

Human Rights Watch

Memorandum On Charges Against Indictes Currently Living in Serbia April 1, 2001

At least nine individuals indicted by the International Criminal Tribunal for the former Yugoslavia (ICTY), are currently believed to be residing in the Federal Republic of Yugoslavia (FRY). The authorities in Belgrade have refused to arrest any of these war crimes suspects and surrender them to the custody of the ICTY in the Hague. The new Kostunica government has not even been willing to make a public commitment to do so in the foreseeable future.

The obligation to arrest and surrender individuals indicted by the ICTY stems not only from a series of binding legal documents including pertinent resolutions by the United Nations Security Council but also because of basic principles of justice. The heinous nature of the crimes at issue is often neglected in the ongoing debate, in the FRY and abroad, over cooperation between the ICTY and FRY. These crimes include widespread or systematic killings, torture, rape, and mass deportation of civilians in Bosnia and Hercegovina, Croatia, and Kosovo.

This backgrounder offers a brief review of the most serious crimes believed to have been committed by the ICTY indictes who are currently enjoying protection in FRY. The backgrounder draws primarily upon the extensive research conducted by Human Rights Watch throughout the 1990s in the territory of the former Yugoslavia.

Vukovar - November 1991

Soldiers belonging to the federal Yugoslav People's Army (Jugoslovenska narodna armija - JNA) and Serb paramilitary troops executed approximately 260 captive non-Serb men on November 20, 1991, near the Croatian town of Vukovar.¹ The JNA and paramilitaries had captured the town two days earlier, after a three-month siege in which most of the buildings in the city were destroyed. By the end of the siege, hundreds of civilians and some soldiers posing as patients or hospital staff, had sought refuge in the Vukovar hospital. On the morning of November 20, JNA units removed approximately 400 men from the hospital, loaded around 300 onto buses and transported them to a nearby Ovcara farm, four kilometers southeast of Vukovar. The soldiers then divided the captives into groups of ten to twenty and transported each group to a nearby location. JNA and Serb paramilitary groups then executed at least two hundred persons at the site. During the exhumation of the mass grave in Ovcara, in

¹See Human Rights Watch, "Prosecute Now!" *A Human Rights Watch Report*, vol. 5, no. 12, August 1993, pp. 6-9.

September and October 1996, the bodies of 198 men and two women were found. More than fifty other men who were taken from Vukovar hospital to the Ovcara farm remain missing.

Maj. Veselin Sljivancanin, the operational commander for the JNA in the latter stages of the siege of Vukovar, has admitted that Serbian troops did evacuate a number of people from the hospital to a place called Ovcara, but also claimed that he turned them all over to prison authorities in Sremska Mitrovica, a Serbian town which houses a major prison facility. Human Rights Watch, however, gathered testimonies of eight survivors, confirming that the summary execution of 200 patients took place at Ovcara. The Serbian government's account also contradicts Major Sljivancanin. In response to a protest letter written by Human Rights Watch to Slobodan Milosevic, then president of Serbia, the Serbian government (in a letter dated March 18, 1992) claimed JNA took 380 patients from the hospital and released 173 of them—not all of them, as Sljivancanin claimed. The government failed to explain what happened to the patients who were not delivered to Croatian authorities.

Veselin Sljivancanin, Mile Mrksic, and Miroslav Radic were indicted by the ICTY on October 26, 1995, for:

* beatings [wilfully causing great suffering, cruel treatment, inhumane acts] and killings [murder and wilful killing].

* crimes against humanity [murder and inhumane acts], grave breaches of the Geneva Conventions [wilful killing and wilfully causing great suffering], and violations of the laws or customs of war [murder and cruel treatment].

Veselin Sljivancanin is believed to be teaching at the Military Academy in Belgrade. *Mile Mrksic* was the commander of the Guards Brigade that had primary responsibility for the attack on Vukovar. He retired from military service in 1995. *Miroslav Radic* commanded a special infantry unit, a component of the Guards Brigade. He retired soon after the battle of Vukovar.

Srebrenica - July 1995

Thousands of civilians were killed by Bosnian Serb forces during and immediately after the offensive in the Bosnian town of Srebrenica, in July 1995.² According to the ICRC, up to 8,000 men remain disappeared, and most are believed to have been killed or executed.

² See Human Rights Watch, *Bosnia and Herzegovina: The Fall of Srebrenica and the Failure of U.N. Peacekeeping*, A Human Rights Watch Report, vol. 7, no. 13, October 1995.

Srebrenica was one of only three municipalities in eastern Bosnia that remained under Bosnian Muslim control after the break up of Bosnia in the spring of 1992. On April 16, 1993, the United Nations Security Council adopted Resolution 819, demanding that all parties to the conflict treat Srebrenica and its surroundings as a safe area which should be free from any armed attack or any other hostile act.³ Thousands of Muslims who had been expelled when Bosnian Serb forces took over their home municipalities, flocked to Srebrenica. As a result, at its peak, the population of Srebrenica swelled to between 55,000 and 60,000. There was almost no running water and electricity; food was in short supply and public hygiene was rapidly deteriorating.

By Tuesday, July 12, the civilian population had retreated toward the U.N. base in the nearby village of Potocari. Approximately 3,000 to 4,000 civilians were crammed inside the U.N. base, and 24,000 others stayed in the surrounding buildings or outside the camp. Most of Srebrenica's able-bodied men between the ages of sixteen and sixty had gathered together in the evening and early morning of July 11 and 12, in a separate location in order to escape capture. They set off on a long trek through Bosnian Serb-controlled territory in an effort to reach Bosnian government-controlled areas, the closest of which was about fifty kilometers away. The majority of the persons in this group were civilians; men and boys interviewed by Human Rights Watch stated that of the 12,000 to 15,000 trekkers, an estimated 3,000 to 4,000 were armed.

Once the refugees had gathered in Potocari, the Bosnian Serbs began the mass transportation of civilians to Bosnian government-controlled territory. Although most of the men had already fled to escape capture, some (mostly of non-draft age) remained. They were randomly separated from the rest of the people over the course of the next three days. *Ratko Mladic*, the commander of the army of the Bosnian Serb administration, arrived in Potocari on July 12. After Serbian television had recorded him handing out candy to children and telling the refugees that they would be taken care of, the atrocities began.

According to a witness interviewed by Human Rights Watch: "Not long after Mladic left, about 1:00 p.m. or 2:00 p.m., the [Serbs] took about thirty boys away, we don't know where, but we never saw them again." A Muslim woman, J.N., described how her son was killed: "And then my son Esmir . . . I was holding him in my arms. . . . We were hugging, but they took him away. They grabbed him and just slit his throat." Dutch peacekeeping troops evacuated from Srebrenica said on July 23 that Bosnian Serb soldiers executed at least ten Muslim defenders and abducted between 150 and 300 men between the ages of sixteen and sixty.

Many men of military age who had attempted to make the trek through Bosnian Serb-held territory were captured along the way. They formed a column, which stretched for approximately ten kilometers. The men had to walk in such a vulnerable formation because they had been warned of

³ U.N. Security Council, 3199th Meeting, Resolution S/RES/819, April 16, 1993, art. 1.

mined terrain. During the trek, the column was exposed to numerous attacks and ambushes by Bosnian Serb forces. The ICTY prosecutor assessed that one-third of the column reached safety in Tuzla, while the rest—mostly unarmed civilians—remained trapped behind Bosnian Serb lines.

The column was divided into several smaller parts. The first group left the area in the early morning of July 12. The next day, near the village of Kamenica, Bosnian Serb soldiers ambushed the groups and, according to witnesses, killed up to 2,000 people. Many of the survivors became hysterical with terror and lost all emotional control, others decided to surrender or commit suicide. People who were located in the back of the column recounted how they found piles of corpses of people who had been in the front and middle of the columns, littered along the terrain.

Another group of approximately 6,000 to 7,000 men left on July 12, at around 11:00 a.m. After about three kilometers, they encountered the first Serb ambush at a stream. About 2,000 men from the middle of the column got caught in the line of fire, and many were killed.

Following ambush attacks, the survivors scattered and hid for days in the woods or in high grass. The Serbs urged them over loudspeakers to give themselves up. Serb soldiers executed on the spot some of those who surrendered, and detained others on the soccer fields in Nova Kasaba, Konjevic Polje, Kravica, and Vlasenica. Ratko Mladic spoke to captured Muslims in Nova Kasaba on July 12 or 13, and told them that they would not be harmed. On July 13, the Muslims who were captured in Nova Kasaba were taken to Bratunac, ten kilometers north of Srebrenica. They spent the night there, in the back of trucks, as Bosnian Serbian soldiers randomly pulled people out and summarily executed them. A survivor told Human Rights Watch: "All night long we heard gunshots and moaning coming from the direction of the school. That was probably the worst experience, just sitting in the bus all night hearing the gunfire and the human cries and not knowing what will happen to you."

The following day, Bosnian Serb military personnel transported Muslim detainees from Bratunac and other locations to Karakaj, near Zvornik (about fifty kilometers north of the Srebrenica/Bratunac area), where they detained them in a school complex. Survivors told Human Rights Watch that they saw Ratko Mladic at the school on July 14. The men and boys were loaded onto trucks and driven to different outdoor locations, ordered to get out of the trucks in groups of five or ten, and lined up in front of Bosnian Serb soldiers who fired on them. As one survivor told Human Rights Watch in August 1995:

My cousin Haris ... took my hand. He said, "They're going to execute us." As soon as he said that, I heard gunfire from the right side. Haris was hit and fell towards me, and I fell with him. I heard moaning from people who were just about to die, and suddenly Haris's body went limp. Someone was ordering [the Serbs] to finish us off individually. This process continued all day. I was frightened during the next "tour" of prisoners, which was to be shot after us. They were executed about twenty meters away from me. I heard all the bullets whizzing by and thought I would be hit. During that day I also

heard trucks continuously driving up to another area about one hundred meters away and gunshots, which would follow shortly thereafter. I also heard a bulldozer working in the background and became horrified. My worst nightmare was that I would be buried alive. I kept hearing people gasping, asking for water so they wouldn't die thirsty. Others kept on repeating, "Kill me. Just finish me off," until they were. ... By dusk I started to feel sleepy. I woke up, ... It was night time and I saw light beams from a bulldozer's headlights. I still heard the same noises as before - trucks driving up, people getting out and gunshots. ... Later, I heard a truck pull up and someone saying, "No more left; it's late. We won't finish tonight...." They said, "They're all dead anyway," and then left.

Ratko Mladic was indicted by the ICTY on November 14, 1995, for genocide [killing members of the group] and a crime against humanity [extermination, murder], and a violation of the laws or customs of war [murder]. As of this writing, he is believed to be in Serbia, although recent reports also indicate that he may have been allowed to flee Serbia to the Republika Srpska of Bosnia and Hercegovina.

Kosovo, March-June 1999

After 10 years of systematic discrimination and severe restrictions on the civil and political rights of the Kosovo Albanian population by the Serbian government under president Slobodan Milosevic, an armed Kosovar Albanian movement called the Kosovo Liberation Army (KLA) began to gain popular support during 1998. During 1998 and 1999, the army and police campaign actions against the KLA resulted in hundreds of thousands of displaced Albanians, the murder of some 2,000, looting and pillage of their personal and commercial property, a systematic campaign of destruction of property, and other humanitarian law violations and human rights abuses. After the collapse of the Kosovo peace negotiations in Rambouillet, France, which were held in January 1999, the North Atlantic Treaty Organization (NATO) launched a bombing campaign in March 1999 against the Yugoslav forces in Kosovo and other parts of the Federal Republic of Yugoslavia.

During the NATO bombing of FRY from March 24 to June 8, 1999, Yugoslav forces continued and intensified attacks on civilians in Kosovo and forcibly expelled more than 850,000 ethnic Albanians from the province. Within three weeks of the NATO bombing, 525,787 refugees from Kosovo had flooded the neighboring countries, according to UNHCR. All told, government forces expelled 862,979 ethnic Albanians from Kosovo, and several hundred thousand more were internally displaced, in addition to those displaced prior to March 1999.

In early 1999, a distinct military build-up in Kosovo was observed, as well as the arming of civilians. While the government campaign seems to have been an attempt to crush the KLA, it clearly developed into something more once the NATO bombing began. With a major offensive underway, then-Yugoslav President Slobodan Milosevic took advantage of the NATO bombing to crush the rebels and their base of support among the population, as well as forcibly to expel a large portion of the ethnic

Albanian population.

Areas with historic ties to the rebel Kosovo Liberation Army (KLA) were hardest hit. The municipalities of Glogovac (Glllogovc) and Srbica (Skenderaj) in the Drenica region, the cradle of the KLA, were the scene of multiple massacres of civilians, as well as arbitrary detentions, the use of human shields, forced labor, and the destruction of civilian property.⁴ Mass killings, forced expulsions, and the destruction of civilian property were also common in the southwestern municipalities of Djakovica (Gjakove), Orahovac (Rrahovec), and Suva Reka (Suhareke), where many villages had long supported the insurgency. Massacres and other abuses also occurred in villages in which KLA was not active, such as the villages of Slovinje (Sllovi), Ribare (Ribar), Ljubenic (Ljubeniq), Cuska (Qyshk),⁵ and Pec town.

Refugees expelled toward Albania were frequently stripped of their identity documents and forced to remove the license plates from their cars and tractors before being permitted to cross the border. Before reaching the border, many Albanians had their personal documents destroyed, suggesting the government was trying to block their return.

Killings, or extrajudicial executions, were a key part of the ethnic cleansing campaign. Throughout the province, civilians who were clearly noncombatants, including women and some children, were executed by Serbian police, Yugoslav army soldiers, or paramilitaries. In its research, Human Rights Watch documented 3,453 killings. But that number is definitely lower than the total, since it is based on only 577 interviews (and these interviews were not randomly sampled to allow for extrapolation of the data to all of Kosovo).

As of December 2000, the International Criminal Tribunal for the former Yugoslavia (ICTY) had exhumed approximately 4,000 bodies in Kosovo. The number of exhumed victims is certainly less than the total number of those killed. Most importantly, there is incontrovertible evidence of grave tampering and body removal by Serbian and Yugoslav troops. Human Rights Watch documented attempts to hide or dispose of bodies in Trnje (Terrnje), Djakovica, Izbica (Izbice), Velika Krusa and Mala Krusa (Krushe e Madhe and Krushe e Vogel), Suva Reka, Slovinje, Poklek, Kotlina (Kotline), and Pusto Selo (Pastasel). Approximately 3,500 persons remain missing from the conflict, according to the International Committee of the Red Cross.

Rape and sexual violence were also components of the campaign.⁶ Rapes of ethnic Albanians were not

⁴ See Human Rights Watch, "Federal Republic of Yugoslavia: Ethnic Cleansing in the Glogovac Municipality," *A Human Rights Watch Report*, vol. 11, no. 8 (D), July 1999.

⁵ See Human Rights Watch, "A Village Destroyed: War Crimes in Kosovo," *A Human Rights Watch Report*, vol. 11, no. 13 (D), October 1999.

⁶ See Human Rights Watch, "Federal Republic of Yugoslavia-Kosovo: Rape as a Weapon of Ethnic Cleansing," *A Human Rights Watch Report*, vol. 12, no. 3 (D), March 2000.

rare and isolated acts committed by individual Serbian or Yugoslav forces, but rather were used as instruments to terrorize the civilian population, extort money from families, and push people to flee their homes. 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 certainly much higher.

The destruction of civilian property by government troops in 1999 was widespread. According to a November 1999 UNHCR survey, almost 40 percent of all residential houses in Kosovo were heavily damaged or completely destroyed. Municipalities with strong ties to the KLA were disproportionately affected, in part because attacks against them began in 1998. But other areas without a history of KLA activity were also affected, such as the city of Pec, where more than 80 percent of the city's houses were heavily damaged or destroyed.

It appears that the Yugoslav Army (Vojska Jugoslavije, or VJ) had overall command during the war, with the police and paramilitaries subservient to its orders, although top officials in the Ministry of the Interior clearly exercised significant influence over the campaign. The army controlled the main roads and the borders, coordinating and facilitating the ethnic cleansing.⁶ The police and paramilitaries were more involved in the direct cleansing and destruction of villages, with artillery support from the army. It is during these operations that men sometimes were separated from women and children, interrogated about the KLA, and executed.

According to Yugoslav law, the VJ is under the command of the Yugoslav President in both wartime and peace. Until October 2000, this was *Slobodan Milosevic*. The chief of the army's General Staff during the war was General *Dragoljub Ojdanic*, who was appointed after the war to Yugoslav Minister of Defense—the position he held until October 2000. The Serbian Ministry of Interior forces (Ministarstvo Unutrasnjih Poslova, or MUP) was run during the war by Minister *Vlajko Stojiljkovic*. Ultimate authority for the MUP also rested with Slobodan Milosevic, although he was not at the top of the MUP's *de jure* chain of command. Two other officials indicted by the ICTY in connection with crimes committed in Kosovo are: *Nikola Sainovic*, former Deputy Prime Minister of the FR Yugoslavia, designated as Slobodan Milosevic's representative for the Kosovo situation; and, *Milan Milutinovic*, who at the time of the Kosovo war was President of Serbia and a member of the Supreme Defense Council; Milutinovic still holds these positions.

Slobodan Milosevic, Dragoljub Ojdanic, Vlajko Stojiljkovic, Milan Milutinovic, and Nikola Sainovic were all indicted by the ICTY on May 22, 1999, for violations of the laws or customs of war and for crimes against humanity committed by Yugoslav and Serbian troops under their command in Kosovo in early 1999: murder of hundreds of Kosovo Albanian civilians, forcible deportation of hundreds of thousands, and persecution based on racial, religious, and political identification.