

**FEDERAL REPUBLIC OF
YUGOSLAVIA
KOSOVO: RAPE AS A WEAPON OF “ETHNIC CLEANSING”**

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I. SUMMARY

On the evening of March 24, 1999, the North Atlantic Treaty Organization (NATO) began bombing the Federal Republic of Yugoslavia. As Serbian police and Yugoslav Army forces continued brutal attacks on civilians, more than 800,000 ethnic Albanian refugees poured out of Kosovo, mostly into Albania and Macedonia. Exhausted and traumatized, they carried what few belongings they could grab before fleeing or being expelled. They also brought eyewitness accounts of atrocities committed against ethnic Albanian civilians inside Kosovo by Yugoslav soldiers, Serbian police, and paramilitaries.

Witnesses and victims told of summary executions, mass murders, destruction of civilian property, and other war crimes. In more hushed tones, refugees also spoke of rapes of ethnic Albanian women. These instances of sexual violence are the focus of this report.

Human Rights Watch began investigating the use of rape and other forms of sexual violence by all sides in the conflict in 1998 and continued to document rape accounts throughout the refugee crisis in 1999. After NATO troops entered Kosovo in June 1999, Human Rights Watch returned to Kosovo to continue researching war crimes, including the use of sexual violence before, during, and after the NATO conflict. In total, Human Rights Watch researchers conducted approximately seven hundred interviews between March and September 1999 on various violations of international humanitarian law.

The research found that rape and other forms of sexual violence were used in Kosovo in 1999 as weapons of war and instruments of systematic "ethnic cleansing." Rapes were not rare and isolated acts committed by individual Serbian or Yugoslav forces, but rather were used deliberately as an instrument to terrorize the civilian population, extort money from families, and push people to flee their homes. Rape furthered the goal of forcing ethnic Albanians from Kosovo.

In total, Human Rights Watch found credible accounts of ninety-six cases of sexual assault by Yugoslav soldiers, Serbian police, or paramilitaries during the period of NATO bombing, and the actual number is probably much higher. In six of these cases, Human Rights Watch was able to interview the victims in depth, and their testimonies are contained in this report. Human Rights Watch met two other women who acknowledged that they had been raped but refused to give testimony. And, Human Rights Watch documented six cases of women who were raped and subsequently killed.

The ninety-six cases also include rape reports deemed reliable by Human Rights Watch that were compiled by other nongovernmental organizations. The Center for the Protection of Women and Children, based in Pristina (Prishtina), interviewed and provided assistance to twenty-nine rape and sexual violence victims after June 1999. The Albanian Counseling Center for Women and Girls, an NGO in Albania, documented an additional twenty-eight rape cases through direct interviews with victims. The Yugoslavia-based Humanitarian Law Center provided testimony to Human Rights Watch about four cases. And the Council for the Defense of Human Rights and Freedoms, Kosovo's largest human rights group, provided information on an additional four cases. To the extent possible, Human Rights Watch corroborated these accounts through interviews with dozens of nurses, doctors, eyewitnesses, and local human rights and women's rights activists.

Médécins Sans Frontières (MSF), with offices in Kosovo before and after the war, reported four cases of rape, and other medical personnel working in Kosovo and Albania confirmed an additional eight cases. Physicians for Human Rights, a U.S.-based human rights group, interviewed four victims of sexual violence, and Amnesty International documented another three cases of rape, although two of these three cases were also counted by Human Rights Watch.

It is important to note that some of these cases may have been double-counted by local and international organizations. Despite this, Human Rights Watch believes that the actual number of women raped in Kosovo between March and June 1999 was much higher than ninety-six. Kosovar Albanian victims of rape are generally reluctant to speak about their experiences, and those who remained in Kosovo throughout the conflict may not have had an opportunity to report abuses. At the same time, it should be noted that Human Rights Watch was not able to

confirm the allegations of rape camps in Kosovo that were presented during the war by the U.S. and British governments, as well as by NATO.

In general, rapes in Kosovo can be grouped into three categories: rapes in women's homes, rapes during flight, and rapes in detention. In the first category, security forces entered private homes and raped women either in the yard, in front of family members, or in an adjoining room. In the second category, internally displaced people wandering on foot and riding on tractors were repeatedly stopped, robbed, and threatened by the Yugoslav Army, Serbian police, or paramilitaries. If families could not produce cash, security forces told them that their daughters would be taken away and raped; in some cases, even when families did provide money, their daughters were taken away. The third category of rapes took place in temporary detention centers, such as abandoned homes or barns.

With few exceptions, the rapes here documented by Human Rights Watch were gang rapes involving at least two perpetrators. In several cases, victims and witnesses identified the perpetrators as Serbian special police, in blue or blue-camouflage uniforms, or Yugoslav Army soldiers, in green military uniforms. The majority of rape cases, however, were evidently committed by Serbian paramilitaries, who wore various uniforms and often had bandanas, long knives, long hair, and beards. These paramilitary formations worked closely with official government forces, either the Serbian Ministry of Interior or the Yugoslav Army, throughout Kosovo.

The Serbian and Yugoslav authorities knew that their paramilitaries had used rape and other forms of sexual violence in Bosnia and Herzegovina. Yet, the paramilitaries were deployed to or allowed to operate in Kosovo by the Serbian and Yugoslav authorities apparently without any precautions being taken to prevent their committing further such war crimes.

The participation of Serbian and Yugoslav forces in gang rapes renders it unlikely that senior officers were unaware of the assaults. Rapes occurred frequently in the presence, and with the acquiescence, of military officers. Several rape victims actually reported the crimes to Yugoslav military officers. Yet there is no evidence that the Yugoslav Army or the Serbian Ministry of Interior made any attempt to apprehend or punish those responsible for the attacks. Despite this seeming dereliction of duty, many leading police and military officers from the Kosovo campaign have been honored or promoted within the Serbian and Yugoslav forces since the end of the conflict.

There is also no evidence that the Yugoslav Army or Serbian Ministry of Interior took any measures to prevent rape and other forms of sexual violence, such as issuing orders or warning troops that they would be punished for these crimes. Moreover, soldiers, police, and paramilitaries often raped in front of many witnesses. In addition to actual rapes that took place in front of others, the process of pulling women out of refugee convoys often occurred in full view of other internally displaced persons (IDPs).

Although the terror of imminent and actual violence is behind Kosovar Albanian women, many now face its devastating consequences and a struggle for justice. Kosovar women sexually assaulted or raped by Yugoslav soldiers, Serbian paramilitaries, and police have suffered war crimes, torture, and some abuses that may have constituted crimes against humanity. The international community must now respond by seeking to identify and by indicting those responsible for these violations of humanitarian law. Without serious investigations of rape and sexual violence, and indictments and arrests of those with command responsibility and individual responsibility for these crimes, rape in the region will continue with impunity. Kosovar Albanian women are waiting for justice.

The International Criminal Tribunal for the Former Yugoslavia (ICTY) has jurisdiction over the crimes committed in Kosovo. ICTY Prosecutor Carla Del Ponte has outlined a prosecution strategy that "focuses on leadership investigative targets, as well as perpetrators of particularly serious crimes or sexual violence in relation to the armed conflict."¹ The Office of the Prosecutor issued indictments against Serbian leader Slobodan Milosevic and three other top Serbian leaders and a general in the Yugoslav Army on May 24, 1999, for crimes against humanity. Not one of the indictments lists charges relating to the use of rape and other forms of sexual violence by their forces, although the investigations are ongoing.

¹ Press Release, "Statement by Carla Del Ponte, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia on the Investigation and Prosecution of Crimes Committed in Kosovo," September 29, 1999 (www.un.org/icty/pressreal/p437-e.html).

Since the entry of the NATO-led Kosovo Force (KFOR), rapes of Serbian, Albanian, and Roma women by ethnic Albanians, sometimes by members of the Kosovo Liberation Army (KLA), have also been documented.² Human Rights Watch condemns these human rights violations and continues to document post-conflict abuses for a future report.³ However, rapes and other crimes of sexual violence committed since the entry of KFOR are beyond the scope of this report.

Specifically to investigate rape, Human Rights Watch visited the cities of Pec (Peje), Djakovica (Gjakove), Podujevo (Podujeve), Mitrovica (Mitrovice), Decani (Decane), Vucitrn (Vushtrri), and Pristina, as well as many other villages throughout Kosovo.⁴ Human Rights Watch interviewed rape and sexual assault victims, witnesses to sexual violence, medical personnel, representatives of nongovernmental organizations, United Nations officials, Organization for Security and Cooperation in Europe (OSCE) experts, and human rights activists in Kosovo and Albania. Human Rights Watch drew its findings on rape and sexual violence from interviews with victims and eyewitnesses and the credible reports of human rights and other service organizations. Whenever possible, Human Rights Watch collected several accounts of the same event for purposes of corroboration.

II. RECOMMENDATIONS

Women victims of rape and other forms of sexual violence in Kosovo demonstrated courage in speaking of the abuses they suffered. The international community should respond to their willingness to speak with an effort to assist the women in pursuing justice, recovering from trauma, and rebuilding their lives. Particularly, Human Rights Watch makes the following recommendations:

To the International Criminal Tribunal for the Former Yugoslavia (ICTY):

- Conduct a diligent and independent investigation into the incidence and use of rape and other forms of sexual violence against women in Kosovo;
- Take steps to ensure that those alleged to have committed rape or other forms of sexual violence during the conflict in Kosovo, and those in positions of political or command authority who are alleged to have acquiesced in such abuse, are indicted, taken into custody, prosecuted, and brought to justice by the ICTY.
- Ensure that gender-integrated teams investigating rape and other forms of sexual violence have competence in investigating rape and conducting interviews with rape victims. As the Office of the Prosecutor (OTP) moves to make the investigation and prosecution of rape and other forms of sexual violence a normal part of OTP procedure, efforts to enhance and develop staff expertise necessary for rape investigations and prosecutions should increase. Whenever possible, interviews of rape victims should be conducted by female investigators with training in rape investigations.
- Include examinations for evidence of rape in autopsies of female bodies conducted by ICTY forensic teams.
- Ensure that all witnesses are protected now and subsequently from possible reprisals.

² See Kosovo Human Rights Flash #50, "Violent Abuses by KLA Members," June 25, 1999, for information about the rape of an ethnic Albanian woman by five men believed to be members of the KLA. See also *Kosovo/Kosova: As Seen, As Told Part II*, June to October 1999, Organization for Security and Cooperation in Europe (OSCE) report, December 1999; and European Roma Rights Center, Press Release, "The Current Situation for Roma in Kosovo," July 9, 1999.

³ See Human Rights Watch, "Abuses against Serbs and Roma in the New Kosovo," *A Human Rights Watch Short Report*, vol. 11, no. 10, August 1999.

⁴ For the purposes of consistency and clarity, this report uses the Serbian spellings for all places in Kosovo. Also, although Human Rights Watch knows the identities and locations of all of the victims and witnesses interviewed in this report, we have concealed identities and names of villages where identification of names or locations would endanger the women involved.

To the United Nations:

- Establish a specialist unit within the Office of the U.N. High Commissioner for Human Rights with a mission to develop expertise on the investigation of rape and other forms of sexual violence in conflict and the treatment of such victims. The unit would develop protocols for responding to rape in conflict, maintain a database of experts in the fields of investigation and trauma counseling, and monitor inclusion of rape and other forms of sexual violence in cases brought before tribunals and truth commissions internationally.
- Develop programs through the United Nations Interim Administration Mission in Kosovo (UNMIK) to assist women victims of rape and other forms of sexual violence and trauma in accessing job training programs, micro-credit programs, and psychological counseling programs in Kosovo.

To the Yugoslav Government:

- Cooperate with the ICTY by locating and arresting any person under indictment by the ICTY.
- Recognize the right of the ICTY to investigate all war crimes committed in the territory of the former Yugoslavia, including the area of Kosovo, as stated in U.N. Security Council Resolution 827 (1993) and repeatedly reaffirmed with particular reference to the Kosovo crisis in U.N. Security Council Resolutions 1160, 1199, and 1207.
- Hand over individuals already indicted for war crimes who are residing on the territory of Serbia and/or Montenegro.

To the NATO-led Kosovo Force (KFOR):

- Arrest without delay all persons present in Kosovo who have been or will be indicted by the ICTY for war crimes committed in Kosovo.

III. GENDER-BASED VIOLENCE AGAINST KOSOVAR ALBANIAN WOMEN⁵

⁵ The terms “rape and other forms of sexual violence” and “sexual assault” will be used throughout the report. The term “sexual assault” will be used to denote attacks which do not rise to the level of rape. The trial chamber of the International Criminal Tribunal for the Former Yugoslavia (ICTY) in *Prosecutor v. Anto Furundzija* defined the objective elements of rape as:

(i) the sexual penetration, however slight:

(a) of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or

(b) of the mouth of the victim by the penis of the perpetrator;

(ii) by coercion or force or threat of force against the victim or a third person.

Furundzija Judgment, Case no. IT-95-17/1-T, p. 73, para. 185.

The ICTY trial chamber in *Furundzija* also noted that “international criminal rules punish not only rape but also any serious sexual assault falling short of actual penetration. It would seem that the prohibition embraces all serious abuses of a sexual nature inflicted upon the physical and moral integrity of a person by means of coercion, threat of force or intimidation in a way that is degrading and humiliating for the victim’s dignity. As both these categories of acts are criminalised in international law, the distinction between them is one that is primarily material for the purposes of sentencing.” *Furundzija Judgment*, Case no. IT-95-17/1-T, p. 73, para. 186.

In the *Celebici Judgment*, the trial chamber of the ICTY relied upon the definition of rape and sexual violence formulated in the case of the *Prosecutor v. Jean-Paul Akayesu* (Case no. ICTR-96-4-T, Trial Chamber 1, 2 September 1998). The International Criminal Tribunal for Rwanda (ICTR) trial chamber in the *Akayesu Judgment* wrote, “The chamber defines rape as a physical invasion of a sexual nature, committed on a person under any circumstances which are coercive. Sexual violence, which includes rape, is considered to be any act of a sexual nature which is committed under circumstances which are coercive.” (As cited in *Prosecutor v. Delalic, Mucic, Delic, and Landzo*, Case no. IT-96-21-T, 16 November 1998, p. 173, para. 478). Violence includes psychological as well as physical harm.

Background

The human rights abuses against Kosovar Albanians that leapt to international prominence during the NATO bombing campaign predated NATO's involvement by at least ten years. In 1989, the Serbian-controlled government in Belgrade suspended the autonomy guaranteed Kosovo by the 1974 constitution and initiated a crackdown on human rights. Mass firings of ethnic Albanian public sector workers ensued. The Serbian government replaced local Albanian police officers with special police units from the Serbian Ministry of the Interior (Ministarstvo Unutrasnjih Poslova), or MUP.

The Serbian government ran Kosovo as a police state for the rest of the 1990s, with political trials, police abuse, deaths in detention, and discrimination in health care, education, and employment. Numerous reports by Human Rights Watch and other international and domestic human rights organizations, such as the Council for the Defense of Human Rights and Freedoms, the Humanitarian Law Center, the Center for the Protection of Women and Children, and the Kosova Helsinki Committee, reported incidents of torture, political "disappearances," imprisonment of critics of the regime, and rape.⁶

Throughout the 1990s, the Kosovar Albanian community responded by creating their own parallel political structures. Under the leadership of Ibrahim Rugova, the ethnic Albanian population initially rejected a violent response to the abusive and discriminatory treatment inflicted upon them.

⁶ See Helsinki Watch and The International Helsinki Federation for Human Rights, *Yugoslavia: Crisis in Kosovo* (New York: Helsinki Watch, 1990), Human Rights Watch/Helsinki, *Open Wounds: Human Rights Abuses in Kosovo* (New York: Human Rights Watch, 1993), and Human Rights Watch/Helsinki, "Persecution Persists: Human Rights Violations in Kosovo." *A Human Rights Watch Short Report*, vol. 8, no. 13, December 1996.

This began to change in 1997, when a hitherto little-known group called the Kosovo Liberation Army (KLA) demanded Kosovo's independence and began to ambush and attack police patrols in various parts of Kosovo, especially in the central Drenica region. The group gradually increased its armed actions, which prompted a rapid and sometimes brutal response by the Serbian police. The first major police operations occurred in late February and early March 1998 when, after attacks by the KLA in the area, Serbian special police forces attacked three villages in Drenica, killing eighty-eight women and children. The atrocities galvanized the ethnic Albanian community, and quickly turned the KLA into a sizable, although still disorganized, military force. It was from this time on that the fighting in Kosovo became an internal armed conflict for the purposes of international law, making Common Article 3 and Protocol II of the Geneva Conventions applicable.⁷

Throughout 1998 and early 1999, there was ongoing fighting between the KLA and Serbian and Yugoslav forces that involved serious violations of international humanitarian law by both sides. The vast majority of these abuses were committed by Serbian and Yugoslav forces, such as indiscriminate shelling, the destruction of civilian property, and summary executions, but the KLA also committed war crimes, including executions of Serbian civilians and ethnic Albanians considered to be collaborators with the government. The government conducted two major counterinsurgency offensives: in May and June 1998 along the border with Albania, and July through September 1998 throughout most of central and western Kosovo. An estimated 2,000 people were killed during the year, the majority of them ethnic Albanian civilians.⁸

Throughout this period, cases of rape were also reported. By the time the bombing began in March 1999, Sevdie Ahmeti, a human rights activist working for the Pristina-based Center for the Protection of Women and Children, had documented thirty-six incidents of rape committed by Serbian police and Yugoslav Army soldiers.⁹ The Humanitarian Law Center also received reports of two rapes in Decani committed by Serbian police.¹⁰ OSCE-Kosovo Verification Mission (KVM) human rights officers, who were deployed in Kosovo from November 1998 to March 1999, also reported twenty-three rapes committed prior to the NATO intervention.¹¹

In December 1998, Human Rights Watch conducted research into rape by both the KLA and government forces. Although very credible reports of rape emerged, including one rape of a Roma woman by Kosovar Albanians, Human Rights Watch was able to confirm only six cases: one in September 1998 in the Suva Reka (Suhareke) municipality, one in December 1998 in Djakovica municipality, two in the area of Decani (May and October 1998), and two cases in November 1998 in Pec. Evidence collected by Human Rights Watch, the Center for the Protection of Women and Children, and the OSCE-KVM human rights officers suggests, however, that Serbian security forces committed rapes and other forms of sexual violence throughout 1998.¹²

⁷ See section on International and National Legal Protections Against Rape and Other Forms of Sexual Violence. For a full discussion on legal standards and internal armed conflicts, see Human Rights Watch, *Humanitarian Law Violations in Kosovo* (New York: Human Rights Watch, 1998).

⁸ For documentation on international humanitarian law violations by the KLA and government forces in 1998, see two Human Rights Watch reports: Human Rights Watch, *Humanitarian Law Violations in Kosovo* and Human Rights Watch, *A Week of Terror in Drenica* (New York: Human Rights Watch, 1998).

⁹ Human Rights Watch interview, Sevdie Ahmeti, Pristina, July 11, 1999.

¹⁰ Human Rights Watch interview, Ariana Zherka, Pristina, July 10, 1999.

¹¹ OSCE, "Rape and Other Forms of Sexual Violence," in *As Seen, As Told* (www.osce.org/kosovo/reports/hr/part1/ch7.html). The report includes two statements by rape victims and one statement by a rape victim's mother. In all, the accounts describe twenty-three rapes. In one incident, Serbian police gang raped two women on their way to attend a wedding. In another case, one Serbian police officer and three civilians raped a woman who was four-and-a-half months pregnant. In the final case documented in the OSCE report, paramilitaries gang raped a thirteen-year-old girl and nineteen other women.

¹² OSCE, *As Seen, As Told*. The report notes that human rights officers, then based in the former Yugoslav Republic of Macedonia, gathered testimony about violations that had occurred after the evacuation of the OSCE-KVM from Kosovo and "[came] across acts of sexual violence that had been committed earlier."

Following the NATO air strikes, reports of rape flooded the international media. On April 13, 1999, British Foreign Secretary Robin Cook claimed that Serbian forces had opened a "rape camp" near Djakovica.¹³ Pentagon spokesman Kenneth Bacon made similar statements about rape camps allegedly set up in Djakovica.¹⁴ Cook's comments came one day after NATO attacked a train in Serbia, killing twenty civilians; some commentators charged that NATO was publicizing rape reports to whip up war fervor and distract attention from civilian casualties inflicted by NATO.¹⁵ NATO officials and NATO member states used the theme of human rights abuses generally, and rape specifically, to justify their policies in Yugoslavia.

Human Rights Watch found no evidence to suggest the existence of a rape camp at an army base in Djakovica or Hotel Karagac in Pec.¹⁶ While Human Rights Watch believes that it is critically important to denounce all human rights abuses in any conflict situation, we are concerned that NATO's use of rape to bolster support for the war relied on unconfirmed accounts of rape. Offering such accusations with little or no basis suggests that those invoking the abuses may have been more concerned with pursuing certain political goals than with ascertaining what happened to individual victims and acting to prevent or remedy the abuse. Historically, when the horror of rape has been invoked to serve political ends, neither the purpose nor the result was to ensure accountability.¹⁷

Throughout the refugee crisis, U.S. and British newspapers and radio programs carried interviews with individual women reportedly raped by Serbian police, soldiers, and paramilitaries. Although accounts in the media brought much-needed attention to the use of rape in the conflict, they also raised questions about when rape is a war crime, how rape functions in war, and whether women will have access to justice after the conflict. The documentation that follows answers many of these questions.

The Shadow of Bosnia: An Atmosphere of Terror

*I wasn't afraid of the killing. I was afraid of the raping.*¹⁸

¹³ "Britain Says Kosovo Women Raped in Military Camp," Reuters News Service, April 13, 1999.

¹⁴ Vernon Loeb and R. Jeffrey Smith, "Evidence Mounts of Atrocities by Yugoslav Forces," *Washington Post*, April 10, 1999; Nicholas Watt and Ian Traynor, "Serbs Have Rape Camp," *Guardian*, April 14, 1999.

¹⁵ For additional information on civilian casualties in Yugoslavia, see Human Rights Watch, "Civilian Deaths in the NATO Air Campaign," *A Human Rights Watch Short Report*, vol. 12, no. 1, February 2000.

¹⁶ The U.S. State Department report, "Ethnic Cleansing in Kosovo: An Accounting," (www.state.gov/www/global/human_rights/kosovoi/op.html) states in the "Atrocities and War Crimes by Location" chapter: "[A]ccording to a 22 June 1999 *New York Times* report, Serbian forces used the Hotel Karagac as a rape camp for Albanian women." Elisabeth Bumiller's June 22nd *New York Times* article states: "For now, State Department officials in Washington say they have received refugee reports that Serbs were using the Hotel Karagac in the town of Pec and an army camp near Djakovica as rape camps." On page 12 of the report, the State Department cites Kosovar Albanian sources for these reports; however, it does not indicate whether these were witness-, victim-, or hearsay statements. The report refers to one statement by a victim that "Serbian forces used a second hotel in Pec, the Metohia, for raping Kosovar Albanians."

¹⁷ Dorothy Q. Thomas and Regan E. Ralph, "Rape in War: Challenging the Tradition of Impunity," *SAIS Review*, Winter-Spring 1994, p. 93.

¹⁸ Human Rights Watch interview, T.E., Mitrovica, July 16, 1999.

Rape and other forms of sexual violence in Kosovo took place under the shadow of Bosnia and Herzegovina.¹⁹ Women in Kosovo knew that rape had been used as a tool of “ethnic cleansing” in Bosnia and Herzegovina. Human Rights Watch received numerous, though unconfirmed, reports that some Serbian paramilitary groups active during the Bosnian war, such as Arkan’s Tigers and Vojislav Seselj’s White Eagles, allegedly joined in the “ethnic cleansing” campaign in Kosovo. These groups had reputations for using rape as a weapon of war in Bosnia.²⁰

The atmosphere of terror, heightened by published accounts and collective memories of recent mass and systematic rapes in Bosnia, motivated families to pack up and leave as quickly as possible. Although there were fewer rapes in Kosovo, both the threat of rape and actual rape were very much a part of the assault on Kosovo. The mere threat was enough to force women and families to flee. The fact of rape in Bosnia had already established the credibility of the threat.

Women recounted to Human Rights Watch their fear that they and their daughters would be raped. Rumors of rape circulated wildly as families attempted to flee their homes. Older women often dressed their daughters in loose clothing and headscarves in an attempt to disguise young girls as grandmothers. Other mothers smeared dirt and mud on their daughters’ faces to render them unattractive. As one mother told Human Rights Watch, “I was most afraid for my daughter. I lost eighteen kilos during the war because I was afraid that my daughters might be raped.”²¹ In the words of another woman, “The girls were afraid of the police and put on scarves. The police took off their scarves and pinched their cheeks and told them not to act like old women. The girls were screaming.”²² According to a doctor in Pristina, “Rape was our greatest fear. Our main goal was to get our daughters—aged twenty-five, twenty-one, fourteen, and ten—out of the country.”²³

Foreshadowing the Attacks: Propaganda against Albanian Women in Kosovo

*Women were very vulnerable and the Serbs knew that if they touched the women the men would react. This has been going on for ten years.*²⁴

The rapes and other forms of sexual violence perpetrated in Kosovo during the conflict did not surprise women’s human rights experts. Sevdie Ahmeti, who documented human rights abuses against women in Kosovo for ten years prior to the NATO bombing, had already collected thirty-six testimonies of rape by Serbian special police units and Yugoslav Army soldiers committed in the period February 1998 to March 1999. Serb paramilitary forces and special police used rape on a number of occasions during 1998 to punish female family members of Kosovo Liberation Army supporters before the NATO air offensive.²⁵ A Human Rights Watch investigator who researched rape in Kosovo before the NATO bombing campaign documented rapes of young women, particularly in the Drenica region, considered a KLA stronghold. In total, Human Rights Watch documented six cases of rape by

¹⁹ See Human Rights Watch/Helsinki, *War Crimes in Bosnia-Herzegovina: Volume II* (New York: Helsinki Watch, 1993).

²⁰ However, Human Rights Watch did not find conclusive evidence that Arkan’s Tigers or Seselj’s White Eagles were responsible for any of the abuses detailed in this report.

²¹ Human Rights Watch interview, T.E., Mitrovica, July 16, 1999.

²² Human Rights Watch interview, S.T., Dobrotin, July 13, 1999.

²³ Human Rights Watch interview, Dr. A.B., Pristina, July 21, 1999.

²⁴ Human Rights Watch interview, Sevdie Ahmeti, Pristina, July 12, 1999.

²⁵ See, for example, Gordana Igric, “Kosovo Rape Victims Suffer Twice,” Institute of War and Peace Reporting, (www.iwpr.ac.psiweb.com/index.pl5?archive/bcr/bcr_19990618_2_eng.txt). See also Human Rights Watch, *A Week of Terror in Drenica* and Human Rights Watch, *Humanitarian Law Violations in Kosovo*.

Serbian forces during 1998, although evidence collected by Human Rights Watch, Physicians for Human Rights, and local human rights groups suggested that the real number was much higher.²⁶

²⁶ Human Rights Watch, *A Week of Terror in Drenica*. Male detainees in the Drenica region reported that police threatened to rape their wives and daughters (p. 43). Women also reported that police conducted body searches, in one case “rais[ing] [a woman’s] dress to check for weapons” (p. 37). See also Human Rights Watch, *Humanitarian Law Violations in Kosovo*. One refugee in northern Albania in 1998 claimed to have witnessed the rape of six women and girls, two of them thirteen-year-old girls (p. 39). Physicians for Human Rights also documented violent beatings and rape throughout Kosovo in 1998. Physicians for Human Rights, “Medical Group Recounts Individual Testimony of Human Rights Abuses in Kosovo,” June 24, 1998.

Official state propaganda in Yugoslavia in the decade preceding the war served to dehumanize and stereotype Kosovar Albanian women.²⁷ Serbian propaganda contrasted Serbian women, viewed as “cultured, strong, and worthy of motherhood,” with Albanian women, portrayed as “indiscriminately fecund.”²⁸ According to Ahmeti, “During the late 1980s there was tremendous propaganda against Albanian women—we were portrayed as open-legged, stupid, uneducated women ready to have sex.”²⁹ This attack on Albanian women in the state-controlled media fed Serbian nationalist hysteria, encouraging conflict and abuses. Combined with official propaganda denouncing Kosovar Albanian men as “terrorists,” the images portrayed in the media manipulated the fears of the ethnic Serbian population.³⁰

The nationalistic propaganda also exploited fears of Albanian population growth. Serbian media “pump[ed] out portraits of Albanian women as baby makers, calling their offspring ‘biological bombs,’ labeling Albanian family life primitive and backward.”³¹ Some young women victims of rape expressed fear that they could not expect to marry following the attack. One purpose that rape in the war may have served was discouraging women from reproducing in the future.

Rape and other Forms of Sexual Violence as Weapons of Systematic “Ethnic Cleansing”

*The paramilitary said to us - You are in our hands, and until we fulfill our obligation to steal and take your women, we will not let you go.*³²

Police, soldiers, and paramilitaries raped women throughout Kosovo; the attacks occurred under a variety of circumstances. The most common circumstances that emerged from the testimonies of victims of rape and sexual violence and from corroborating accounts provided by eyewitnesses were rapes in women’s homes, rape during flight from the country, and rape while in detention. In one typical scenario, government forces entered women’s homes and raped them either in the garden, in an adjoining room, or in front of family members. Women victims and eyewitnesses also reported rapes that occurred as soldiers and paramilitaries extorted money from Kosovars attempting to flee the country. When families could not produce money, and sometimes even when they did, wives, sisters, and daughters were forced to leave with police or soldiers. Some number of those women experienced rape and sexual assault. In at least one case, the attack took place in front of the entire group of internally displaced persons (IDPs) on the road. Finally, in another common scenario documented by Human Rights Watch, Serb soldiers and paramilitaries separated women from the men and held the women and children hostage in schools and various abandoned buildings. During the period of captivity, soldiers and paramilitaries took some of the women to other sites to torture them sexually.

Almost all of the rape testimonies collected by Human Rights Watch were gang rapes, involving more than one perpetrator. The identities of perpetrators, however, were frequently difficult to discern. Men and women interviewed struggled to distinguish between police and paramilitaries. Victims described perpetrators of rape as dressed in camouflage outfits and sporting black masks or scarves. Yugoslav Army soldiers generally wore

²⁷ See Human Rights Watch, *Humanitarian Law Violations in Kosovo*, pp. 66-74. For an account of the propaganda against Kosovar Albanians, see Julie Mertus, *Kosovo: How Myths and Truths Started A War* (Berkeley: University of California Press, 1999) p. 8. The importance of propaganda in encouraging rape and other abuses has been well documented in conflicts worldwide. For an additional case study on the relationship between propaganda and rape, see Human Rights Watch/Africa and Women’s Rights Project, *Shattered Lives: Sexual Violence During the Rwandan Genocide and its Aftermath* (New York: Human Rights Watch, 1996), pp.15-19.

²⁸ Julie Mertus, “Women in Kosovo: Contested Terrains,” in Sabrina Ramet, ed., *Gender Politics in the Western Balkans: Women and Society in Yugoslavia and the Yugoslav Successor States* (University Park: Pennsylvania State University Press, 1999) pp. 174 and 178. Mertus cites *Borba* (Belgrade) 2 June 1994 as an example of such propaganda.

²⁹ Human Rights Watch interview, Sevdie Ahmeti, Pristina, July 11, 1999.

³⁰ Human Rights Watch, *Humanitarian Law Violations in Kosovo*, pp. 66-74.

³¹ Julie Mertus, “Women in Kosovo: Contested Terrains,” in Ramet, ed., p. 178.

³² Human Rights Watch interview, B.B., Mitrovica, July 16, 1999.

uniforms, typically green camouflage; special police units generally wore blue camouflage uniforms. Based on the accounts of victims, it appears that paramilitaries perpetrated at least five of the rapes documented by Human Rights Watch researchers based in Albania, Macedonia, and Kosovo. Yugoslav Army soldiers and Serbian special police perpetrated two rapes recounted to Human Rights Watch by victims. In six cases identified by Human Rights Watch, women were first gang raped and then murdered. Paramilitaries perpetrated all six of these cases.

Accounts of biting also pervaded the refugees' and internally displaced persons' (IDPs) stories. Nurses who treated rape victims and eyewitnesses who saw women returning after long absences reported that many of the women had visible teeth-marks on their arms and exposed flesh.³³ One nurse told Human Rights Watch that armed Serbian men in dark blue uniforms dragged young girls into another room in a house sheltering refugees in the village of Beleg.³⁴ She continued, "They raped them. They were covered with bites. I tried to wash them."³⁵ Sevdie Ahmeti, who worked closely with survivors of rape and sexual violence after the conflict, confirmed this finding. After accompanying several rape survivors to their gynecological exams, she told Human Rights Watch, "There were bites all over the bodies of the victims, especially the raped women. The bites were on their breasts and legs and especially near their intimate places."³⁶

In all, Human Rights Watch found ninety-six credible cases of rape and other forms of sexual violence. All of these accounts stemmed from direct victim or witness testimony gathered by Human Rights Watch or other local nongovernmental organizations working in the field. Human Rights Watch investigators interviewed six women who survived rape and other forms of sexual violence committed by Yugoslav soldiers, or Serbian police and paramilitaries during the conflict.³⁷ Human Rights Watch also met with two women who acknowledged that they had been raped but refused to give testimony to investigators. Human Rights Watch discovered six additional cases of women who were raped and subsequently murdered.

The Center for the Protection of Women and Children, a Pristina-based NGO, interviewed and provided assistance to twenty-nine rape and sexual violence victims. The Albanian Counseling Center for Women and Girls, an NGO in Tirana, Albania, documented an additional twenty-eight rape cases through direct interviews with victims. The Council for the Defense of Human Rights and Freedoms provided Human Rights Watch with four additional cases. And the Humanitarian Law Center reported four rapes. To the extent possible, Human Rights Watch corroborated these accounts through interviews with dozens of nurses, doctors, eyewitnesses, and local human rights and women's rights activists.

³³ Three witnesses independently volunteered that they had observed bite marks. Human Rights Watch interview, S.T., Dobratin, July 13, 1999. Human Rights Watch interview, V.B., Vucitrn, July 19, 1999. Human Rights Watch interview, Sevdie Ahmeti, Pristina, July 11, 1999.

³⁴ The *Los Angeles Times* also reported rapes in the village of Bileg (Beleg) in the second week of April. See Carol J. Williams, "In Kosovo, Rape Seen as Awful as Death," *Los Angeles Times*, May 27, 1999, p. A1.

³⁵ Human Rights Watch interview, V.T., Decani, July 17, 1999. In all, V.T. reported seeing thirty women taken out of the house. She treated ten of the women.

³⁶ Human Rights Watch interview, Sevdie Ahmeti, Pristina, July 12, 1999.

³⁷ Three rape victims spoke with Human Rights Watch researchers in refugee camps in Albania. Three women met individually with a Human Rights Watch investigator in their homes in Kosovo.

A psychologist from Médecins Sans Frontières (MSF) working in Pec with victims reported four cases. Medical personnel working in Kosovo and Albania confirmed an additional eight cases of rape.³⁸ Physicians for Human Rights published extracts from four direct interviews with victims of sexual violence.³⁹ Amnesty International also documented three rapes of women held in a village in the region of Suva Reka during a three day period beginning April 21, 1999, although it appears to be the same incident reported by Human Rights Watch.⁴⁰ It is important to note that some of these cases may have been double-counted by local and international organizations. In spite of problems of tallying numbers of attacks, Human Rights Watch believes, for the reasons described below, that these cases represent only a small fraction of the incidents of sexual violence that actually occurred for the reasons described below.

Human Rights Watch sought to interview numerous witnesses in cities throughout Kosovo, with particular emphasis on those cities reported to have had rape camps or multiple attacks. But it proved difficult to find women able to testify about rapes that occurred in their own town or village. According to eyewitnesses interviewed by Human Rights Watch, for example, many of the women raped in Djakovica came from Mitrovica. Likewise, many of the women raped in Mitrovica came from villages in the surrounding area. The result was geographical chaos, with residents from one village victimized in another village perhaps one hundred kilometers away from their homes.

The cultural stigma attached to rape further complicated the documentation efforts. Because women in Kosovo only reluctantly spoke of sexual attacks, Human Rights Watch believes that the cases documented in this report represent only a fraction of the incidents of sexual violence which occurred. As one surgeon told Human Rights Watch, "Many women were raped. This is a patriarchal place and women find it very difficult to talk about these things."⁴¹ In all, men and women interviewed by Human Rights Watch throughout Kosovo reported seeing forty-nine women taken away from refugee convoys, houses, and barns by Serbian police, soldiers, or paramilitaries. Some unknown number of these women may have been raped. Some women who returned after being held told friends and relatives that Serbian authorities had only interrogated them. Others reported that the Serbian authorities forced them to "make coffee," a phrase that some experts believed was a euphemism for sexual assault.⁴² Still other women told of being forced to strip naked and being subjected to searches. These cases, supported only by hearsay evidence, could not be corroborated by Human Rights Watch. However, the large number of women taken away, some of whom never returned, does indicate that additional abuses may have occurred.⁴³

Home Invasions

Soldiers, police, and paramilitaries raped women in their homes. In one case in Pec, witnesses told Human Rights Watch that six armed and uniformed Serb men entered a house on June 12, 1999, around 9:00 p.m., two days before NATO entered the city. Before murdering six members of the family (aged five, six, seven, twelve, thirteen, and twenty-eight), the men raped one of the wives, a twenty-eight-year-old mother. Her sister-in-law, the mother of three of the murdered children, survived a chest wound and witnessed the killings. She told Human Rights Watch,

³⁸ These cases came from doctors who had performed abortions or provided medical treatment in the cases.

³⁹ Physicians for Human Rights, *War Crimes in Kosovo: A Population-Based Assessment of Human Rights Violations Against Kosovar Albanians* (Boston: Physicians for Human Rights, 1999), p. 80.

⁴⁰ Amnesty International, "Kosovo: Incidents of Multiple Rape," News Release, May 27, 1999 (www.amnesty.org/news/1999/47007699.htm).

⁴¹ Human Rights Watch interview, Dr. C.C., Mitrovica, July 12, 1999.

⁴² Williams, "In Kosovo, Rape Seen as Awful as Death," *Los Angeles Times*.

⁴³ The allegation of forty-nine cases of women taken away is based on direct witness testimony. An unknown number of women were taken away and held by Serbian and Yugoslav forces. Again, Human Rights Watch believes that these forty-nine cases represent only a small proportion of the total.

They were wearing military clothes and had black scarves on their heads. They took my sister-in-law into the front room, and they were hitting her and telling her to shut up. The children were screaming, and they also screamed at the children. She was with the paramilitary for one half hour. She was resisting, and they beat her, and the children could hear her screaming. I could only hear what was going on. I heard them slapping her. The children did not understand that they were raping her. After they raped my sister-in-law, they put her in line with us and shot her.⁴⁴

Another family member, who was present and was interviewed separately, told Human Rights Watch:

When we got home, they ordered us to sit on the couch. They told my sister-in-law to stand up and come with them. They took her to the bathroom and raped her. My mother was near her in another room—she is an invalid. She heard them saying “faster, faster” to my sister-in-law. I asked my mother and she said that they “dehumanized” her.⁴⁵

In another case documented by human rights investigators of the Pec Council for the Defense of Human Rights and Freedoms, a twenty-year-old woman was raped in her home in Mitrovica by six local policemen. According to the victim’s testimony given to the council, police took the woman and a fourteen-year-old girl into another room away from the family, where they raped the twenty-year-old. The younger girl resisted and one police officer allegedly asked her age. She responded that she was only fourteen. The police officer told the others to leave her alone since they had older women available. Although they forced her to strip naked, the police did not rape the fourteen-year-old.⁴⁶

On June 12, in the city of Djakovica, six Serb paramilitaries entered an apartment building housing approximately 250 people. A.H., who lived in the building with her husband and son, described the sexual assault of her sister to Human Rights Watch:

After they burned my father’s house, my father and the family took shelter in my building. [One paramilitary] told my father to give all our jewelry or “I’ll take your daughter.” [The paramilitary] had long hair with a pony tail and a big machine gun and ammo belt. They took my sister into another room because my father said he had no money. They took her in another room in the flat, locked the door, and told her to take off her clothes. She was seventeen.

My sister took off her tee-shirt, but they told her, “No, not that part, take off the lower part.” She took off her pants and her panties. She was having her period.

⁴⁴ Human Rights Watch interview, H.B., Pec, July 14, 1999.

⁴⁵ Human Rights Watch interview, B.B., Pec, July 18, 1999.

⁴⁶ Human Rights Watch interview, Gazmend Mumaxheri, Council for the Defense of Human Rights and Freedoms, Pec, July 14, 1999, reading from a verbatim record of the victim’s statement.

I heard everything through the wall, and my sister told me what happened afterwards. The walls are very thin. I heard my sister begging them, "Please in the name of God, if you have a sister or a wife, don't touch me." I got close to the door and I heard him say, "You have your period so you are worth nothing." She looked like she had come back from the dead. She was gone for ten minutes, but it felt like days. Other than my sister, five other girls were abused [in our building], all of them very young.⁴⁷

A psychologist for Médecins Sans Frontières (MSF) counseling rape survivors in Pec, Colette Vercelletti, also reported cases of rape in women's homes. In three cases, women told her that they were raped in their own homes and their families were forced to watch.⁴⁸

Also in the town of Pec, investigators with the Council for the Defense of Human Rights and Freedoms collected testimony indicating that three local girls had been raped and then killed.⁴⁹ Human Rights Watch was unable to confirm these cases independently.

Attacks in Flight

Throughout the NATO bombing of Yugoslavia, an estimated 800,000 ethnic Albanians were forced out of the province by government forces. Tens of thousands more were internally displaced. During this time, long cordons of civilians were ushered along roads from villages to larger cities, and then out of Kosovo, usually to Albania or Macedonia. In some cases, refugee columns were sent back from the border to their place of origin.

During these treks, those seeking refuge were repeatedly stopped, harassed, robbed, and sometimes beaten or killed by paramilitaries, police, or the army. Human Rights Watch also documented thirty-five cases where women were pulled out of line and taken away by government forces. In some cases, the women returned after several hours. In other cases, the women did not return. Persons interviewed by Human Rights Watch reported paying exorbitant sums to free young women held by police and paramilitaries.⁵⁰ One young woman told Human Rights Watch:

About twenty tractors were crowded together inside the village in a field. The paramilitaries shot at the first tractor so the tractors would stop. The paramilitaries came closer and separated the men over fifteen [years old] from the women. They took the women's jewelry and money and threatened us. They said, "Now come, we're going to have sex with you." I gave them 500 Deutsch Marks. They didn't take me because the other women stood up and grabbed me and they all gave money so I wouldn't be taken away. The Serbs hit me in the back.⁵¹

Some families reported hiding in the forest for months, only to be forced later to join refugee columns. According to one woman, who gave birth in the mountains without medical treatment, Serbian soldiers and police attacked a group of internally displaced persons who had taken shelter on a pig farm near Vucitrn. After beating the woman's two-year-old son and several others, she said, the police took four women and forced them to board an army truck. She told Human Rights Watch:

⁴⁷ Human Rights Watch interview, A.H., Djakovica, July 20, 1999.

⁴⁸ Human Rights Watch interview, Colette Vercelletti, Médecins Sans Frontières (MSF), Pec, July 15, 1999.

⁴⁹ Human Rights Watch interview, Dr. Aslan, Council for the Defense of Human Rights and Freedom, Pec, July 14, 1999.

⁵⁰ In most cases women were taken away for periods ranging from twenty minutes to several hours. Witnesses reported that some women were held all night before families could ransom them. In one case, two twin teenaged girls were dragged out of the line of fleeing Kosovar Albanians and held several meters away for twenty minutes. The parents walked through the line and begged others to help raise the 500 Deutsch Marks demanded as ransom by the paramilitaries. The girls were not harmed. Human Rights Watch interview, D.M., Mitrovica, July 16, 1999.

⁵¹ Human Rights Watch interview, A.A., Kukes Refugee Camp, Albania, June 5, 1999.

I saw the women pulled by force into the Serb truck and while they were in the truck we heard them screaming. We could not see because the truck was closed. There were four women, two of them were approximately thirty years old, and the others were twenty and twenty-two. I knew them. The women were on the truck for one hour. The women came off the truck like they were insane, like they had lost their minds. They could not talk about anything.⁵²

Sexual assaults included sexually threatening full body searches. One woman from Dobrotin (Dobratin) told Human Rights Watch that police came to a small village where she and her children had taken shelter for seven weeks during the NATO bombing campaign.

The police came and surrounded us and demanded money and gold from us. They took our tee-shirts up and touched our breasts and our legs and demanded money. They were touching us and demanding money. Those who had no money—their daughters were taken away. The daughters were held for five hours.⁵³

One rape victim recounted to Human Rights Watch how she was dragged off a tractor by a Serb paramilitary near the border village of Zur (Zhur) and sexually assaulted in front of dozens of other refugees. The victim, a thirty-year-old mother traveling with her mother, mother-in-law, and two children, told Human Rights Watch:

Two uniformed Serbian men stopped us. A big guy with red hair called me from the tractor. The red-haired one came around the tractor and said, "You," pointing at me. When he told me to get off the tractor, I didn't. Then he yelled, "You! Get off!" My three-year-old son was asleep on my lap. He kept yelling, "Get off! Get off!" He pulled me off the tractor and ripped my clothes. His pants were already open and his penis was out. He tore off my bra. I started screaming and crying. The other Serb came close and pointed his automatic weapon at my chest. I was wearing *dimije* [baggy pants] so they'd think I was old. The red-haired one took my pants off, tearing the drawstring. He told me to sit down. He took the 10 DM that I had with me. He took off his pants and pulled me close to him. We were right next to the tractor, next to the driver's cabin. I had my period. When he took off my pants, he saw the pads with blood on them, so he didn't have sex with me. Instead he turned me around and grabbed my breasts, trying me on the other side [anal rape]. I contracted myself very tightly and he didn't succeed. He may have ejaculated. I don't know. It took three or four minutes, then he told me that I could get back on the tractor.⁵⁴

Witnesses to this attack, which occurred on June 2, 1999, corroborated the account and provided additional, credible details of the incident. A tractor driver who passed that same point later in the day, as well as his other passengers on the tractor, corroborated the description of the two uniformed men. One eyewitness to the sexual assault, an eighteen-year-old man from Djinovce (Gjiaoc) in the Suva Reka municipality, told Human Rights Watch:

He took her onto the asphalt road and raped her right there in front of everyone. Only one Serb raped her. The other Serb hit people with the butt of his automatic weapon and said, "Silence, silence!" We all averted our eyes. It took three or four minutes. He did it right next to the tractor.⁵⁵

Other women and girls seized from the lines were forced into cars, driven away, and raped or sexually assaulted. Serbian forces grabbed a twenty-two-year-old woman from Mitrovica from the line of fleeing refugees and drove her away in a white Volkswagen Golf. She told Human Rights Watch:

⁵² Human Rights Watch interview, V.S., Mitrovica, July 12, 1999.

⁵³ Human Rights Watch interview, S.T., Dobrotin, July 13, 1999.

⁵⁴ Human Rights Watch interview, R.G., Kukes Refugee Camp, Albania, June 5, 1999.

⁵⁵ Human Rights Watch interview, P.J., Kukes Refugee Camp, Albania, June 5, 1999.

It happened while I was in line with the people. It was April 14th when we left our house and on the 15th we were walking near Djakovica. They say it was only two kilometers from the border. We arrived at four o'clock in the morning. We had a rest until six o'clock in the morning in a building close to the road. The border to Albania was closed. Serb police came with trucks and put us in the trucks and said that they would take us back to Kosovo because the border was closed. In another village they told us to get off the truck and we started walking again. We met Serb paramilitaries. There were five or six cars of them.

They approached my uncle and separated him. They took his gold and his money from him. Then they came up to me. I was arm in arm with my brother and my mother was behind me. [The paramilitary] came up to me and asked, "What is he to you?" and I said that he is my brother. He took my hand and told me to get in his car. I was so surprised. I did not want to walk. He told me not to refuse or there would be lots of victims. He swore at me and said, "Whore, get in the car." I could not say good-bye to my family. When I got in the car I saw another girl. We were two girls, and there were two uniformed Serbian men.

It was nine or ten o'clock at night. We were away from the line by several meters. He told us to get out. The other girl was taken by the driver and I was taken by the other. He told me not to scream and to take off my clothes. He took off his clothes and told me to suck his thing. I did not know what to do. He took my head and put it near him. He started to beat me. I lost consciousness. When I came to I saw him over me. I had great pain. I was screaming and scratching the ground from the pain.

Another man came with a car and he got over me. The other man with the car asked the first one why he was treating this whore so good. I was crying from the pain and he was laughing the whole time. The second one got off me and told me to put on my clothes. I couldn't find them.

Just as I got dressed another one came and took me to another place a couple of meters away and he started with the same words and did the same things the first one did. He kept me there for several minutes and then told me to wear my clothes so I [looked like I did when I left the line]. He told me not to tell anyone or they would take me for good and shoot my family.

The men wore masks. They wore camouflage clothes and they were carrying weapons and knives on their belts. They said that they were paid to do this. I begged him [the first rapist] to kill me, but he didn't want to.⁵⁶

B.B., in shock and still bleeding from the attacks, took shelter with her family and several hundred other internally displaced persons in a large warehouse. Serbian police arrived on April 19 with several Serbian doctors and nurses who gave B.B. tranquilizers and pieces of cotton to staunch the flow of blood. According to B.B., one nurse, seeing the blood on B.B.'s jeans, put her head in her hands and said, "What have they done?"⁵⁷

⁵⁶ Human Rights Watch interview, B.B., Mitrovica, July 16, 1999.

⁵⁷ Human Rights Watch interview, B.B., Mitrovica, July 16, 1999.

In other cases, women taken from the lines were forced into trucks, gang raped in the trucks, and then raped again in houses where they were held hostage. One woman, who was twenty-one years old, was wounded when Serbs shelled the village of Izbica (Izbice) on April 17. A police officer told her mother that he would take her to the hospital. Instead, he forced her into the back of a military truck covered with a canvas. Sevdie Ahmeti, who interviewed the woman, told Human Rights Watch that the young woman was gang raped repeatedly by policemen over a period of days. Finally a police officer took her to the hospital in Mitrovica, where a Serb doctor reportedly refused to treat her. An Albanian nurse in the hospital cared for her and gave her sedatives. After the conflict, Ahmeti arranged for the woman to receive medical treatment. At that time, several months after the rape, she had scars from bite wounds on her breasts.⁵⁸

Another nurse saw other women being taken from the lines of refugees. She told Human Rights Watch,

We continued to walk [from Mitrovica] to Decani. We stopped near Decani and stayed one night in a village. At three o'clock in the morning a group of nine men came in a jeep. We were close to the road. They chose five girls, and they took them away. It was night. They had flashlights, and the girls were sleeping. Everyone panicked. They put the girls in the jeep and we asked them to release the girls but they refused. They said that they needed them for information. [They said that] if their families had nothing to do with the KLA, they would release them. They did not bring the girls back. When we were turned back from the border to Pec, we heard [from other refugees] that the girls were raped.⁵⁹

In another case recounted to Human Rights Watch by an investigator of the Humanitarian Law Center, who was based in Macedonia during the conflict, a male witness hiding near a police checkpoint reported that four girls between thirteen and seventeen were led away by police and held for three hours. According to his testimony, the police raped each of the girls and took their clothes. The witness heard the girls screaming; when they reappeared they were naked.⁶⁰

In another case documented by the Center for the Protection of Women and Children, a twenty-two-year-old woman was dragged out of a refugee column on the road between Djakovica and Decani. Two paramilitaries took her behind a bush and raped her next to the road. After the rape, and despite the fact that she was bleeding, the paramilitaries ordered her to walk with the group.⁶¹

Rapes and Sexual Assaults of Women Held Hostage or Detained

Women held in buildings throughout Kosovo independently gave remarkably similar accounts of rape, sexual assault, and harassment. After separating women and children from the men, Serbian forces held women hostages in various empty buildings. Women reported being taken out of these holding centers one by one to be "checked." These checks included interrogations and, in some cases, rape and other forms of sexual violence.

In late April, in a village in the Drenica region that will remain unnamed to protect the women involved, government forces dressed in green camouflage uniforms with green insignia, which suggests they were soldiers in the Yugoslav Army, held a group of twenty-seven women and children in a small barn full of hay. According to five testimonies collected separately, all of which corroborated one another, women were taken out one by one. According to one of the women:

⁵⁸ Human Rights Watch interview, Sevdie Ahmeti, Pristina, July 11, 1999, reading from the victim's verbatim statement.

⁵⁹ Human Rights Watch interview, F.A., Mitrovica, July 16, 1999.

⁶⁰ Human Rights Watch interview, Ariana Zherka, Pristina, July 10, 1999.

⁶¹ Human Rights Watch interview, Sevdie Ahmeti, Pristina, July 11, 1999.

We were checked close to the door, outside in the yard, one at a time. It took twenty minutes. They asked, "Where is your husband? Is he in the KLA?" Girls had all their clothes taken off completely. And the married women—they took off our upper clothes and were handling our breasts and touching us. They asked us where we wanted to go and lay. They took off my blouse and asked me questions. First they asked questions and then they checked for money. They touched my breasts.⁶²

According to other women held in the barn, Serb paramilitaries took six of the younger women out several times and raped them in a building next door. At one point, the paramilitaries took five of the younger women (aged twenty-nine, twenty-three, twenty, nineteen, and twenty) and three older women (two of them aged fifty, the third aged sixty) outside one final time. One witness heard three gun shots immediately after the three older women were taken from the building.⁶³ None of the women returned and only one of the nine, in fact, survived. Their remains were discovered three months later in a well located on the property.

During their incarceration, the women attempted to bribe the troops not to take their daughters. One woman said, "I gave you money—100 DM and gold coins." The men in uniform replied that they were aware she had paid and took the woman anyway.⁶⁴

Only one of the six younger women who had been taken away by the Serb forces survived. In an interview with Human Rights Watch, she described her experience.⁶⁵ Aged twenty-one, V.B. was seven months pregnant when she was raped by Serb paramilitaries. She said,

In the first place we were in [a small village], where we were captured by the regular army. They kept us there for three nights. They separated us into two groups. A small group of twenty people was taken from that place and they told us we would go to [another village] because it was dangerous here from NATO bombing. We asked, "Why don't you take us all?" and they told us that they would bring the others. We were relatives—all from one village except for my mother-in-law. The regular army sent us to the big yard and they left us there. After they left us in the yard four people came. The army moved on and left us in the hands of these paramilitaries. They had insignia of tigers. When they were torturing us, sometimes it was with masks and sometimes without. Some had shaved heads, scarves, some had long hair.

They put us in a small barn with hay in it. Then the four men came into the barn and slammed the door and pointed machine guns at us. They asked for gold, money, and whatever we had. We gave whatever we had. But they were still torturing us. They would take a girl, they kept her outside for half an hour, and after that they would bring one back and then they would take another. They took five girls. One by one they tortured all the girls. Four or five times they took them and brought them back. They did this to my sister. When she was turned back I asked, "What are they doing to you?" and she felt sorry for me and told me not to talk. Then I asked my sister's close friend. I asked, "What are they doing to you?" and she said that the soldiers were taking off their clothes and forcing them to be naked.

Then they took me. I was pregnant. I was holding my son. They took him away from me and gave him to my mother. They told me to get up and follow them. I was crying and screaming, "Take me back to my child!" They took me to another room. It was so bad I almost fainted. I can't say the words they said. They tortured me.

⁶² Human Rights Watch interview, X. R., village in Drenica region, July 19, 1999.

⁶³ Human Rights Watch interview, V.B., Vucitrn, July 19, 1999. V.B. did not believe that the older women had been raped.

⁶⁴ Human Rights Watch interview, X. R., village in Drenica region, July 19, 1999.

⁶⁵ Human Rights Watch interview, V.B., Vucitrn, July 19, 1999.

Because I was pregnant, they asked me where my husband was. I was afraid to say that he was in the woods.⁶⁶ So I said that he was in Italy. One of them said to another soldier, “Kick her and make the baby abort.” They did this to me four times—they took me outside to the other place.

All the girls were tortured the same way until they were taken for the last time. While I was sitting apart from my mother in the yard, I could not see my mother or my sister, but I could hear my son crying. One man grabbed the child and brought him to me. He let the boy stay with me for a while and then they took him away. Then another man came at me. Three men took me one by one. Then they asked me, “Are you desperate for your husband?” and said, “Here we are instead of him.”

The paramilitaries released V.B. and put her inside with the other older women. A policeman sat outside, guarding the door. He wore a camouflage and blue uniform. After half an hour, however, other paramilitaries entered the room:

They were coming in with knives and masks. And they would ask one another, “Are we going to cut them?” They did the same thing [each time]. They beat me, and they bit me. The one who was finishing with me would take me to another one and say, “You take her now.” One was very big with a shaved head and he tortured me very much. When he took me in his hands he tortured me so much that I fainted. I didn’t know where I was. When I woke up I was lying on the ground with no clothes and he was standing over me and laughing. I was very afraid.

I screamed but he put a machine gun in my face and said that he would shoot me if I screamed again. I didn’t have any clothes on. I was afraid that since I was pregnant they would cut me. They were playing with their knives all the time. They said, “We will take the baby out.” That man with the shaved head and a mask sharpened his knife [in front of me]. One gave himself an injection. The man with the shaved head did all these bad things. He [cut his hand a little bit] and drank blood in front of us. After I fainted they didn’t take me anymore.

V.B. was told by the policeman guarding the door to the barn to go back inside. The five other young women, along with three older women, were led away by the paramilitaries. V.B. told Human Rights Watch,

When I entered the [barn] I heard three shots. Maybe the three women were killed there. With the other girls, we didn’t know what happened to them until they were found.

When they took the girls and women they tied the door with wire. We stayed there for an hour. The man who was guarding us opened the door and told us to go out to run away. He had blue clothes and camouflage on. He turned me back and released us. He did not torture me. I only saw him when he turned me back and when he released us. He also gave me milk.

The families of the victims reported the rapes and “disappearances” to the Yugoslav Army (VJ). A commander “with two red stripes on his uniform” took the testimony and promised the families that the army would find the perpetrators and try them.⁶⁷ The commander later took the pregnant rape survivor to the hospital, where she delivered her baby two weeks later.

In another instance, a nurse who was held hostage with dozens of other women in the village of Beleg in March 1999 told Human Rights Watch that Serbian forces she said were wearing black headscarves took thirty women out of a house in twos and threes and kept each girl for at least half an hour. Women who refused to go out or resisted were beaten with the butts of assault rifles. She continued:

⁶⁶ Being “in the woods” is usually a reference to being with the KLA.

⁶⁷ Human Rights Watch interview, V.B., Vucitrn, July 19, 1999.

They raped them. Soon after they were back, they could not talk. But after that they told me what they had survived. They were covered with bites. I did not have any drugs. I tried to wash them. They said that they were treated as if they were animals. I tried to help ten of the girls. They were bleeding. I used to work in a village, and I recognized them—they were my patients. They were all younger than eighteen years old.⁶⁸

Human Rights Watch documented several cases where victims were able to identify their attackers as Serbian special police or Yugoslav Army soldiers or officers. However, paramilitaries appear to have perpetrated most of the rapes during the conflict. In one incident, two ethnic Albanian refugee women from Kosovo told a Human Rights Watch investigator that Serbian security forces held them captive in Kosovo and raped them repeatedly. The two rape victims, both from a village in the Suva Reka municipality, gave detailed and credible testimony that was corroborated by eight other women villagers, interviewed separately.

According to the testimony, special police and army forces surrounded the village on April 21, 1999. Most of the men fled into the mountains. Between 200 and 300 women, including women from nearby villages, and eleven elderly men stayed in the village.⁶⁹ The security forces divided up the women randomly to be held in three private houses. The women told Human Rights Watch that during the three days they were held in the houses, they suffered verbal abuse, threats, and harassment. One woman told investigators that police held a knife to her three-year-old son, threatening to kill him if she did not hand over gold or money. Serb forces compelled some women to clean and cook; other women were forced to have sex with their captors.

As in the Drenica case, women reported being forced to strip naked to endure searches. As one woman, twenty-three years old, told Human Rights Watch,

I was held in a room full of women. The police came, and gestured for me to come. A policeman made me take off my clothes and he found a note that I was hiding in my underwear on which I had my husband's telephone number in Switzerland. He tore up the note and started swearing at me. I went back to the group of women and the same policeman came back and said, "Come here." He took me far away from the other women and did whatever he wanted with me.⁷⁰

Two of the women raped by Serb forces described the attacks in detail to Human Rights Watch. One woman, who was sexually abused on two occasions, described being taken by Serb forces from the house, which was crowded with frightened women and children. During one of those occasions, Serb soldiers raped her. At approximately four o'clock in the afternoon on her second day of captivity, she was "chosen" from among a large group of women by a man in a green camouflage uniform. The man took her into another house and raped her there.

The following day another man demanded that she go with him to a different house ten minutes' walk from the house where she was held prisoner. According to her account, the man did not tell her where he was taking her or why, but instead pushed her forward with his gun when she started crying.

The house was full of members of the Serbian security forces, she told Human Rights Watch. They asked her questions, using a mixture of gestures and very basic words to communicate, as the woman barely understood Serbian. The soldiers and police asked her age—twenty-three—whether she had any children, and the whereabouts of her husband. They demanded money and ordered her to take off her clothes when she failed to produce cash. She started crying and pulling out her hair, which made the men laugh. They put on some music.

⁶⁸ Human Rights Watch interview V.T., Decani, July 17, 1999.

⁶⁹ When first interviewed as refugees in Kukes, Albania, in April 1999, women from the village told Human Rights Watch that eleven elderly men had been taken by the police. Some claimed to have seen a dead body as they left the village, but they did not know who it was. Human Rights Watch revisited the village in August and learned that eleven elderly men had been killed, and their bodies had been found in the village well.

⁷⁰ Human Rights Watch interview. Z.T., Kukes Refugee Camp, Albania, April 28, 1999.

After she took off her clothes, the men approached her one by one as she stood before them naked. She told Human Rights Watch that all of them looked at her, then they left her alone in the room with the man she believed to be the commander and another officer. The commander, whom she recognized as such because he had gold stars on his cap and issued orders to the other soldiers, reclined on his back about ten feet away from where the victim and the other officer were lying on a bed. The man on the bed, who was nude, touched her breasts but did not force her to touch him. "I kept crying all the time and pushing his hands away," she said. "Finally he said to me, 'I'm not going to do anything.' The commander just stared at us."

After about ten minutes, the other soldiers returned to the room and, still nude, the woman was forced to serve them coffee. She was then ordered to put her clothes back on and clean up. She picked up the dirty cups and dishes and swept the floor, she said. Then the soldiers returned her to the original house with the other women. When the others asked what had happened to her, she refused to tell them.

The second rape victim from the same village, aged twenty-nine, told Human Rights Watch that the police took her away from the house where she was being held and brought her to another house. There she was placed in a room and forced to strip naked. One after the other, five members of the Serb forces entered the room to look at her body, but it was only the last one who raped her, she told Human Rights Watch. While one of the men was assaulting her, the other four entered the room and watched. The woman also stated that someone had placed a walkie-talkie under the bed in the room, and throughout the rape the Serbian forces shouted at her via the walkie-talkie to scare her. In all, she estimated that she was held in the room for about half an hour.⁷¹

A doctor in the United Arab Emirates camp in Kukes, Albania—where the refugees from the village found shelter—told Human Rights Watch that three other women had told him a day earlier that they had also been raped, although it is not known where the rapes took place. Human Rights Watch received unconfirmed reports that Serbian forces also took other women from the houses. According to one elderly woman from another nearby village, on the third night, the police entered one of the houses, shining a bright flashlight into the faces of the women, many of whom attempted to cover their heads with their scarves. The police found one woman and demanded that she leave with them. She returned approximately two hours later and, when asked what had happened, replied, "Don't ask me anything."⁷² Amnesty International has also documented a similar pattern of multiple rapes from the same village in the Suva Reka province in late April 21, 1999.⁷³

Other sites around the country also contained evidence indicating that rape and other forms of sexual violence in temporary detention facilities may have occurred. According to Sevdie Ahmeti, the economics department at the university in Pristina may also have been used as a center for rapes and other forms of sexual violence. Ahmeti and other investigators who accompanied her found women's tights, combs, and panties strewn around the basement. The room had been decorated with pornographic pictures of women. On a blackboard on one side of the room, a message had been scrawled in Serbian: "If you are frustrated, empty between the legs of a woman." Blankets found in the basement had what appeared to be bloodstains.⁷⁴

Kosovar Albanian women interviewed in Albanian refugee camps by counselors from the Counseling Center for Women and Girls also reported being taken from holding centers and forced to clean buildings housing paramilitaries and soldiers. One woman told a counselor,

⁷¹ Human Rights Watch interview, Z.Z., Kukes refugee camp, Albania, April 28, 1999.

⁷² Human Rights Watch interview, Z.T., Kukes refugee camp, Albania, April 28, 1999.

⁷³ Amnesty International, "Incidents of Multiple Rape."

⁷⁴ Human Rights Watch interview, Sevdie Ahmeti, Pristina, July 19, 1999. Ahmeti and others visited the site after NATO troops entered Pristina.

At the first moment they picked out the most beautiful girls, brought us to the house, and closed one girl in each room. They came in my room and demanded that I get undressed. I started to scream and they beat me and locked me in the bathroom. They left me there for an hour until I stopped screaming. Then an officer, perhaps a lieutenant, chose the men who would come in and have sexual relations with me. He himself did not. After four men entered the room and had sex, I was exhausted. He said that the fifth one would be the last one. After the fifth there were no more.⁷⁵

In at least one case, a woman was specifically sought out for torture and abuse because of her status as a prominent women's human rights activist. On May 4, 1999, the door of the house where she was hiding was broken down by three masked men carrying assault rifles. During the hours that followed, she was sexually assaulted with the barrel of a gun.⁷⁶

Testimony provided to Human Rights Watch also suggested that women held in prisons were raped and sexually assaulted, although there is no direct testimony to confirm these claims. A man, M.J., described being taken with others by truck to the prison in Lipjan (Lipjan), which also had a women's facility. When the detainees arrived at the prison, they were tortured and interrogated, he told Human Rights Watch. M.J. spent forty-two days in the prison. He told a Human Rights Watch investigator that women also were detained and raped in the prison. The women, held in a cell near the men, could be heard screaming. According to the prisoner, "I heard the police tell the women to take off their clothes. I will never forget their screams. The police would walk by our room and say to each other, 'Tonight we will be with the girls.'"⁷⁷

Because the prisoners were forbidden to look up or move around the prison, the witness did not see the women prisoners. Human Rights Watch could not independently confirm his account.

IV. THE AFTERMATH: ONGOING ISSUES FACING KOSOVAR ALBANIAN WOMEN

The Consequences of Rape

*I am afraid I'm pregnant. If it's true that I'm pregnant, I'd rather die.*⁷⁸

⁷⁵ Human Rights Watch interview, Silvana Mirija, Director, Counseling Center for Women and Girls, Tirana, Albania, July 24, 1999. In all, counselors from the Center documented twenty-eight cases of rape through direct victim testimony. The Center had a staff of forty-five counselors in "open centers" and camps in Tirana, Pogradec, and Shkoder.

⁷⁶ Human Rights Watch interview, A.X., Pristina, July 11, 1999.

⁷⁷ Human Rights Watch interview, M.J., Dobrotin, July 13, 1999.

⁷⁸ Human Rights Watch interview with a rape victim conducted in Kukes, Albania, April 27, 1999.

Many of the women raped by Serb paramilitaries, police, or Yugoslav soldiers feared that they would become pregnant. By July, gynecologists in Kosovo and Albania interviewed by Human Rights Watch reported eight cases of rape in which they had provided abortions or other medical treatment. In Pec alone, a local gynecologist reported that three women had requested abortions because they had been raped.⁷⁹ In Pristina, the chief gynecologist, Dr. S. Hoxha, performed two abortions on rape victims. In both cases the women, seventeen and twenty-one years of age, said they had been gang raped by Serbian special police (MUP), one near Djakovica and the other near Klina (Kline).⁸⁰

Beyond the immediate fear of pregnancy, some women expressed shame that they had been raped. Dr. Hoxha, the chief gynecologist, told Human Rights Watch, "We think that this category of women will suffer consequences in the future—psychological consequences as well as family and social status consequences."⁸¹ Women interviewed by Human Rights Watch appeared to be suffering from very high levels of trauma, exacerbated by cultural taboos associated with rape. Women returning to their families after hours of captivity often exhibited symptoms of trauma and extreme emotional distress. In one case, a twenty-two-year-old woman was taken away by Serbian soldiers in the village of Z. According to the testimony of eyewitnesses, in the morning on April 5, uniformed Serbs grabbed the woman and put a knife to her throat. A man who witnesses believed was an army captain told the woman's husband, "This woman is not yours anymore." An hour later when the woman returned, she fainted and wept. She told her mother-in-law and the other women in her family that she had been raped. In shock, she tried to commit suicide by putting her fingers in a light socket. Family members were afraid to leave her alone.⁸²

While some women received emotional support from friends and family, other women feared speaking of the assault at all, terrified that they would be blamed for their rape, shunned by friends and family, and unable to marry. Newspaper accounts and testimonies of witnesses and victims across Kosovo referred to the shame that women felt about the rape and sexual torture they experienced.⁸³ While rape is indeed seen as shameful in Kosovar Albanian society, many women nevertheless found the courage to speak about their experiences; some of these women expressed their wish to testify at the International Criminal Tribunal for the Former Yugoslavia in the Hague (ICTY).

Access to Justice

Many women who survived attacks do not want to report the rapes for a variety of reasons. Some women victims of rape expressed fear that they would never be able to marry. Others felt terrified that they would be shunned by society. But other women have expressed anger at their attackers and willingness to testify at the ICTY. That willingness to testify is tempered, however, by fear that their attackers may still be at large in Kosovo, or that they may return.⁸⁴

For those women willing to testify, issues of witness protection and support loom large. At a conference on rape as a war crime held in Vienna in June 1999, Kosovar Albanian women attendees demanded that rape victims planning to testify in the Hague receive witness protection before, during, and after the trial. In addition, Drita Rexhepi, director of NORMA, the Kosova Association of Women Lawyers, recommended that women witnesses be encouraged to retain personal legal counsel to represent them on issues of witness protection, immigration status,

⁷⁹ Human Rights Watch interview, Dr. Ibrahim Rexhia, Pec, July 14, 1999.

⁸⁰ Human Rights Watch interview, Dr. S. Hoxha, Pristina, July 21, 1999.

⁸¹ Ibid.

⁸² Human Rights Watch interview, S.A. and S.X., Domaj, Albania, April 15, 1999.

⁸³ Williams, "In Kosovo, Rape Seen as Awful as Death," *Los Angeles Times*. Elisabeth Bumiller, "Deny Rape or Be Hated: Kosovo Victims' Choice," *New York Times*, June 22, 1999, p. A1.

⁸⁴ James Hider, "Post-war Women Must Work to Overcome Conflict Trauma," Agence France Presse, November 27, 1999.

and other legal matters.⁸⁵ She also suggested that donor governments provide funds for training local Kosovar Albanian lawyers on the rules and procedures of the ICTY.

⁸⁵ Statement of Drita Rexhepi, "Rape Is a War Crime" Conference, Vienna, Austria, June 18, 1999.

Rexhepi's concern for women witnesses stemmed from open discussions with women leaders from Bosnia and Herzegovina who have dealt with the tribunal over the past five years. Bosnian activists warned Kosovar Albanian women that counseling records could be subpoenaed by defense counsel. The negative experience of the *Furundzija* trial, in which the trial chamber forced a nongovernmental organization in Bosnia and Herzegovina to release a victim-witness's counseling records to the tribunal, caused concern among nongovernmental organizations.⁸⁶ Dr. Monika Hauser, founder and director of Medica Mondiale and one of the keynote speakers at the Vienna "Rape is a War Crime" conference stated, "[The *Furundzija Case* has] shown in a sad way that it is impossible for our work to leave the political circumstances outside the doors of the therapy center."⁸⁷

Women may also be able to pursue redress through locally available tribunals. Because the ICTY does not have sufficient resources to prosecute all abuses in Kosovo over which it has jurisdiction, some cases are likely to be prosecuted locally before domestic Kosovar courts or a specially-created domestic war crimes tribunal. Chief Prosecutor Carla Del Ponte has stated, "[I]t is clear that the [Office of the Prosecutor of the] ICTY has neither the mandate, nor the resources, to function as the primary investigative and prosecutorial agency for all criminal acts committed on the territory of Kosovo."⁸⁸ Support appears to be growing for a local tribunal: participants in the OSCE-sponsored Kosovo International Human Rights Conference, held in Pristina on December 10-11, 1999, called for accelerated prosecution of crimes committed during the conflict, "namely through the establishment of a Kosovo war crimes tribunal."⁸⁹ The structure of such a tribunal remains to be decided, although a proposal is under consideration that would include appointment of a panel of international judges. While Human Rights Watch acknowledges the potential value of domestic war crimes prosecutions as a means of broadening accountability, experience from Bosnia and Croatia indicates that domestic prosecutions are often highly politicized processes. Any mechanism for domestic prosecutions must include, at a minimum, independent review of evidence and adequate safeguards for the rights of the accused, as well as adequate protection for local prosecutors and judges.

Reconstruction Programs and the Status of Women

⁸⁶ *Prosecutor v. Anto Furundzija*, Case No. IT-95-17/1-T, December 10, 1998, Judgment, paras. 90-116. In *Furundzija*, the Trial Chamber found that the prosecutor had breached Rule 68 by failing to disclose "material [that] was considered to be relevant to the issue of credibility of Witness A's testimony." Thus, when the defense moved to strike the testimony of Witness A, a rape victim, or, in the case of a conviction, for a new trial, the Trial Chamber re-opened the proceedings in connection with "medical, psychiatric or psychological treatment or counseling received by Witness A after May 1993." The Trial Chamber ordered, under the circumstances, that all related documents be turned over to the defense. In addition, a subpoena was issued to the nongovernmental counseling organization in Bosnia, forcing them to turn over all relevant documents, which were reviewed by the judges in camera, and then disclosed to both the prosecution and the defense. Although the Trial Chamber held that the facts of this case warranted disclosure of private and highly personal counseling records, it must be noted that war crimes victims who receive counseling have an important interest in maintaining the confidentiality of the relationship with their counselor. In order for women to recover from the trauma of rape or sexual assault, they often must speak of deeply personal events and feelings. Their willingness to do so hinges on their belief that such conversations will never be divulged. Women fearing public exposure thus might choose not to seek counseling rather than to risk breach of the confidentiality of their counseling records. The tribunal should weigh these concerns heavily to avoid chilling women's willingness to seek trauma counseling.

⁸⁷ Statement by Monika Hauser, Director, Medica Mondiale, "Rape is a War Crime" Conference, Vienna, Austria, June 18, 1999.

⁸⁸ "Statement by Carla Del Ponte, Prosecutor of the ICTY on the Investigation and Prosecution of War Crimes Committed in Kosovo," Press Release, The Hague, 29 September 1999 (www.un.org/icty/pressreal/p437-e.htm).

⁸⁹ Kosovo International Human Rights Conference Declaration, Pristina, December 10-11, 1999 (www.osce.org/kosovo/reports/hr-declar.htm).

*A woman is a victim of violence and will also be a victim of tradition because of the status women have here. Women get married and can have children. Women have no prospects in our society. [When the Serbs dismissed all the Albanians] those Albanian women who continued working were at hospitals and cleaning women—there were none in the government. All the educated women were dismissed.*⁹⁰

Women raped and sexually assaulted during the Kosovo conflict face significant obstacles to securing redress in the forms of justice, medical attention, and psycho-social support. This struggle is made all the more difficult by the context in which it occurs. Although the killings and human rights abuses in Kosovo have forever changed the fabric of that society, traditional views of women still hold. Particularly in rural areas, women have long been viewed as “pillars of the family [and] the martyrs for the nation,”⁹¹ not breadwinners, and have been accorded a lower status than men in the family and in society. For example, in inheritance cases, women often give up their right to property. As Sevdie Ahmeti told Human Rights Watch, “He [the male relative] takes for granted that she will give it up. It automatically goes to the brother. He expects this. It is unthinkable that a woman would demand a share. When she marries, she gives up everything.”⁹² Similarly, women are still expected to put men’s employment needs first, even though many women want to work and some must work to support their families. Women’s struggle to see justice done requires dismantling laws and policies that prevent all women living in Kosovo from enjoying their human rights. Women in Kosovo are entitled to equality as well as to justice. The international community must focus on key areas for potential violation of women’s human rights such as inheritance and property issues, employment, and development and reconstruction assistance.

Throughout Kosovo, women in the postwar environment must provide for families, rear children alone, and rebuild their lives. The hardships of conflict have not disappeared. Water and electricity are available only sporadically in cities.⁹³ The rule of law is almost nonexistent: robberies, apartment thefts, extortion, and murders reportedly take place with near impunity.⁹⁴ With such vast destruction of Kosovo’s housing stock, families—and particularly female-headed households—are struggling to find adequate shelter during the winter.

⁹⁰ Human Rights Watch interview, Sevdie Ahmeti, Pristina, July 11, 1999.

⁹¹ Julie Mertus, “Women in Kosovo: Contested Terrains,” in Ramet, ed., p. 174.

⁹² Human Rights Watch interview, Sevdie Ahmeti, Pristina, July 12, 1999.

⁹³ See Steve Erlanger, “Chaos and Intolerance Prevailing in Kosovo Despite U.N.’s Efforts,” *New York Times*, November 22, 1999, p. A1.

⁹⁴ See Lawyers’ Committee for Human Rights, *A Fragile Peace: Laying the Foundations for Justice in Kosovo* (New York: Lawyers’ Committee for Human Rights, 1999), and Fred Abrahams, “Justice Delayed in Kosovo,” *Institute for War and Peace Reporting*, November 26, 1999.

The World Bank and the European Commission estimate that the reconstruction of Kosovo will cost U.S.\$2.3 billion over the next five years.⁹⁵ To date, only \$10 million has been specifically earmarked by the international community to target women for income-generating and reconstruction programs.⁹⁶ Projects funded to date include hairdressing salons, vocational training projects, collective chicken farms, and education programs for journalists and farmers.⁹⁷ It is too early to tell whether the international community has integrated women into the \$2.3 billion reconstruction plans.⁹⁸ Vjosa Dobruna, Sevdie Ahmeti, and Igballe Rogova, Kosovar women activists, have demanded that the United Nations include women in political and economic reconstruction programs. In an October 1999 meeting with the UNMIK Special Representative Bernard Kouchner and U.N. Secretary General Kofi Annan, the three women criticized the United Nations representatives for failing previously to meet with women political leaders or include women in the U.N.-appointed transitional government.

The international community's track record in the region fails to inspire confidence that women's voices will be heard in the reconstruction clamor. Women constituted only 7 percent of the Organization for Security and Cooperation in Europe (OSCE) Kosovo Verification Mission (KVM).⁹⁹ Of the six deputy heads of the KVM, all were male. Given that KVM verifiers were the primary human rights monitors on the ground in Kosovo until their withdrawal in March 1999, the lack of female representation had important implications for women victims of rape and other forms of sexual violence. Although KVM did successfully gather testimony of twenty-three rapes in Kosovo prior to their withdrawal, some women may have felt discouraged from coming forward to report the crimes.

Since the end of the conflict, the OSCE has become "the lead organization for the institution-building tasks of UNMIK," with responsibility for training police and civil servants, facilitating the development of political parties, organizing voter registration and elections, and monitoring human rights.¹⁰⁰ Given the important role of the OSCE in post-conflict Kosovo as a key pillar of UNMIK, it is troubling that the OSCE mission includes almost no women in senior positions. One former OSCE staff member who questioned the lack of female participation in the OSCE democratization programs was told by a male OSCE colleague that women were not interested in politics and could not participate for local cultural reasons.¹⁰¹ However, when the OSCE held a meeting in late 1999 for leaders of women's nongovernmental organizations in Kosovo, over thirty women attended and expressed outrage that women had been sidelined by the international community.¹⁰²

Failure to hire experienced women as OSCE human rights officers in Kosovo makes reporting of post-conflict rape, gender discrimination, and domestic violence far less likely.¹⁰³ Although there are exceptions, women

⁹⁵ Reuters News Service, "Donors Pledge \$1 Billion for Kosovo," November 17, 1999 (abcnews.go.com/wire/World/reuters19991117_2479.html).

⁹⁶ The program is known as the Kosovo Women's Initiative (KWI).

⁹⁷ James Hider, "Post-war Kosovo Women Must Work to Overcome Conflict Trauma," Agence France Press, November 27, 1999.

⁹⁸ The World Bank's "Transitional Support Strategy for Kosovo," published in October 1999, does not mention women, (www/worldbank.org/html).

⁹⁹ Human Rights Watch interview, Sandra Mitchell, Pristina, July 11, 1999. The Kosovo Verification Mission was designed to place a 2,000-person, unarmed civilian "verification team" in Kosovo to monitor the situation on the ground. The KVM actively collected information on human rights abuses in Kosovo through regional offices in most of Kosovo's larger towns. Just prior to the NATO bombing campaign, the KVM was withdrawn to Macedonia, where they continued gathering testimonies from refugees in the camps.

¹⁰⁰ OSCE, "The Mission in Kosovo: The First Six Months," www.osce.org/kosovo/six_months.htm.

¹⁰¹ Human Rights Watch telephone interview, former OSCE official, December 7, 1999.

¹⁰² Ibid.

¹⁰³ At present, only 14 percent of all OSCE field staff in all missions are women. See "European Union Statement on Equality of Opportunity for Men and Women," OSCE Review Conference, Human Dimension, September 28, 1999

victims of these crimes will report more often to female human rights officers. Further, failure to train all staff, including senior staff, in discrimination, violence against women, rape as a war crime, and other human rights abuses against women will effectively render these violations invisible. The OSCE gender adviser in Vienna has taken steps to integrate these issues into training programs for staff.¹⁰⁴

(RC.DEL/176/99).

¹⁰⁴ Human Rights Watch telephone interview, Beatrix Attinger-Colijn, Gender Adviser, OSCE, Vienna, February 17, 2000. The current two-day training program for field staff includes a forty-five minute session on gender issues.

Violations of international humanitarian law in Kosovo have now ceased. Violations of women's human rights in the post-war environment must not be tolerated. Under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), state parties have an obligation "to pursue by all appropriate means and without delay a policy of eliminating discrimination against women."¹⁰⁵ This includes eliminating discrimination against women in political and public life¹⁰⁶ and ensuring that women have equal rights with men in other areas of economic and social life.¹⁰⁷ As international institutions, and in particular UNMIK and the OSCE, supervise the governance of Kosovo, those institutions have a responsibility to abide by United Nations human rights conventions, including CEDAW.

¹⁰⁵ Convention on the Elimination of All Forms of Discrimination Against Women, Article 2. CEDAW was adopted and opened for signature, ratification, and accession by United Nations General Assembly resolution 34/180 on 18 December 1979. It entered into force September 3, 1981. The Federal Republic of Yugoslavia signed the Convention on July 17, 1980 and it entered into force on March 28, 1982.

¹⁰⁶ Under Article 7 of CEDAW, states parties are required to "eliminate discrimination against women in the political and public life of the country, and . . . to ensure to women, on equal terms with men, the right . . . to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government."

¹⁰⁷ Under Article 13b of CEDAW, states parties "shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on basis of equality of men and women, the same rights, in particular: the right to bank loans, mortgages and other forms of financial credit."

On a positive note, there are some indications that the international community will not replicate all the mistakes made in Bosnia and Herzegovina. The United Nations has created a gender unit, headed by Dr. Roma Bhattacharjea, to work within the U.N. mission in Kosovo.¹⁰⁸ On February 29, the Kosovo Interim Administrative Council appointed Dr. Vjosa Dobruna, a well-known and well-respected leader in the NGO community and doctor, as co-head for the Department of Democratic Governance.¹⁰⁹ Edi Shukriu, a leader of the women's wing of the Kosovo Democratic League, was appointed as co-head for the Department of Culture.¹¹⁰ In addition, the first class of recruits who entered training in 1999 for the Kosovo Police Service included forty women.¹¹¹ The inclusion of women in the police force marked an important development for two reasons. First, domestic violence against women tends to increase after a period of conflict.¹¹² Women interviewed in the region indicated that they would prefer to report rape and domestic violence cases to female, rather than male, police officers. Second, municipal jobs and positions with international organizations are, at this stage, the only stable employment opportunities for Kosovars. Women must be integrated into all jobs programs on an equal basis with men. Employing women in nontraditional jobs also shatters stereotypes about women's capabilities and skills. In one example, Norwegian People's Aid, a nongovernmental organization working on mine-clearing in Kosovo, announced that its first team of all-female trained deminers would begin work after a five week training course in Pec.¹¹³

Because of the important role that international organizations now play in Kosovo, those institutions should vigilantly monitor human rights, including women's human rights, as the population recovers from war.¹¹⁴ In light of the potential for gross violations of women's human rights to emerge in the post-conflict period, staff of the OSCE and UNMIK must be trained to recognize these abuses. Programs implemented by these institutions in Kosovo should integrate women's human rights. Specifically, Human Rights Watch makes the following recommendations:

To the Organization for Security and Cooperation in Europe:

- Support the efforts of the OSCE Gender Adviser to incorporate training on women's human rights, with particular emphasis on violence against women, rape as a war crime, and discrimination against women, into training for all field staff posted to Kosovo.

¹⁰⁸ Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo July 12, 1999, S/1999/779. Dr. Bhattacharjea's title is Gender Policy Officer.

¹⁰⁹ Dr. Vjosa Dobruna founded the Center for the Protection of Women and Children. U.N. Press Release, "Kosovo's Interim Administrative Council Names Heads for Three More Departments," February 29, 2000, (www.un.org/peace/kosovo/news/kosovo2.htm).

¹¹⁰ Ibid. See also U.N. Press Release, "Co-Heads for Three More Administrative Departments in Kosovo Named," January 25, 2000, (www.un.org/peace/kosovo/news/kosovo2.htm). Nineteen administrative departments were originally proposed for the transitional government, called the Kosovo Joint Interim Administrative Structure (JIAS). The number of administrative departments was later increased to twenty.

¹¹¹ Carlotta Gall, "Community Policing Taught by Americans in Kosovo," *New York Times*, September 8, 1999. The first graduating class of Kosovo police officers was 20 percent women. The second nine-week training course, which began on November 29, 1999, included 17 percent women. See OSCE, "Mission in Kosovo: The First Six Months," December 1999 (www.osce.org/kosovo/six_months.htm).

¹¹² Activists throughout the region have told Human Rights Watch that domestic violence incidents increased after extended periods of conflict. See, for example, International Human Rights Law Group BiH Project, *A National NGO Report on Women's Human Rights in Bosnia and Herzegovina* (Sarajevo: International Human Rights Law Group, 1999), p. 170.

¹¹³ Julius Strauss, "Housewives Join First All-Woman Mine-Clearing Team in Kosovo," *London Daily Telegraph*, November 17, 1999.

¹¹⁴ According to one source, many international institutions operating in Kosovo have already set up gender task forces or gender units. Human Rights Watch telephone interview, international aid official, Pristina, February 22, 2000.

- Include training on women's human rights in all training programs for the Kosovo Police Service (KPS). Portions of the training should be led by local Kosovar Albanian experts on violence against women, rape as a war crime, and discrimination against women.
- Develop an accountability/complaints mechanism for the Kosovo Police Service that allows women, their families, women's groups, and human rights organizations to complain about lack of adequate police response to violence against women.
- Include women's human rights in all human rights reporting undertaken by local field staff.
- Sponsor a conference on democratization and women's rights to integrate women into the economic and political reconstruction programs.
- Create and implement leadership training programs for qualified Albanian, Roma, and Serbian women leaders in Kosovo;
- Provide training on international humanitarian law, and specifically prohibitions relating to rape, for all Kosovo Protection Force and Kosovo Police Service personnel.

Donors should target funding to avoid perpetuating discrimination against women and to assist local and international initiatives to increase women's access to credit, job training programs, and general reconstruction programs.

To the European Union, the U.S. Government, and Other Donor Governments:

- Fund programs in Kosovo designed to provide legal, psychological, economic, and social support for women victims of trauma. Programs should rely on the expertise and capacity of local nongovernmental organizations with experience in the area.
- Cooperate fully with the ICTY to facilitate witness protection programs including resettlement, asylum, and refugee status for victims of rape and other forms of sexual violence who agree to cooperate with the ICTY and face retaliation.
- Fund programs to train Kosovar Albanian lawyers on the ICTY and finance a project to provide independent legal representation for victims of rape and other forms of sexual violence cooperating with the ICTY.

V. INTERNATIONAL AND NATIONAL LEGAL PROTECTIONS AGAINST RAPE AND OTHER FORMS OF SEXUAL VIOLENCE

Rape and other forms of sexual violence can constitute international crimes and also can be crimes under national law. Rape and other crimes of sexual violence may be prosecuted as war crimes,¹¹⁵ torture,¹¹⁶ crimes

¹¹⁵ In internal armed conflicts, such as that which occurred in Kosovo, Common Article 3 of the Geneva Conventions prohibits "violence to life and person," "cruel treatment," "torture" and "other outrages upon personal dignity." Article 4(2)(e) of Protocol II to the Geneva Conventions, also governing the protection of civilians in internal armed conflicts, explicitly outlaws "outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault." Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, opened for signature December 12, 1977, Article 4(2) (a) and (e), 1125 U.N.T.S. 3, 16 ILM 1442 (1977) [hereinafter Protocol II]. Yugoslavia acceded to the four Geneva Conventions on April 21, 1950, and to Protocols I and II on June 11, 1979.

¹¹⁶ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, December 10, 1984, 23 I.L.M. 1027 (1984), Article 1, defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain and suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity." [hereinafter Convention against Torture]. According to the Report of the U.N. Special Rapporteur on Torture, rape can be an act of torture. Report of the U.N. Special Rapporteur on Torture, Mr. Nigel S. Rodley, submitted pursuant to the Commission on Human Rights Resolution 1992/32, E/CN.4/1995/34, Paragraph 19, January 12, 1995. The ICTY convicted Anto Furundzija as a co-perpetrator of torture for aiding and abetting a rape committed by another indictee. See *Prosecutor*

against humanity,¹¹⁷ grave breaches of the Geneva Conventions,¹¹⁸ and, in some circumstances, constituent acts of genocide.¹¹⁹ Consistent with the understanding that “torture or inhuman treatment” and “wilfully causing great suffering or serious injury to body or health”¹²⁰ can include acts of rape and sexual violence, the ICTY has indicted defendants for these war crimes.¹²¹ The ICTY’s statute explicitly lists rape as a crime against humanity under Article 5(g); the Tribunal has already won convictions for rape as a grave breach (Article 2), as a violation of the laws or customs of war (Article 3), and as a war crime (Article 3) in the conflict in Bosnia and Herzegovina.¹²²

Rape and Sexual Violence in Kosovo: Legal Analysis

Rape and other forms of sexual violence have long been mischaracterized and dismissed by military and political leaders as private crimes or the unfortunate behavior of renegade soldiers. Worse still, these crimes have been tolerated precisely because they are so commonplace. Rape functions in ways similar to other human rights abuses, but until recently it has not been exposed and condemned like all other violations. The differential treatment of gender-based violence makes clear that the problem, for the most part, lies not in the absence of adequate legal prohibitions, but in the international community’s willingness to tolerate sexual abuse of women.

v. Anto Furundzija, Case No. IT-95-17/1-T. Yugoslavia signed the Convention against Torture on April 18, 1989 and ratified it on September 10, 1991.

¹¹⁷ Crimes against humanity “refer to inhumane acts of a very serious nature . . . committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds.” “Report of the Secretary-General Pursuant to Paragraph 2 of Security Council Resolution 808,” 32 I.L.M. at 1159 (1993), para. 48. The ICTY statute explicitly lists rape as a crime against humanity in Article 5(g).

¹¹⁸ Grave breaches are those acts in an international armed conflict against persons protected by the Geneva Conventions, the perpetrators of which states are obligated to seek out and prosecute or extradite. Although rape and other crimes of sexual violence are not enumerated in the articles defining grave breaches, the International Committee of the Red Cross (ICRC), among others, has interpreted rape to be an example of the grave breach crime of “torture or inhuman treatment” or “wilfully causing great suffering or serious injury to body or health.” See Geneva Conventions I through IV, Articles 50, 51, 130, and 147 respectively.

¹¹⁹ Convention on the Prevention and Punishment of the Crime of Genocide *adopted* 9 Dec. 1948, 78 U.N.T.S. 277 [hereinafter Convention Against Genocide]. Genocide is defined by the intent of the perpetrators to destroy a national, ethnic, racial, or religious group through acts which include “causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.” See also *Akayesu Judgment*, Case No. ICTR-96-4-T.

¹²⁰ Geneva Convention IV, art. 147.

¹²¹ *Prosecutor v. Dusko Tadic*, Case No. IT-94-II, 10 February 1995, Indictment.

¹²² *Prosecutor v. Anto Furundzija*, Case No. IT-95-17/1-T and *Celebici Judgment: Prosecutor v. Delalic, Mucic, Delic, and Landzo*, Case No. IT-96-21-T. See also “ICTY Prosecutor, Carla Del Ponte, Releases Background Paper on Sexual Violence Investigation and Prosecution,” Press Release, The Hague, 8 December 1999.

The crimes documented in this report are prohibited by international humanitarian law. By early March 1998, hostilities between the KLA and Serbian and Yugoslav government forces reached a level of conflict that triggered the obligations of Common Article 3 to the 1949 Geneva Conventions and Protocol II.¹²³ With the initiation of the NATO bombing in March 1999, the conflict in Kosovo and all of the Federal Republic of Yugoslavia, to the extent it involved NATO and Yugoslav forces, became an international armed conflict to which the full body of international humanitarian law applied.¹²⁴ The abuses dealt with in this report took place during hostilities between the KLA and the Serbian and Yugoslav government forces and are therefore governed by international humanitarian law applicable to internal armed conflicts. The violations of humanitarian law carried out by police, soldiers, and paramilitaries in Kosovo are fully within the jurisdiction of the ICTY.

Each of the rapes in Kosovo documented in this report is a war crime. The rapes and other forms of sexual violence purposefully inflicted by military forces upon these women are covered by Common Article 3 of the Geneva Conventions, Section 1 which prohibits “violence to life and person . . . cruel treatment and torture” and “outrages upon personal dignity, in particular humiliating and degrading treatment.”¹²⁵ In addition, the rapes described here violate Protocol II to the Geneva Conventions, which explicitly outlaws “outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution, and any form of indecent assault.”¹²⁶

¹²³ Yugoslavia acceded to the four Geneva Conventions on April 21, 1950, and to Protocols I and II on June 11, 1979. For a detailed analysis of the conflict and its legal implications, see Human Rights Watch, *Humanitarian Law Violations in Kosovo*, pp. 91-96.

¹²⁴ International humanitarian law (IHL) applies expressly and uniquely to armed conflict situations, with distinct provisions to regulate international and non-international (internal) armed conflicts. See Human Rights Watch, “Civilian Deaths in the NATO Air Campaign.”

¹²⁵ Geneva Conventions, Common Article 3.

¹²⁶ Geneva Conventions, Protocol II, Article 4(2)(e).

Each of the rapes reported here may also be prosecuted as torture.¹²⁷ Soldiers, paramilitaries, and police intentionally inflicted the rapes described here for the purposes of intimidation, coercion, punishment, to elicit information, or simply based on discrimination against Kosovar Albanians and/or against women. In some cases, the intent was clearly to intimidate—through the act or the threat of rape—the victim, her family, and her community. For example, numerous victims and witnesses described explicit threats of rape used to terrify and intimidate fleeing displaced persons.¹²⁸ In other cases, the rapes and threats of rape were committed with the intent to elicit information concerning the whereabouts of male family members.¹²⁹ A necessary criterion for these rapes to rise to the level of torture is for the perpetrators to be acting in their official capacities. Rape and other forms of sexual violence constitute torture when they are intentionally inflicted on a victim by an official or with official instigation, consent, or tolerance for any of the purposes listed above.¹³⁰ The soldiers and police who committed rape and sexual violence acted in their official capacities. The paramilitaries in Kosovo during the conflict acted as agents and auxiliaries of the Yugoslav forces.

Even where the act was not rape, or did not cause severe physical pain or suffering, it still may rise to the level of torture or other cruel, inhuman, or degrading treatment on account of the psychological suffering inflicted. In internal armed conflicts, Protocol II prohibits “torture . . . or other cruel treatment of persons under any circumstances.”¹³¹ Common Article 3 of the Geneva Conventions prohibits “violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture” as well as “outrages upon personal dignity, in particular humiliating and degrading treatment.”

In many interviews, women spoke of being forced to strip naked, clean houses, and serve coffee to soldiers and policemen. A broad definition of sexual violence has been established as a precedent in the *Akayesu Judgment*. There, the International Criminal Tribunal for Rwanda (ICTR) held, “Sexual violence is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact,” including forced nudity.¹³²

¹²⁷ Articles 7 and 8 of the Convention against Torture mandate prosecution or extradition of any person who has committed torture. The prosecution should take place in “the same manner as in the case of any ordinary offence of a serious nature under the law of that state.” Convention against Torture, Article 7, para. 2. Under the ICTY Statute, torture may be prosecuted as a grave breach of the Geneva Conventions (Article 2(b)), as a violation of the laws or customs of war (Article 3), or as a crime against humanity (Article 5(f)). In the *Furundzija* case, the trial chamber defined torture in an armed conflict as:

(i) “the infliction, by act or omission, or severe pain or suffering, whether physical or mental.”

The trial chamber further required that:

(ii) this act or omission must be intentional;

(iii) it must aim at obtaining information or a confession, or at punishing, intimidating, humiliating or coercing the victim or a third person, or at discriminating, on any ground, against the victim or a third person;

(iv) it must be linked to an armed conflict;

(v) at least one of the persons involved in the torture process must be a public official or must at any rate act in a non-private capacity, *e.g.* as a de facto organ of a State or any other authority-wielding entity.”

See *Prosecutor v. Anto Furundzija*, Case No. IT-95-17/1-T, para. 162. Article 5(f) of the ICTY statute lists torture as a crime against humanity.

¹²⁸ See section of report Attacks in Flight.

¹²⁹ See, for example, testimony of X.R. in section Rapes and Sexual Assaults of Women Held Hostage or Detained.

¹³⁰ *Celebici Judgment: Prosecutor v. Delalic, Mucic, Delic, and Landzo*, Case No. IT-96-21-T, para. 941.

¹³¹ International Committee of the Red Cross (ICRC), *Commentary, IV Geneva Convention* (Geneva: ICRC, 1958), p. 226.

¹³² *Akayesu Judgment*, ICTR-96-4-T, Trial Chamber 1, 2 September 1998, para. 688.

As additional evidence of rape and sexual violence emerges over the coming months, there also may be reason to prosecute these crimes as crimes against humanity.¹³³ Rapes and sexual assaults served as a weapon in the systematic campaign of “ethnic cleansing” throughout Kosovo. Human Rights Watch found ninety-six credible accounts of rape and sexual assault; there is reason to believe that many more rapes occurred. The patterns of sexual violence throughout Kosovo are remarkably similar and consistent. The evidence shows that the main perpetrators of rape in the province—police, soldiers, and members of paramilitary forces—entered Kosovo with the assistance and encouragement of the Serbian authorities.

Serbian forces perpetrated numerous rapes and other crimes of sexual violence in Kosovo; the crimes were neither incidental nor random. Some experts on the ground monitoring the abuses, including representatives of international institutions who conducted interviews during the refugee crisis, believe that the rapes and sexual assaults already documented may reach the level of crimes against humanity. Sevdie Ahmeti, for example, argues that the rapes perpetrated against Kosovar Albanian women during the conflict were both widespread and systematic.¹³⁴

¹³³ In order to rise to the level of crimes against humanity, the rapes must be committed on a widespread or systematic basis. See Kelly Dawn Askin, *War Crimes Against Women: Prosecution in International War Crimes Tribunals* (The Hague: Kluwer Law International, 1997), pp. 351-361.

¹³⁴ Human Rights Watch interview, Sevdie Ahmeti, Pristina, July 12, 1999.

Regardless of whether the charges are framed as war crimes, torture, or crimes against humanity, those with command responsibility, as well as individual perpetrators, must be indicted and prosecuted. The evidence that the military, police, and members of paramilitary forces cooperated closely in Kosovo indicates either that orders were given to commit these atrocities, or that officers were wilfully blind with regard to the crimes. One OSCE official familiar with rape testimonies collected by that institution argued that there was either a breakdown in the command structure or total official acquiescence to the rapes.¹³⁵ As the ICTY stated in the *Celebici* decision, “the crimes were so frequent and notorious” that there is no way the command structure could not have known about them.¹³⁶ And while it is still too early to know definitively how many rapes took place in Kosovo, Kosovar Albanian women and girls throughout the region reported that threats of rape permeated the environment as they fled. Once again, the Serbian military, police, and paramilitaries have used rape as a weapon of systematic “ethnic cleansing.”

In Kosovo, as everywhere, the problem in prosecuting crimes of sexual violence has not been the lack of a legal basis, but the failure of political will. Since prosecution under national Yugoslav law is highly unlikely, it is incumbent upon the ICTY, and nations willing to exercise universal jurisdiction over these crimes, to prosecute rape and sexual violence to the fullest extent possible under international law.

VI. THE NATIONAL AND INTERNATIONAL RESPONSE

In line with the obligations outlined above, the international community must not only condemn rape publicly, but also must secure redress for women.

Soon after the bombing campaign began, NATO leaders repeated unconfirmed reports in press conferences, referring to “systematic rape” early in the conflict before such a determination could reasonably be made. The propaganda war waged by NATO spokesmen during the conflict included inflated rhetoric about rape, some based on sketchy allegations that remain unsubstantiated. This opportunistic use of rape allegations was criticized by human rights experts and members of the press.¹³⁷ As a party to the conflict, NATO used premature and unsubstantiated claims of humanitarian law violations to justify the continuation of the bombing campaign and may thereby have undermined more careful reporting on abuses. NATO’s use of insufficiently substantiated allegations provided Serbian officials with an opportunity to denounce all rape reports as mere propaganda.

Officials in Belgrade categorically denied that rape was taking place; the Serbian Ministry of Information called the allegation that women were being raped in army camps a “monstrous fabrication.”¹³⁸ Although rape outside of marriage is a criminal offense under the Yugoslav criminal code, NATO’s entry into Kosovo, combined with official Serb denials that any rapes occurred, make it extremely unlikely that any of the perpetrators will be indicted and prosecuted domestically in Serbian courts.

¹³⁵ Human Rights Watch interview, OSCE Official, Pristina, July 11, 1999.

¹³⁶ *Celebici Judgment: Prosecutor v. Delalic, Mucic, Delic, and Landzo*, Case No. IT-96-21-T, para. 770.

¹³⁷ See, for example, Matt Lee, “Questions Mount on Accuracy of Kosovo Atrocity Reports,” Agence France Presse, April 1, 1999.

¹³⁸ Serbian Ministry of Information, Press Release, April 11, 1999, (www.serbia-info.com/news/1999-04/11/10767.html).

The international response to reports of rape reflected the long-overdue acknowledgment of the use of rape as a weapon of war. ICTY Prosecutor Carla Del Ponte has stated that she intends to investigate, and when appropriate, indict, and prosecute perpetrators who committed crimes of sexual violence in Kosovo as part of her "normalization" policy of prosecution of sexual violence as a serious violation of humanitarian law.¹³⁹ The ICTY sent a team of investigators, some with expertise in sexual assault investigations, to refugee camps to interview witnesses and survivors. Gender-integrated teams of investigators for the tribunal have since conducted preliminary interviews with some rape survivors in Kosovo and visited sites alleged to have been used for rapes and murders of young women during the conflict. These investigations are currently underway and are designed both to uncover evidence that can be used to amend the existing five indictments of top Serbian officials and to develop individual indictments for particularly serious crimes and sexual violence in the Kosovo conflict.¹⁴⁰ Human Rights Watch applauds the prosecutor's efforts to investigate and prosecute crimes of sexual violence as a normal part of the Office of the Prosecutor's operating procedures. However, because some women survivors of rape expressed reluctance to speak of the crime, investigators and prosecutors pursuing these cases must have special expertise and training. As the ICTY's investigations expand, it will be important to include female investigators well-versed in rape investigations on teams working in Kosovo.

Forensic teams have also traveled to Kosovo to collect evidence for use by the tribunal. Unfortunately, however, an examination for evidence of rape or other forms of sexual violence is currently not included in the forensic medical protocol for experts performing autopsies in the field in Kosovo.¹⁴¹

Various international organizations, such as the OSCE, sent researchers to interview rape survivors and publicly denounced the use of rape by Serbian forces in Kosovo.¹⁴² The Women's Commission for Refugee Women and Children, in collaboration with the United Nations High Commissioner for Refugees (UNHCR) senior coordinator for refugee women, prepared and distributed a synopsis of the UNHCR guidelines for the prevention and response to sexual violence in refugee crises. The document, which was translated into Albanian, was distributed to refugees in camps in Albania and Macedonia.¹⁴³

The European Commission and the governments of Austria and Sweden, with leadership from Commissioner Anita Gradin, sponsored a conference, "Rape Is A War Crime," in Vienna in July 1999. The purpose of the meeting was to allow Bosnian women to share their expertise and experiences with Kosovar Albanian women confronting rape in war for the first time. The 160 conference participants generated a series of recommendations to the international community.¹⁴⁴

¹³⁹ Press Release, "ICTY Prosecutor, Carla Del Ponte, Releases Background Paper on Sexual Violence Investigation and Prosecution," The Hague, 8 December 1999.

¹⁴⁰ Human Rights Watch telephone interview, Patricia Viseur-Sellers, Gender Issues Legal Officer for the Yugoslav and Rwanda Tribunals, February 4, 2000.

¹⁴¹ Human Rights Watch correspondence with Dr. Helena Ranta, forensic medical doctor, February 19, 2000. Forensic doctors examining remains in Kosovo used recommendations provided by INTERPOL and the United Nations. The "Disaster Victim Identification Guide" does not include a rape protocol. The second manual used by investigators, "Guidelines for the Conduct of United Nations Inquiries into Allegations of Massacres" includes only "a short notice on rape," according to Dr. Ranta. She also noted that her team works mostly on skeletal remains and males killed by shooting.

¹⁴² Agence France Presse, "Serb Atrocities in Kosovo 'Beyond Imagination': OSCE," April 23, 1999. The OSCE also published a report on atrocities in Kosovo including extensive documentation of rape and other forms of sexual violence. The OSCE also documented rape of men during the conflict. OSCE, *As Seen, As Told*.

¹⁴³ Women's Commission for Refugee Women and Children, "Sexual Violence in Refugee Crises: A Synopsis of UNHCR Guidelines for Prevention and Response," 1999 (www.intrescom.org/wcrwc.html).

¹⁴⁴ The conference report and recommendations can be found at the International Center for Migration Policy Development website (www.icmpd.org).

On the reconstruction front, the Kosovo Women's Initiative, modeled on the Bosnian Women's Initiative, began in August 1999 with a \$10 million grant from the United States to the UNHCR.¹⁴⁵ The program's objectives, outlined in a background paper, include "identify[ing] current gender inequities and support[ing] programs which strategically and practically redress these inequities."¹⁴⁶ The initiative will finance projects designed to "enable women, as well as men, to fully participate in the longer-term reconstruction of their society."¹⁴⁷ Private foundations, such as the Open Society Fund Network Women's Program, made funds available to women's organizations working with war-traumatized women in refugee camps in early April 1999.

In an effort to integrate women's human rights concerns into the UNMIK mandate, the United Nations appointed a gender adviser, Roma Bhattacharjea, to work on site in Kosovo.¹⁴⁸ The Office of Gender Affairs, which became operational in mid-October 1999, works to "ensure that gender issues are mainstreamed across all departments, and taken into account in all areas."¹⁴⁹ Since December 1999, the United Nations appears to have taken steps to recruit more female international staff members and female political leaders in Kosovo.¹⁵⁰ These steps were long overdue: for the first six months of UNMIK's existence, women were conspicuously absent from positions of leadership in the local and international institutions of governance.¹⁵¹ One aid official told Human Rights Watch, "In the beginning, this was a complete cowboy town—100 percent men."¹⁵² On January 12, 2000, the twelve-member Kosovo Transitional Council (KTC) discussed expansion of its ranks to include "members of civil society including women."¹⁵³ An expanded KTC, made up of thirty-four members, is designed to operate as a "mini-Parliament" until elections can be held. The members now include "nine representatives of political parties, two political independents, three representatives of religious communities, nine representatives of civil society, and seven representatives of national communities."¹⁵⁴ Of the thirty-four members, twenty-four are men, five are women, and five have not yet been named.¹⁵⁵

In all, since the end of the conflict, international donor countries have pledged over \$1 billion in reconstruction aid to Kosovo. The challenge, as documented, is to ensure that women will have a voice in the distribution of this aid. The international community must guarantee that those who violate women's human rights, whether during or following the war, do not enjoy impunity in Kosovo. Rhetoric alone will not suffice;

¹⁴⁵ In June 1999, Congressman Michael Capuano initiated a "Dear Colleague" letter-writing campaign urging President Clinton to allocate an additional \$5 million of the \$1.1 billion appropriated by the United States for assistance for Kosovar refugees to women victims of rape.

¹⁴⁶ Kosovo Women's Initiative Background Paper supplied to Human Rights Watch by the U.S. State Department Bureau of Population, Refugees, and Migration, October 28, 1999.

¹⁴⁷ Ibid.

¹⁴⁸ Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo July 12, 1999, S/1999/779.

¹⁴⁹ Human Rights Watch correspondence with representative of the Office of Gender Affairs, UNMIK Pristina, March 6, 2000.

¹⁵⁰ Human Rights Watch telephone interview, international aid official, Pristina, February 22, 2000.

¹⁵¹ According to the Office of Gender Affairs, as of mid-October 1999 there were no female members of the Kosovo Transitional Council. Human Rights Watch correspondence with representative of the Office of Gender Affairs, UNMIK Pristina, March 6, 2000.

¹⁵² Ibid.

¹⁵³ U.N. Press Release, "Kosovo Transitional Council Discusses Expansion of its Membership," January 12, 2000 (www.un.org/peace/kosovo/news/kosovo2.htm).

¹⁵⁴ UN Press Release, "Newly Expanded Kosovo Consultative Body Discusses Mitrovica Security Strategy," February 9, 2000 (www.un.org/peace/kosovo/news/kosovo2.htm).

¹⁵⁵ Human Rights Watch correspondence with OSCE human rights official, March 3, 2000.

international institutions must take concrete steps to ensure women's access to justice, assist women in rebuilding their lives, and include women in decisionmaking about the future of Kosovo. The women of Kosovo are waiting for the perpetrators of rape, as well as those who led and encouraged them, to be arrested and brought to justice.

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Human Rights Watch Women's Rights Division

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Its Women's Rights Division was established in 1990 to monitor violence against women and gender discrimination throughout the world. Regan E. Ralph is the executive director; LaShawn R. Jefferson is the deputy director; Widney Brown is the advocacy coordinator; Chirumbidzo Mabuwa, and Martina Vandenberg are research associates; and Kerry McArthur and Laura Rusu are the associates. Kathleen Peratis is chair of the advisory committee and Nahid Toubia is the vice chair.

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