiers discovered six unarmed workers, hiding in fear in the barn, whereupon they lined up the men and shot the two youngest, twenty-seven-year-old Iskhani Aigumov and his twenty-nine-year-old brother, Sultan.³⁶

Russian military procuracies have failed to cooperate with their Chechen counterparts in order to conduct further investigation of the cases. Both procuracies returned more than half of these cases to the Chechen procuracy "for further investigation," although in some cases only military personnel with unfettered access to military bases and archives could hope to effectively conduct such an investigation. The rest of the cases were closed for lack of evidence or were simply not processed. Similarly, the June 31 letter from the military procuracy to the Chechen procuracy detailing the beatings of ninety-one Chechen detainees incredibly instructed the Chechen procuracy to determine who had beaten the men, ignoring the fact that the victims were blindfolded and that only a military records book could reveal who had convoy duty on the dates of the beatings.

The office of the main military procuracy of the Russian Federation, reportedly on its own initiative, opened and investigated 1,500 criminal cases against men serving in Chechnya, of which 300 were sent to military courts, more than 350 dismissed, and 600 suspended for "objective" reasons; about seventy men were amnestied.³⁷ The majority of these cases involved "premeditated murders, breaches of rules for handling arms, thefts of arms and ammunition, dodging military service and other general criminal offences." According to the International Helsinki Federation, of the twenty-seven convictions of conscripts and *kontraktniki*³⁸ reported by the Russian Federation Military Procuracy, most involved breaches of military discipline, drunkenness and the like, and only six of these twenty-seven involved crimes against the civilian population.³⁹

Individuals who reported abuse by Russian troops to Russian commanders were subsequently threatened, presumably by Russian troops. For example, Grozny resident Andi Saigatov reported to Russian forces headquarters the apparent summary execution of his brother and sister-in-law on the night January 18. The next day unidentified people fired at Saigatov's apartment, forcing him to flee.

³⁵ Since the list was compiled by the former pro-Moscow procuracy, claims of anti-Russian bias in bringing the cases are not compelling.

³⁶ Human Rights Watch/Helsinki interview with Magomed Jafar, October 20, 1996, Grozny, and Human Rights Watch/Helsinki interview with Sergei Davligov, October 20, Grozny. The witnesses suggested that the Russian soldiers killed the youngest of the workers believing that they are the most likely to be rebel fighters.

³⁷ Alexandra Akayeva and Alexander Chuikov, "Main Military Prosecutor's Office Opened about 1,500 Criminal Cases against Servicemen from Federal Group of Forces," RIA Novosti (Moscow), October 25, 1996.

³⁸ A *kontraktnik*, as distinct from a conscript, is a soldier hired on contract by the Russian armed forces.

³⁹ See, International Helsinki Federation for Human Rights, "Report to the OSCE: The International Helsinki Federation for Human Rights Fact-Finding Mission to Chechnya; 1-11 October 1996.

Concerning accountability for war-related crimes, Human Rights Watch/Helsinki emphatically underscores the need for criminal and disciplinary penalties for indiscriminate firing, attacks on civilians, hostage-taking and the like. Human Rights Watch/Helsinki took credible testimony of two cases, in Samashki on March 15 and 17, during which Russian forces, to protect themselves from enemy fire, forced civilians to ride through the village on armored personnel carriers; and in Grozny, where from August 9 to 11 about one hundred pinned-down Russian troops took up defensive positions in Hospital No. 9, and in effect forced the hospital staff and patients to accompany the troops out of their position, to protect them from Chechen fire. The testimony collected by Human Rights Watch/Helsinki was consistent with evidence reported by Memorial.⁴⁰

The Chechen authorities similarly have no intention to punish their troops for such acts as the Budyennovsk and Kizlyar hostage seizures; they apparently do not view these as violations of customary rules of war that they were obliged to uphold. The procurator of the Vedeno district, for example, told Human Rights Watch/Helsinki, "We were criticized for our military operation in Budyennovsk, but we fight with what we have," suggesting that customary rules of warfare have no validity.

⁴⁰ Memorial Human Rights Center, *The Seizure of Hostages and the Use of Civilian Population by Federal Troops of Russia as a "Human Shield During the Armed Conflict in Chechnya*, Moscow, September 1996. The report also documents another case of Russian use of human shields in Grozny's 15th micro district.

Current public discussion of an amnesty for rebel fighters and for servicemen who evaded service in Chechnya and other conflict zones has so far excluded those who committed serious crimes. Soldiers' advocacy organizations, however, have begun to pressure the Russian parliament for such a broad amnesty.⁴¹ Human Rights Watch/Helsinki categorically opposes a broad amnesty that would release from individual responsibility those who committed grave crimes against civilians. An amnesty law so broad as to render these crimes unpunished would make a mockery of the Geneva Conventions. This principle applies also to gross abuses committed by Chechen forces, who are also subject to international humanitarian law.

Such a broad amnesty would send a clear and unconscionable message to Russian and Chechen forces that disregard for civilians in the conduct of war is an acceptable practice, a message which is bound to have a negative effect on government and society in post-war Chechnya. When courts fail to hold responsible those who have committed serious crimes against civilians, then individuals — whether Russian or Chechen — are likely to take justice into their own hands. This could well lead to a cycle of violence as those who lost their loved ones or comrades take revenge on those they consider responsible. In the short term, this practice could threaten the peace, as one side may use the absence of justice for the abuses it has suffered as a pretext to renew hostilities.

CIVIL AND POLITICAL RIGHTS IN POST-WAR CHECHNYA

As the post-war political order takes shape in Chechnya, Human Rights Watch/Helsinki has four sets of concerns: claims of rebel fighters summarily executing and taking other measures of retribution against members and supporters of the previous, pro-Moscow government; the transfer of law-enforcement functions from the Russian-Chechen joint kommandatura and the concomitant restructuring of Chechen law enforcement agencies; adoption and implementation of articles of the new Chechen criminal code that violate internationally recognized human rights standards; and claims of persecution against Chechnya's ethnic Russian population.

The OSCE Assistance Group in Grozny is aware of claims of summary executions, but Human Rights Watch/Helsinki is concerned by the OSCE's tendency to downplay summary executions as the fighters "settling personal accounts," overlooking the responsibility the government, however nascent, to punish crimes committed by its armed forces. The Memorial Human Rights Center reported to Human Rights Watch/Helsinki convincing evidence of the summary execution of Amir Zagayev, head of the Vedeno district under the Zavgayev government, in early September.⁴² Memorial also reported that Chechen fighters summarily executed a husband and wife in Chernorechiye in August, allegedly for having provided information to Russian forces concerning their neighbors and about Chechen fighters in the area. Four other summary executions -- including of two Chechen women -- by Chechen fighters targeted looters and those suspected of looting. In one case, a Memorial member witnessed a fighter shooting an unarmed suspect in the back and then in the head after the latter had fallen to the ground. In a more recent case, towards the end of September, fighters detained Vladimir and Galina Shovchenko, residents of Ulitsa Krayevaya in Grozny, for interrogation allegedly concerning their son, who worked as a kontraktnik in Chechnya.

⁴¹ Alexandra Akayeva and Alexander Chuikov, "Main Military Prosecutor's Office Opened about 1,500 Criminal Cases against Servicemen from Federal Group of Forces," RIA Novosti (Moscow) October 25, 1996.

⁴² Vedeno procurator Jabrail Dakayev acknowledged in an October 15 interview with Memorial that Zagayev had been shot. Human Rights Watch/Helsinki interview with Oleg Orlov, Memorial Human Rights Center, November 4, 1996.

Aslambek Ismailov, co-commander of the joint kommandatura, acknowledged to Memorial not only that looters were summarily executed during the August fighting in Grozny but that he had headed a military field court, created under a decree issued by Yandarbiyev on August 12, that executed twelve people for aggravated looting. This court ended its activities when the joint kommandaturas were created following the Khasavurt agreements.

Past summary executions, which Chechnya Minister of Internal Affairs Kazbek Makhashev dismissed as “myth,”⁴³ cast a pall on the future of respect for human rights in Chechnya law enforcement structures. As of this writing, the joint kommandatura, whose troops number about 1,500, still controlled major aspects of law enforcement and appeared not to be *de facto* subordinate to the Chechen procuracy and Ministry of Internal Affairs.⁴⁴ Under the October 3 agreement signed between Russian Prime Minister Viktor Chernomyrdin and Chechnya Prime Minister Zelimkhan Yandarbiyev, the United Commission, which includes representatives of the Chechen Ministry of Internal Affairs and the Procuracy, will take over law enforcement entirely from the joint kommandaturas. Human Rights Watch/Helsinki is concerned, however, that these summary executions will remain unpunished and that the same fighters who committed summary executions and other grave human rights violations may become permanent employees of the Ministry of Internal Affairs.

To the degree that civilian law enforcement institutions function, law enforcement is currently grounded on the constitution of Chechnya, Chechen laws and the laws of the Russian Federation that do not contradict the Chechen constitution.⁴⁵ The new Criminal Code of Chechnya provides for corporal punishments in violation of the ICCPR, the Helsinki Final Act, the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and other human rights instruments: it allows for one hundred lashes for theft and amputation of the right arm or left foot for armed assault including murder or rape. Chechen officials deny having applied corporal punishment to civilians, in particular to people who were drunk in public, contrary to earlier press reports.⁴⁶ Jabrail Dadakayev, procurator of the Vedeno region, told Human Rights Watch/Helsinki that theft and hooliganism are punished by caning in the district and attempted to justify the practice by explaining measures codified by law to make sure the victim is not severely injured.

⁴³Human Rights Watch/Helsinki interview, Grozny, October 18, 1996. General Maskhadov told Human Rights Watch/Helsinki on October 17 that he did not remember whether he had issued orders for summary executions of looters.

⁴⁴The Kommandatura patrols streets and detains individuals; after detention, Ministry of Internal Affairs investigators are dispatched to launch an investigation and subsequently, it appears, issues an arrest warrant. Although the Ministry of Internal Affairs has retained most of its staff in most districts of Chechnya, for now detainees remain in local police departments, as the pre-trial detention facility in Grozny refuses to receive detainees who lack arrest warrants from a procurator.

⁴⁵Human Rights Watch/Helsinki interview, Kazbek Makhashev, minister of interior, Grozny, October 18, 1996

⁴⁶ Human Rights Watch/Helsinki interview with Aslanbek Ismailov, co-commander of the Grozny Joint Kommandatura, Grozny, October 19, 1996.

The Joint Kommandatura continues to carry out police functions, although such work has no grounding in law. Whereas previously Chechen MVD staff were trained in Russia, beginning in August 1996, Russian authorities reportedly expelled Chechen students from Russian Federation Police academies.⁴⁷

While Human Rights Watch/Helsinki does not believe that discrimination against or persecution of ethnic Russians is a state policy in Chechnya, interviews with ethnic Russians suggest that the new government of Chechnya must do more to punish and prevent crimes against Russians. Ethnic Russians perhaps represent the most vulnerable sector of Chechnya's population. Unlike Chechens, they do not have extended families within Chechnya on whom they can rely for assistance in the face of post-war privations and economic chaos, and who more generally look after one another. The Victims of War list of the missing poignantly underscored this: 80 percent of those missing over the age of sixty-five are ethnic Russians.

* * *

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Human Rights Watch/Helsinki

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⁴⁷ Human Rights Watch/Helsinki interview with Ferzauli Salamu, deputy minister of interior, Grozny, October 18, 1996.

