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ANNEX SUMMARIES AND CONCLUSIONS

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Established Pursuant to Security Council Resolution 780 (1992)

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
Annexes I - I.C	1	3
Annex II - Rape: A Legal Study	2	3
Annex III - Military Structure, Strategy and Tactics of the Warring Factions	3 - 39	3
Annex III.A - Special Forces	40 - 72	11
Annex IV - The Policy of Ethnic Cleansing	73 - 117	17
Annex V - The Prijedor Report	118	23
Annex VI - The Battle and Siege of Sarajevo	119 - 172	23
Annex VI.A - Incident Study Report Regarding Mortar Shelling Dobrinja, Sarajevo on 1 June 1993: Investigation	173	38
Annex VI.B - The Battle of Sarajevo and the Law of Armed Conflict	174	38
Annex VII - The Medak Investigation	175	39
Annex VIII - Prison Camps	176 - 426	39
Annex IX - Rape and Sexual Assault	427 - 454	64
Annex IX.A - Sexual Assault Investigation	455	71
Annex IX.B - Pilot Rape Study	456	72
Annex X - Mass Graves	457 - 481	72
Annex X.A - Mass Graves: Ovčara Near Vukovar, UNPA Sector East	482	77
Annex X.B - Mass Graves: Pakračka Poljana, UNPA Sector West, Croatia	483	77
Annex XI - Destruction of Cultural Property Report	484	77
Annex XI.A - The Battle of Dubrovnik and the Law of Armed Conflict	485	78
Annex XII - Radiological Investigation (UNPA Sector West, Croatia) October/November 1993	486	79

ANNEX SUMMARIES AND CONCLUSIONS

ANNEXES I - I.C

1 Annexes I through I.C describe administrative and organizational matters. They were prepared by the Commission's Secretariat ^{1/} and staff members of the International Human Rights Law Institute (IHRLI), DePaul University, under the supervision of Chairman Bassiouni. Annex I contains the Rules of Procedure of the Commission which were also attached to the (first) Interim Report as an appendix. ^{2/} The Rules of Procedure governed the activities of the Commission in the fulfillment of its mandate. Annex I.A includes an explanation of the workings of the IHRLI database and documentation centre and a description of the documents received by the Commission and catalogued in the documentarian's database. Annex I.B contains a list of the 34 missions undertaken by the Commission. ^{3/} Annex I.C contains a list of organizations which assisted or supported the work of the Commission to acknowledge their efforts.

ANNEX II - RAPE: A LEGAL STUDY

2 Commissioner Cleiren prepared Annex II, consisting of 18 pages of text, on the criteria for applying international humanitarian law to the crime of rape and other sexual assaults. The analysis addressed the legal issues of sexual assault against women, men, and children. ^{4/}

ANNEX III - MILITARY STRUCTURE, STRATEGY AND TACTICS OF THE WARRING FACTIONS

3 This Annex was prepared by Chairman Bassiouni and consists of 37 pages. The analysis is based on a variety of sources describing the military structure, its evolution, and the strategies and tactics of the "warring factions" in the contextual evolution of this armed conflict. The historical, military, and political background of the military structure is described and analysed along with the particularities of the strategies and tactics of the parties. It is complemented by Annex III.A, which describes the role and activities of paramilitary organizations. The military characteristics described in Annexes III and III.A along with the historical background and policy of "ethnic cleansing" described in Annex IV are essential to an understanding of the facts that brought about the significant victimization and the violations of international humanitarian law that occurred in this conflict.

I. INTRODUCTION

4. The following report describes the basic military characteristics and features of the "warring factions" in the former Yugoslavia. The focus of this report is on the structures, strategies, and tactics of the regular military forces engaged in the conflict. These regular forces are those of the Yugoslav Army (JA) and its predecessor, the Yugoslav Peoples Army (YPA), also referred to as the Yugoslav National Army (JNA); the Bosnian Serb Army (BSA); the Krajina Serb Army (SKA); the Croatian Army (HV); the Croatian Defence Council (HVO); and the Army of Bosnia-Herzegovina (BiH). Paramilitary and Special Forces units have performed an important role in this conflict, often coordinating their operations with those of conventional forces. These forces are discussed in detail in Annex III.A. Armed police and local volunteers have also been active participants in military activities.

5 With the exception of the JNA, the military forces involved in the conflict have been organized only recently. In large measure, they emerged from the former Yugoslav National Army (JNA) and local Territorial Defence Forces (TDF).

6 The strategies of the "warring factions" in the current conflict, with their decentralized structures and reliance on partisan tactics, have much in common with the tactics employed by Yugoslav forces during the Second World War. Thus, the following discussion begins with a review of military operations that emerged to resist the Axis powers.

7 The facts discussed above are linked to the periods to which they relate. Obviously, command structure, "order of battle", forces, equipment, and troop disposition change. Thus, this report is not intended to be a specific chronology of such events. Rather, it is intended to reflect a general situation that needs to be understood in order to assess the military context of the events that led to large scale violations. It is not therefore a complete survey of all aspects of the military situation. The description which follows is based on information obtained up to March 1993.

II. SUMMARY AND CONCLUSIONS

8 Unlike other conflicts, this one has peculiar characteristics which partake of conventional and unconventional war.

9 Political factors, both international and local, significantly affected the course of military operations.

10 Because the overall conflict evolved into three separate ones, the armies of some of the warring factions were newly constituted while the JNA was three times reconstituted. This situation produced complications and peculiarities with a direct bearing on the course of military activities, and the status of command and control.

11 The geographic spread of military industries, location of maintenance facilities, army depots and government supplies, also affected the course of military operations and the use of weapons because of the availability of munitions, spare parts and repair facilities.

12 Military operations in BiH and Croatia by the JNA, BSA, and SKA have essentially been a function of the political-military goal of securing territories that link Serbia proper with Serb-inhabited areas in BiH (along the Drina and Sava rivers) and Serb-inhabited areas in Croatia. The Serb goal was to achieve a territorial and defensible link between what is called "Greater Serbia". Thus, there has never been a unified or coherent battle line, but multiple theatres of operation between which forces shifted, depending on the status of each theatre. Strategic positions were related to each one of these theatres, but since these theatres were part of a political geographical arc linking Serbia with Serb-inhabited areas in BiH and Croatia, the theatres of military confrontation were readily identifiable. As the conflict progressed, the Serb side sought to solidify and enlarge its territorial gains in the areas of the projected "Greater Serbia", while BiH and Croatian forces sought to dislodge them. These theatres saw a constant ebb and flow of military activities.

13 Because these areas were of mixed ethnic and religious population and Serbs were usually a minority, particularly in BiH, Serbs felt that they had to dislodge the other groups. In 1992, Bosnian Serb forces were insufficient in number and disorganized. However, they were tasked by their political

leaders with massive population removal in a relatively short period of time without the open and direct participation of the JNA. The JNA, however, militarily supported the Bosnian Serb forces in many ways, including bombardment and shelling. They were also directly involved in several operations. This was in execution of the policy of "ethnic cleansing" which is described in Annex IV and more specifically in Annex V. The overriding political goal of depopulating these areas of non-Serbs determined the nature of the military activities. These areas were not military targets, but civilian areas with strategic importance derived from the fact that they linked Serbia with Serbs in BiH and Croatia. Personnel, arms and supplies crossed the Drina River from Serbia to Serbs in BiH and through Bosnian Serb areas to certain parts of the Krajinas, which are surrounded by Croats. Military operations in these areas must therefore be seen in this light in order to be understood.

14 Confrontation lines are therefore in and around cities and villages, and access roads to them. But they are not part of a continuous line. Consequently, there are seven areas in BiH controlled by the Bosnian government which are geographically unconnected. This also means that areas under Serb control are not contiguous. The same is true with respect to Bosnian and Croatian forces in Herzegovina and also in the Krajinas where the Serbs are in four unconnected sectors. This checkered military map meant the forces from different warring factions were interspersed. In many areas, the party in control is surrounded entirely by another party, or only partly by that party and partly by yet another party.

15 The result of this checkered and totally uneven field situation is that each one of these theatres of military confrontation had different characteristics. More particularly, they also had different dynamics and the relations between opposing groups varied significantly.

16 One way by which this is evident is in the level of the black market and trade that goes on in these areas between the warring factions or through their lines. Thus, for example, the Tuzla area, which has over one million inhabitants, including some 20,000 Serbs and 30,000 Croats, has suffered little bombardment from the Serb forces which surround it entirely. That city has a flourishing black market to which goods arrive from Serbia through Serbian lines. Another example is the Bihać pocket which, until summer 1994, was ruled by Fikret Abdić who broke with the Sarajevo government. He operated a private company that brought goods from Croatia (which borders Bihać on one side) into the pocket, and also traded with the Serb forces which encircled the pocket from three directions. This cozy relationship resulted in Abdić's signing in Belgrade in April 1993 a separate peace with the Bosnian Serb Republic. This situation that changed when the Fifth Army Corps of BiH recaptured the area in August 1994. Since then, the area has been the scene of intense fighting between BiH forces and the BSA, which also has support from the SKA in nearby Croatia. These are only illustrations of the peculiarities of this conflict.

17 The military structure, strategies and tactics of the "warring factions" are a consequence of the following factors:

(a) World War II antecedents, as well as experiences in that partisan war which led to the doctrine of Total National Defence (TND). TND includes the placing of weapon caches with local territorial defence units, decentralization of forces and command control, reliance on local forces, and other characterizations, which partake of a combination of guerilla and conventional warfare;

(b) Political factors leading to the different stages of the JNA; and,

(c) The gradual evolution of the conflict which took place between multiple parties, at different times, and in separate, though frequently related, theatres of operation.

18 The TND was part of Yugoslav political-military doctrine. Thus, TND and the type of Army and Party structures that existed in Communist Yugoslavia constitute a political-military context which has had significant impact on the goals, strategies and tactics employed by the JNA and the forces that emerged out of the JNA in Serb Bosnia and Krajina. This context and, in particular, the political factors that led to the conflicts in Slovenia, Croatia, and BiH, are crucial to an understanding of what occurred.

19 When the three Republics of Slovenia, Croatia, and BiH declared their independence, 5/ they did not have separate armies. Before 1991, the JNA was a single army for all members of the former Yugoslavia, though its military centrality changed since 1974. Upon the successive declarations of independence of these three republics, some of the military personnel, who had been located in each of these Republics, left the JNA and reconstituted themselves as part of the newly created national armies of Slovenia, Croatia, and BiH. 6/ In addition, each of the "warring factions" used paramilitary and special forces as described in Annex III.A. The armies of the "warring factions" consisted mainly of military personnel and equipment of the former JNA. But each of these Republics had local TDF 7/ which were part of the TND of Yugoslavia, and local police forces consisting of personnel from their respective Republics. These forces and armed civilians supplemented the armies of the "warring factions".

20 The role performed by the military in the breakup of the former Yugoslavia was critical to the evolution of this conflict, as stated by James Gow, a Research Fellow at the Centre for Defence Studies, King's College, University of London:

"[t]he role played by the military in the breakup of the former Yugoslavia was central: it made the difference between widespread unrest and war. By September 1991 the military had decided to create a new Yugoslav state from parts of Croatia and Bosnia and Herzegovina, which would be "cleansed" of "unreliable" and potentially hostile inhabitants. At that stage, as the Belgrade military intensified its activity in Croatia, it also appears to have begun preparations for a war to divide Bosnia and Herzegovina. That war was launched in the period preceding international recognition of the Bosnian state, with a series of attacks at crucial points in the country. In the face of international pressure, the Yugoslav military divided, with half of its capability remaining in Bosnia as the Bosnian Serb army. This force proceeded to occupy and "cleanse" large parts of Bosnia and Herzegovina." 8/

21 Since the conflict began, however, there has been considerable continuity in the structure, strategy, and tactics of the military forces in the former Yugoslavia. The distinctive changes since 1993 are that the "warring factions" increased centralized command of their respective army structures; established control over paramilitary and special forces by integrating them into the army or disbanding them; and enhanced military professionalism. The result, as of middle-to-late 1993, is that more combatants are in uniform, who operate as part of regular army units, and under the command of superior officers. It is therefore important to distinguish between the situation that existed between approximately June 1991 and late 1993, and the ensuing period, bearing in mind that the process of transformation has been gradual.

22 The earlier part of the conflict was characterized by a multiplicity of combatant forces (for example, regular armies, militias, special forces, police and armed civilians) operating within different structures or outside any structure, sometimes operating under no established command and control. Some of these forces operated without uniforms, emblems or insignias. Frequently, these forces merged or combined in connection with certain operations. Probably the only factor common to all of these forces is their receipt of military equipment, ammunition and supplies from their respective armies and governments, and in the case of Bosnian and Krajina Serbs, their reliance on the JNA and the FRY.

23 The military structure and the strategies and tactics employed blur the chain of command and conceal responsibility. This concealment may well be intended by some of the parties to provide a shield of plausible deniability to the military and political leaders. But it could also have been the result of a chaotic situation which regular armies in the process of constituting or reconstituting themselves could not control until they had reached a sufficient level of organization. This occurred later in the conflict, but after most of the violations had occurred.

24 These factors, however, contributed to the manner in which the policy of "ethnic cleansing" was implemented, particularly by Serb forces, who were unrestrained by the JNA, from which they received support. 9/

25 The overall conflict in the former Yugoslavia evolved through three distinct phases. The military structure must be examined in the contexts of the three succeeding and sometimes overlapping conflicts which took place during these three phases, as described below.

26 The first phase involved the conflict in Slovenia. It began when that Republic declared its independence from the former Yugoslavia on 25 June 1991. That conflict involved the JNA, Slovenia's TDF, Slovenian troops who left the JNA to join the newly created Slovenian Army, and local Slovenian Police. This phase lasted for only 10 days in June and July 1991, and resulted in limited human and property harm. 10/

27 The second phase of the conflict involved Croatia. It started before that Republic officially declared its independence on 25 July 1991. On one side, that conflict involved the JNA, Serb militia in Krajina and in eastern and western Slavonia, special forces from Serbia (with the participation of Serb expatriates and some mercenaries), local special forces, and Serb police and armed civilians from the same areas. On the other side, the newly-formed Croatian Army consisted of Croatian troops who left the JNA, the Croatian National Guard (ZNG), local militia, special forces (with the participation of expatriate Croats and some mercenaries), and local Croatian police and armed civilians. After November 1991, the JNA formally withdrew from Croatia, but continued to support the army of the newly-formed, self-proclaimed "Serb Republic of Krajina". Meanwhile, the newly-established Republic of Croatia had formed its army, the Croatian Army (HV), which, along with Croatian special forces and others, continued the armed conflict in what became the United Nations Protected Areas (UNPAs) in Croatia. 11/

28 The third phase of the conflict began in BiH, following its declaration of independence on 6 March 1992. It involved simultaneous fighting between Croatians and Bosnian government forces, Bosnian government forces and Serbian forces, and Croatian and Serbian forces. The Croatian Defence Council forces in BiH (HVO) were supported by the Croatian Army, local Croatian police, volunteer civilians and special forces like the HOS, the military wing of the Croatian party of Rights (named after the former Ustaše of the Second World War, who also fought against the Serbs in the Krajina area). The HOS was

later partially incorporated in the HVO and disbanded. Other Croatian armed civilian forces operate essentially in local areas. At first, the Bosnian government and JNA opposed each other. This lasted from April to June 1992, during which time the JNA troops from Serbia and Montenegro "officially" withdrew from BiH, leaving behind Serbian JNA troops from BiH and their equipment. They were supplemented by special forces from Serbia which consisted of Serbs, expatriate volunteers and mercenaries, Bosnian Serb militia and police, and local Serb volunteers. 12/

29 As described above, in addition to the regular armies of JNA, Croatia and BiH, there are three additional armies: the Bosnian Serb Army (BSA), which operates in Bosnia; the Krajina Serb Army (SKA), which operates in Croatia; and the Croatian Defence Council (HVO), which operates outside the border of the Republic of Croatia, in BiH. The first two are armed and supported by the JNA (the Yugoslav Army or JA) and the third is armed and supported by the Croatian Army (HV).

30 In addition to these armies, the TDF were militarily active. In Croatia, TDFs were known as the Croatian National Guard (ZNG). The TDFs had a separate command structure from the regular army. Nevertheless, they joined in the armed conflict, frequently operating with their respective regular army and under regular army officers' command. They also operate independently in certain geographic areas, usually the areas from which most of the personnel in these units came.

31 Two other types of paramilitary groups and formations are also engaged in military operations. They consist of the so-called special forces, and local police forces augmented by local armed civilians. All the warring factions make use of such forces among their combatants, but the lines of authority and the structure of command and control are confusing, even to the combatants. (See Annex III.A, Special Forces).

32 There are several reported paramilitary and special forces, (see Annex III.A), which usually operate under the command of a named individual and apparently with substantial autonomy, except when they are integrated into the regular army's plan of action. 13/ These forces are supplied and often trained by the governments that they serve. Many special forces answer only to senior political officials in the respective governments. Such relationships are frequently based on personal political allegiance and are not always publicly known. However, in time, information about the political sponsorship and support of these groups became more readily available though still nebulous. As these units usually operate independently and outside the apparent military chain of command, their order of battle is not known. Notwithstanding the strong links between these units and the respective armies, the regular armies failed to restrain them from the commission of grave breaches of the Geneva Conventions and other violations of international humanitarian law. Among the most notorious of the special forces are Arkan's "Tigers" and Šešelj's "White Eagles" (also referred to as "Četniks"). Many of these units operate throughout the territory of the former Yugoslavia. Thus, the Serbian units operate in BiH and Croatia, and the Croatian units in BiH. These special forces have committed some of the worst violations of international humanitarian law. They are described in Annex IIIA.

33 Some towns and villages formed paramilitary units, which are not to be confused with the special forces mentioned above. These local forces operate in the areas of their towns and villages. Occasionally, they also lend support to similar groups and other combatants in the same opština (county) and neighbouring areas. Their command and control is local, and the chain of command difficult to establish, though these groups, like the special forces, typically have an identifiable leader. Frequently, the unit or group is

called by the leader's name. Otherwise, the unit or group uses a politically significant name or the name of their town, village or area. The leadership of these groups is local, mostly consisting of political figures. These units, particularly among Serbs in BiH and Krajina and Croats in Krajina and BiH, have, like the special forces, committed grave breaches of the Geneva Conventions and other serious violations of international humanitarian law.

34 The police, augmented by volunteer armed civilians, also participate in military activities. These forces operate within a given municipality. They are nominally under the control of the Ministry of Interior. Furthermore, the respective Ministries of Interior also have national and regional police units, which usually operate outside the boundaries of local municipalities. The relationship between national, regional and local police is not always clear and varies in each country, and sometimes within the regions of each country. During the early stages of the conflicts in Croatia and in BiH, the police, augmented by volunteer armed civilians, operated without apparent command and control from the army. Their leadership was local and included many political figures. These forces acted with apparent autonomy in their respective areas, except when engaged in operations with their respective regular army.

35 During the early stages of the conflict, most of the combatants, including in many cases those in the regular army, did not wear distinctive uniforms, emblems or insignias of rank. As a result, officers freely moved from army to militia and from one unit to another. To further complicate matters, in the early stages of the conflict between Croatia and the FRY and other Serb forces within Croatia, and between BiH and the FRY and other forces within BiH (in May 1992, JNA forces from the FRY officially withdrew from Bosnia), the order of battle of many army and militia units was not clearly established. The chain of command was significantly blurred, even to insiders. Consequently, the organizations' command and control structures were seriously eroded, which resulted in much confusion. The confusion was more pronounced in BiH among Serb combatants until late 1992. It seems to have been purposely kept that way for essentially political reasons. This makes it difficult to ascertain units in a specific area and to establish command responsibility. The situation changed as the three regular armies managed or decided to control these combatants as of 1993. But that process was slow.

36 The outcome of such a structure and the strategies and tactics employed blur the chain of command and help conceal responsibility. This concealment may well be intended by some of the parties to provide a shield of plausible deniability. But, it could also be due to other factors existing at the early stages of the conflict, as stated by one expert:

"[t]here is a great deal of genuine confusion in the West as to who actually controls the Serbian forces in BiH. To make the situation even more complicated, the regime in Belgrade consistently tries to do its best to muddle the issue by denying its own responsibility for war in the neighbouring republic. For example, the President of the self-proclaimed FRY, Mr. Dobrica Cosic (who is also Supreme Commander of the Federal Army) falsely asserted on 15 July that the army does not provide any weapons and military equipment to the former 'territorial Defense Forces of the Serbian Republic of BiH, except for some limited humanitarian aid'. Moreover, it does not command and control these forces. But the reality is quite different. The operational chain of command in the federal army runs from the Supreme Defense Council (composed of the president of the FRY and presidents of the Republics of Serbia and Montenegro through the General Staff in Belgrade to the commanders of 1st MD (Belgrade), 4th MD (Podgorica), the Army of the

Serbian Republic of BiH, Naval District (Kumbor, Bay of Cattaro), Air Force and Air Defense units." 14/

37 Special forces are apparently accountable only to senior political officials of the governments which they serve. Little is known about their order of battle except that restraint of these units by the regular army is conspicuously absent. Command and control, in effect, have been established through a policy of omission. The JNA, in particular, has at least tacitly permitted paramilitary units and special forces to engage in conduct that has resulted in grave breaches of the Geneva Conventions and other violations of international humanitarian law. In many instances, the JNA was on the scene and militarily supported these activities and these violations. A purposeful failure to act was therefore evident in many cases.

38 As stated earlier, paramilitary units and special forces have performed an important role in the conflict. In the early stages of the war in BiH, for example, paramilitary units coordinated their operations with the JNA. This was apparent in the attacks on Prijedor, Bijeljina, and Zvornik, as well as in other attacks in cities and villages along the Drina and Sava Rivers. The role that paramilitary and special forces have played in the conflict is explored in greater detail in Annex III.A.

39 A large number of Serbian and Croatian expatriates have joined in the fighting, mostly with paramilitary and special forces. There are also a smaller number of non-nationals, volunteers, and a few that could be called mercenaries also joining in the fighting. In contrast, a much smaller number of expatriates and non-nationals joined on the BiH side. (See Annex III.A, Special Forces)

40 All of the combatant forces, in significantly different degrees, have committed grave breaches of the Geneva Conventions and other violations of international humanitarian law for which military and, in some cases, civilian commanders are responsible under the principle of command responsibility. The largest number of these violations were clearly perpetrated by Serb combatants, and the largest number of victims have been from BiH.

41 The absence of command and control and the conditions created, particularly on the Serb side, were conducive to large scale and repeated violations. Persons who engaged in this conduct were encouraged by propagandistic rhetoric and comforted by the belief that they would have impunity. The absence of preventive action by military commanders and other purposeful omissions, such as the failure to punish known perpetrators, constitutes a clear basis for command responsibility.

42 The history of war clearly reveals that professional armies that are under effective command and control commit fewer violations than fighting units that are not properly trained in the law of armed conflict and are not under the effective command and control of superior officers. But when military commanders order violations, permit them to happen, fail to take measures to prevent them, and fail to discipline, prosecute and punish violators, then the worst can be expected. Unfortunately, in this conflict, the worst did occur. This is a sad commentary on those who committed these crimes, but it is an even sadder one concerning the military and political leaders who ordered these acts or made them possible. War is sufficiently inhuman without having it carried out in the most inhuman ways. Tragically, in this case, these inhuman ways were designed to serve a political purpose. See the Policy of Ethnic Cleansing Annex IV.

43 The grave breaches of the Geneva Conventions and other violations of international humanitarian law occurring in this conflict are, in part, the

product of the military structure that resulted in a lack of effective command and control. The violations are also the result of the strategies and tactics employed by the "warring factions", and the failure of military commanders to prevent and repress these violations.

44 The parties to this conflict are bound by the four Geneva Conventions of 12 August 1949 and Additional Protocols I and II, both under State succession and by the parties' specific accession thereto. ^{15/} The parties are also bound by the Genocide Convention under State succession, in so far as that convention has been ratified by the former FRY. The parties are also bound by that Convention under jus cogens and customary international law. The parties are also bound under jus cogens and customary international law by the obligations arising under "crimes against humanity", as developed in conventional and customary international law. ^{16/}

45 The Federal Criminal Code of the former Yugoslavia embodied the international rules of armed conflict. JNA military personnel were instructed accordingly. Thus, grave breaches of the Geneva Conventions and other violations of international humanitarian law are also part of the applicable national laws of all warring factions.

46 Furthermore, the ordinary criminal laws which existed in the criminal codes of all the former Republics of Yugoslavia also prohibited those acts (which are grave breaches of the Geneva Convention and other violations of international humanitarian law) as common crimes.

47 Lastly, the defence of "obedience to superior orders", finds no application in the cases of violations which occurred in this conflict.

48 The doctrine of "Command Responsibility" and the defence of "obedience of superior orders" are discussed in the Final Report, ¶ 55-62.

ANNEX III.A - SPECIAL FORCES

49 Annex III.A was prepared by staff members of IHRLI, under the direction of Chairman Bassiouni. It consists of 251 pages of text.

I. INTRODUCTION

50 The conflict in the former Yugoslavia has seen the widespread use of paramilitary organizations within the territories of the Republic of Bosnia and Herzegovina (BiH), the Republic of Croatia, and to a lesser extent, the Federal Republic of Yugoslavia (FRY). The use of paramilitary organizations by all "warring factions" must be viewed in the context of the breakup of Yugoslavia and the structure of the military before the breakup. ^{17/} In the period of 1989-1991, political ferment indicated that a breakup of Yugoslavia was likely, however, there were no indications on how the country would be divided. The rise of nationalism and ethnic tension caused Yugoslavs to become concerned for their own safety. This concern over their own self-defence, combined with the rhetoric of nationalist politicians, led many Yugoslavs to arm themselves. Furthermore, uncertainty of the Yugoslav National Army's (JNA) role in post-Communist Yugoslavia led many to conclude that paramilitary organizations were a necessity.

51 The creation of paramilitary groups was further fueled by the wide circulation of stories of atrocities committed by all sides. Serbs, for example, were shown pictures allegedly depicting the Mujahedin forces holding the severed heads of Serb soldiers. All sides viewed themselves as victims,

not as perpetrators, thereby creating a desire for revenge and providing justification for their own deeds.

52 Paramilitary organizations exist in several forms. Some are highly-organized groups and operate in several theatres in conjunction with regular military formations. Others are loosely organized and act alone in a single village or on an ad hoc basis. Some of the groups preceded the conflict, others followed it. Still others were formed as the need arose during the conflict. These groups have been organized by the governments or militaries of the warring factions, by political parties, as well as by local police, political, military or community leaders. The members of these paramilitary organizations have been drawn from the regular army, Territorial Defence forces, local militia and police, local civilians, expatriots, and foreign nationals. According to some reports, the paramilitary organizations also include criminals released from prison solely for the purpose of forming these units.

53 For purposes of this report, the paramilitary forces operating in the territory of the former Yugoslavia can be classified into four categories: Special Forces, "Militias", "Paramilitary units", and "police augmented by armed civilians". 18/ Special Forces usually operate with substantial autonomy under the command of an identified leader. They operate in several theatres, and sometimes engage in joint operations with the regular militaries. These groups are supplied, and often trained, by the governments they serve. Many of these Special Forces report solely to senior political officials. "Militias" consist of members of the former Territorial Defence Forces. They frequently operate jointly, in the geographic area from which they originate under the command of the regular army. "Paramilitary units" are forces under the command of a local leader. Their area of operation is often confined to the town or village from which the members were drawn, although they may occasionally operate alongside similar groups in other towns or villages. The "police augmented by armed civilians" are forces that operate within a given county 19/ under local, sometimes political, leadership. These forces frequently act with autonomy, although they are reported to be under the control of the Ministry of Interior or other political organizations. For purposes of this report, groups from these categories will be referred to generically as paramilitary groups, unless otherwise indicated.

54 This report attempts to identify the paramilitary organizations working in support of all three warring factions in the former Yugoslavia. It also discusses how these groups operate in relation to the regular military command of the respective factions. Furthermore, this report discusses the reported activity of these groups.

55 This report begins with a discussion of the research methodology, and is followed by a brief discussion of the pre-conflict military defence doctrine of the former Yugoslavia. This doctrine, with its reliance on a decentralized command structure and locally-based weapons caches, provided fertile ground for the creation of paramilitary groups. This discussion is followed by a summary analysis of the data. Section II discusses the activity of six of the most prolific paramilitary organizations: the Green Berets and Mujahedin, working in support of the government of BiH; the HOS and troops under the command of Jusuf Prazina, working in support of the Croatian government; and those groups under the command of Vojislav Šešelj and Željko Ražnjatović (nom de guerre Arkan), working in support of the government of Serbia and the self-declared Serb Republics. Section III is a listing of the other identified paramilitary organizations containing all reported vital statistics, and Section IV discusses paramilitary activity by geographic location.

A. Methodology

56 This report is based on information contained in documents and audio and video tapes received by the Commission of Experts and the International Human Rights Law Institute (IHRLI), as well as on information gathered from searches of the NEXIS and FBIS media databases. All of the organizations referred to in paragraph 4 operated in substitution for, or supplementing, a regular military force. 20/ All documents and media reports in the possession of IHRLI were reviewed, and those containing allegations of paramilitary activity were analysed. A large number of these reports referred to paramilitary groups generically (i.e., Serbian paramilitaries or irregular forces). Although these reports were consulted, only those reports referring to a paramilitary organization by name (i.e., Tigers, Yellow Ants), or by specific leaders or group members (i.e., paramilitary forces under Dragan Ikanović), are included in the statistical data below.

57 Information sheets were created for each identified paramilitary organization containing the following information: name of unit, ethnicity, uniform, number of troops, place of origin, area(s) of operation, political affiliation, leader(s), alleged members, source of information, and the alleged activity. These information sheets were then used to compare information on the paramilitary groups in a standardized format.

58 This report is limited by the quality and quantity of the documents received by the Commission. In addition, the Commission was not able to verify much of the information that it received. Consequently, this report should not be considered all inclusive, though it is comprehensive. Subsequent investigation may identify additional paramilitary groups and facts that have not yet been discovered that may bear upon the information contained in this report.

B. Brief military history 21/

59 Stalin's expulsion of Yugoslavia from the Cominform led to fears of a Soviet invasion. These fears resulted in the development of a new military defence doctrine in the former Yugoslavia called "Total National Defence". 22/ This doctrine was designed to defeat a Soviet invasion by mobilizing all of the nation's cultural, societal, and military resources. The Communist party apparatus was tightly integrated into the military scheme, with the military structures accommodating a "shadow" chain of command responsible to the Communist party.

60 Yugoslav military strategists realized national command, control, and communications facilities were vulnerable. Therefore, they decentralized the system of command and control. The governments of the various republics would participate with the federal government for regional defence.

61 This strategy required universal military service and coordinated training in guerilla warfare. This ensured that cadres of soldiers, trained in guerrilla warfare, would be available nationwide and capable of operating in a decentralized command fashion. Training facilities, weapons caches, and supply stores were placed throughout the country. The military also organized reserve units (Territorial Defence Forces) around workplaces to ensure the wide distribution of weapons.

62 Thus, with the breakup of the former Yugoslavia, trained soldiers were available for mobilization, and weapons and ammunition were also available for distribution to national and local political or military leaders and their followers. These leaders sometimes used these resources to further their own

political, military, or personal goals. This, along with the other factors, led to the proliferation of paramilitaries throughout the republics of the former Yugoslavia.

C. Summary analysis

63 This study found that:

(a) There are at least 83 identified paramilitary groups operating in the territories of the former Yugoslavia: 56 are working in support of FRY and the self-declared Serbian Republics; 23/ 13 are working in support of the Republic of Croatia; and 14 are working in support of BiH;

(b) The number of paramilitary groups, and the size of each group, has varied throughout the course of the conflict. The number and size of the groups rise, for example, when the conflict intensifies. The reports received indicate only a rough approximation of paramilitary troop strength. The number of persons in paramilitary groups fighting in support of BiH range from 4,000 to 6,000; between 12,000 and 20,000 have supported the Republic of Croatia; and between 20,000 and 40,000 paramilitaries have fought on behalf of the self-declared Serb Republics; 24/

(c) In addition to the 83 paramilitary groups, there are groups which consist of persons who have been drawn essentially from outside the former Yugoslavia. Three groups specifically mentioned are the Mujahedin (operating with the BiH Army), the Garibaldi Unit (an Italian unit operating alongside the Croats), and Russian Mercenaries (operating in conjunction with the Serbs). There are also general reports of the presence of mercenaries from Denmark, Finland, Sweden, the United Kingdom, and the United States; 25/

(d) Paramilitary activity has been reported in 72 separate counties, 26/ but the vast majority has occurred in BiH. 27/

64. The first report of paramilitary activity occurred in April of 1991. However, Arkan and Vojislav Šešelj began forming paramilitary organizations as early as 1990. The first reported paramilitary operation involved Šešelj's troops in Vukovar County, Croatia. The most active period for Serb paramilitary activity in Croatia was in October of 1991. Those areas reporting the greatest amount of paramilitary activity in Croatia were Knin, Podravska Slatina, and Vukovar.

65. There were no reports of paramilitary activity in BiH until early 1992. The first reports concerned paramilitary groups supported by Arkan and Šešelj. The activity in BiH was strongest in May and June of 1992 in the areas of Bijeljina, Bratunac, Brčko, Doboј, Foča, Konjic, Modriča, Prijedor, Sarajevo, Višegrad, and Zvornik.

66. Paramilitary groups working in support of FRY, or the self-proclaimed Serbian Republics, have operated in the territories of BiH, Croatia, and FRY. Those groups working in support of Croatia were reported to have operated in both BiH and Croatia, while those supporting BiH have not been involved in operations outside BiH territory. 28/

67. The vast majority of the paramilitaries acted locally, with their operations confined to a single county, or opština. 29/ They operated under the command of a local leader with local command and control. These groups would often coordinate their operations with regular forces or other paramilitaries. 30/ The local groups would then take control of the area after it had been secured.

68. The most active paramilitary groups operating throughout the area of conflict were the Serb groups under the command of Arkan and Šešelj. 31/

69. Reliance on, or tolerance of, paramilitary and special forces served several purposes for the military and political leaders of the respective republics. It clouded the issue of command and control, reduced the chances of being identified, and therefore permitted the greater use of illegal violence. Many of these groups, for example, did not wear uniforms or other conventional military badges or symbols.

70. Involvement of paramilitary groups in the commission of grave breaches of the Geneva Conventions and other violations of international humanitarian law is alleged in the vast majority of the reports in which paramilitary groups are mentioned. The most frequently reported violations are the killing of civilians, torture, rape, destruction of property, and looting. 32/ There is also a strong correlation between reports of paramilitary activity and reports of rape and sexual assault, detention facilities, and mass graves. These types of activities (i.e., paramilitary activity and grave breaches of the Geneva Conventions) tended to occur in the same counties 33/ and evidence the localized nature of the activity.

71. FRY, Croatia, and BiH used paramilitary forces. However, the disproportionate number of paramilitary and special forces of Serbian ethnicity indicates that the Serbs more heavily relied on the use of special forces to accomplish their military and strategic goals. Of 39 counties where Serb paramilitary activity was reported, Serb paramilitary units were operating in conjunction with the JNA in 24 of them. In comparison there were reports for five counties of joint operations between forces operating in support of Croatia, the Croatian Army (HV), and the Croatian Defence Council (HVO), 34/ and reports for only two counties of joint operations between the Army of BiH and forces operating in support of the Government of BiH.

72. The JNA was operating with the highest paramilitary activity in eight counties simultaneously: Bijeljina, Bratunac, Brčko, Doboje, Prijedor, Sarajevo, Višegrad, and Zvornik. Excluding Sarajevo, these counties are within the strategic arc the Serbs need to link all Serbian populations from BiH and Croatia within a contiguous Serbian state.

73. There is substantial evidence that Serbian government or military officials have coordinated, or at least have been aware of, the activities of the Serbian paramilitary or special forces:

(a) Serbian paramilitary units operating in Croatia have worn federal army uniforms and used JNA topographical maps; 35/

(b) There are reports of Serbian paramilitary groups or special forces entering a county at the invitation of local political leaders. In Prijedor, a Bosnian Serb government spokesman explained their use of Arkan: "He is very expensive, but also very efficient";

(c) In 36 of the 67 counties in which there were reports of Serbian paramilitary activity, there was a coordination of operations between two or more groups. In comparison, only six of the 17 counties had reported paramilitary activity in support of Croatia and five of the 11 counties had reported paramilitary activity in support of BiH;

(d) Fifteen of the 55 identified groups operated in more than one county, again suggesting a coordination of activity, compared to five Croatian and four working in support of BiH in more than one county.

D. General observations

74. While paramilitary groups have links to their respective governments, the nature of these links vary according to which agency furnishes funds, supplies, and military equipment to the group. Thus, Arkan is said to have strong links to Serbia's Ministry of Interior. The HOS in Croatia have links to political figures in that country, and the Green Berets have links to the Presidency of BiH. Control of the paramilitary groups is largely a function of the internal politics of the warring factions.

75. Members of ethnic and religious groups, such as Serbs, Croats, and Bosnian Muslims residing outside of the territory of the former Yugoslavia, have participated in the conflict as mercenaries. Some members of these groups, as well as persons of other nationalities, have been paid by the "warring faction" which they supported. 36/

76. In most cases, paramilitary groups have coordinated their activities with the armies of the "warring factions". The groups that have operated with the most independence are the HOS in Croatia and the Mujahedin in BiH. The smaller the group, the greater the tendency to operate outside of the army's control.

77. In many counties, Serbian special forces supported the work of local "crisis committees" when local militia or local police were unavailable. This further evidences the localized nature of most paramilitary activity. In some respects, it also reflects the doctrines of guerilla warfare inspired by Tito's World War II experience.

78. In BiH, Serb paramilitary activity was at its greatest level in the second half of 1992. During this period, immediately after the JNA was officially withdrawn, there was disorganization and confusion within the regular armed forces of the Bosnian Serb Army. This led to a lack of command and control, and it was during this period that the greatest number of violations by Serb paramilitary groups occurred.

79. Serb paramilitary members have been recruited largely from the population of persons between the ages of 18 to 30. This population of young persons is more capable of violence and less susceptible to control than older age cohorts. Paramilitary members have also been recruited from prisons. It has been reported that persons convicted of violent offences were released to fight in BiH. The Army apparently had the first pick from among these offenders. The others served in paramilitary units.

80. Most of the paramilitary units sustained themselves through lootings, thefts, ransoms and trafficking in contraband. This is especially true of the groups associated with Arkan, as discussed below.

81. The largest number of violations were committed by Serb paramilitary groups fighting in BiH in support of the breakaway Serb Republic. This can be explained, in part, by the following: There are more Serb paramilitary groups than those fighting on behalf of the other warring factions; Serb paramilitary groups have more members than the other groups; Serb paramilitary groups have operated over a wider range of territory, thus they have been in contact with a larger number of potential victims; and the Serbs have pushed a policy of "ethnic cleansing" on a wider scale than the other groups.

ANNEX IV - THE POLICY OF ETHNIC CLEANSING

82. Annex IV was prepared by staff members of IHRLI, under the direction of Chairman Bassiouni. It consists of 88 pages of text.

I. INTRODUCTION

83. Part I of the following Annex briefly describes the historical antecedents to the current conflict in the former Yugoslavia. Part II describes the development of the policy of "ethnic cleansing" and the early stages of its implementation in Bosnia and Herzegovina (BiH). Part III focuses upon one "ethnic cleansing" campaign in the Bosnian city of Zvornik and describes the military attack on and expulsion of the Muslim population of the city.

84. As used in this report, "ethnic cleansing" means rendering an area ethnically homogenous by using force or intimidation to remove from a given area persons from another ethnic or religious group.

85. All parties involved in the conflict have committed "grave breaches" of the Geneva Conventions and other violations of international humanitarian law. These violations include the killing of civilians, rape, torture, and the deliberate destruction of civilian property, including cultural and religious property, such as churches and mosques. But, there are significant qualitative differences. Most of the violations were committed by Serbs against Bosnian Muslims. The second largest group of victims were Croats, whose perpetrators have been Serbs from Serbia, BiH, and the Krajinas. Both Bosnian Muslims and Catholic Croats have also victimized Serbs in BiH and Croatia, but in lesser number. The policy of "ethnic cleansing", however, has been systematically carried out by Serbs in BiH and Croatia against their opponents, though Croats have also carried out similar policies, but on a more restricted scale, against Serbs in Croatia and Muslims in Herzegovina. Forceful population removal by BiH of Serbs has also occurred in some limited areas, but not as a policy. In fact, BiH occupied areas contain both Croats and Serbs, while Bosnian Serb areas have been cleansed of all but Serbs. The Krajinas in Croatia also have been cleansed of Croats, while eastern and western Slavonia (Croatia) have been cleansed of Serbs.

86. Croatian forces in the Republic of Croatia and BiH have engaged in "ethnic cleansing" practices against Serbs and Muslims. Croats, for example, have conducted "ethnic cleansing" campaigns against Serbs in eastern and western Slavonia and in parts of the Krajina region, as well as against Muslims in the Mostar area. While Bosnian Muslim forces have engaged in practices that constitute "grave breaches" of the Geneva Conventions and other violations of international humanitarian law, they have not engaged in "ethnic cleansing" operations. The vast majority of reports alleging "ethnic cleansing" operations involved Serbian forces who have used means, such as the mass killing of civilians, torture, sexual assault, the bombardment of cities, the destruction of mosques and churches, and other practices to eliminate Muslim and Croat populations that lie within Serb-claimed territory.

87. "Ethnic cleansing" by Serb forces has been systematic and apparently well-planned. As early as mid-1990, the Yugoslav Army (JNA) began to arm and supply local Serb forces in BiH. The "ethnic cleansing" campaigns in the early stages of the conflict involved coordinated attacks by JNA and paramilitary forces that sometimes operated from the Republic of Serbia. As the war and "ethnic cleansing" continued, the Federal Republic of Yugoslavia (FRY) persisted in supplying logistical support, arms, fuel, and other supplies to Serb forces in Croatia and BiH. "Ethnic cleansing" has involved

means, such as the mass killing of civilians, sexual assault, the bombardment of cities, the destruction of mosques and churches, the confiscation of property and similar measures to eliminate, or dramatically reduce, Muslim and Croat populations that lie within Serb held territory.

88. According to the Special Rapporteur of the UN Commission on Human Rights, by late 1993, over 2.1 million people had been displaced from their homes since the conflict in the BiH region. 37/

II. EARLY HISTORY

89. The Slavic people migrated from the caucuses to the Balkan peninsula between the Sixth and the Eighth Century. Between the Ninth and Twelfth Centuries, Croats, Bosnians, and Serbs developed distinct historical and cultural identities.

90. The division of the Christian Church in 1054 reinforced the fault line that earlier divided the Roman Empire. 38/ On the eastern side of the line lie the cultural heritage of the Greek world, the Eastern Orthodox Church and users of the Cyrillic script. On the western side lie the Roman Catholic Church.

91. In the 17th Century the Ottoman Turks encroached on the Balkan peninsula and defeated Serb, Bosnian, and Albanian forces at the Battle of Kosovo Polje (Field of Blackbirds) in June 1389. The event was to become of particular historical significance to the Serbs and is commemorated as the symbolic end to the independent Serbian medieval kingdom. 39/

92. Members of the Bosnian Church, which was distinct from the Roman Catholic and Eastern Orthodox Churches, converted to Islam during this period. These conversions were in part due to the promise of better conditions by Turkish rulers.

93. In the 17th Century, the Ottoman and Hapsburg empires clashed and the Treaty of Karlowitz transferred some Ottoman lands to Christian powers in 1699. The entry of the European powers into the region further accentuated the divisions that had occurred earlier. Croats and Slovenes were firmly part of the west, embracing Catholicism and looking towards the western powers for leadership. The Serbs and Bosnians remained within the Ottoman Empire. For the Serbs, Russia became a growing influence, and as Ottoman power in the region waned Russia assumed the role of protector of all Orthodox Christians in the Balkans.

94. Independence movements appeared in Serbia in the early 19th Century and by 1830, Serbia had achieved autonomous status within the Ottoman Empire. Strong nationalist sentiments continued to grow throughout the 19th Century. Serbs increasingly viewed their mission as one of liberating and unifying the lands in which Serbs lived. It was during this period that the idea of a "Greater Serbia" first emerged.

III. THE BALKAN WARS AND THE WORLD WARS

95. Two Balkan wars were fought in 1912 and 1913, finally freeing the peninsula from Ottoman control. 40/ Serbia made territorial gains by absorbing Kosovo and part of Macedonia. However, Serbia did not achieve its objective of uniting with Serbian regions of the Hapsburg Empire, including sections of Bosnia-Herzegovina, Croatia, and Vojvodina. 41/ The two Balkan wars experienced ethnic conflict on a massive scale. The worst

atrocities appear to have been related to efforts to unite the peninsula's Serbian population. In 1914, an International Commission found:

"[h]ouses and whole villages reduced to ashes, unarmed and innocent populations massacred en masse, incredible acts of violence, pillage and brutality of every kind--such were the means which were employed by the Serbo-Montenegrin soldiery, with a view to the entire transformation of the ethnic character of [these] regions." 42/

96. Serb nationalists, incensed by the Hapsburg annexations of Bosnia-Herzegovina in 1908, assassinated Archduke Franz Ferdinand in 1914. The event, on the anniversary of the Battle of Kosovo, sparked the first World War.

97. Following the First World War, unity was finally achieved when King Alexander of Serbia proclaimed the Kingdom of Serbs, Croats and Slovenes. The new state, however, was plagued by ethnic conflict from its inception. Croats, fearing Serbian domination, sought greater self-government within a looser confederation. It was during this period that the Croatian Ustaša (Uprising) movement was born. Its goal was Croatian independence, through violence if necessary.

98. Yugoslavia surrendered to the Axis powers in 1941, leading to German and Italian occupation of the country. In Serbia, the Germans installed a regime headed by Serbian General Milan Nedić. During the war, the Croatian leadership launched a campaign of annihilation against its Serbian population. Some Muslims joined the Croats' efforts against the Serbs, though many have fought alongside the Ustaše regime and against the Germans and the Italians. Pavelić sought to create an ethnically and religiously homogenous state. The Serbs of Croatia were faced with the alternatives of extermination, expulsion, or conversion to Catholicism. Serb officials maintain that a system of death camps, covering 210 square miles, ran along the Sava River. It has been estimated that between 350,000 and 750,000 Serbs were killed during this period.

99. In October 1944, Tito's partisans, with Soviet assistance, took Belgrade and a communist regime was established. A federal system was constructed, consisting of six Republics: Serbia, Croatia, Slovenia, Bosnia-Herzegovina, Macedonia and Montenegro. Serbia included two autonomous provinces, each containing a high concentration of an ethnic minority: Kosovo and Vojvodina. Ethnic tensions persisted in the post war years. Tito, however, effectively repressed ethnic and nationalist movements, such as the Croatian reformist movement of the early 1970s.

IV. PRELUDE TO THE BREAKUP

100. After Tito's death in 1980, a resurgent Serbian nationalism was led by Slobodan Milošević. To achieve, and later to consolidate his power, Milošević organized massive demonstrations in support of Serbs living in the province of Kosovo, which had a predominantly ethnic Albanian population. When disturbances broke out in Kosovo in 1989, Milošević imposed martial law.

101. Within the Republic of Serbia, the tenor of political life became increasingly strident. Faced with a disintegrating nation-state, Milošević denounced his domestic political opponents as "enemies of Serbia". 43/ His opponents in the other Republics were compared to vampires and fascists. 44/

102. In February 1989, the Serbian Republican Assembly amended its

constitution and revoked the autonomous status of Kosovo and Vojvodina. This display of Serbian nationalism, coupled with the use of force in Kosovo, generated apprehension within the other Republics. The resulting tension between the six Republics led to the breakup of the League of Communists in early 1990. In January of that year Slovenian delegates to the Extraordinary Congress of the League of Communists demanded an end to the Communist party's "leading role" and the establishment of a multi-party state. Clashing with the Serbian delegates, the Slovenians walked out of the Congress.

V. THE CURRENT CONFLICT

103. The present conflict emerged in early 1990 when Serbia and three of the other five republics failed to reach an agreement concerning the structure of the federal government. The Republics of Slovenia, Croatia and Bosnia and Herzegovina (BiH) sought a loose confederation in order to exercise greater autonomy. Serbia, on the other hand, wanted a more centralized federation in order to maintain its dominant role. This conflict resulted in efforts by Croatia, Slovenia, and later BiH and Macedonia, to secede from Yugoslavia.

104. Slovenia and Croatia declared their independence on 25 June 1991, Two days later, the Yugoslav Peoples Army (JNA) attacked the provisional militia. The war in Slovenia lasted only 10 days, but it soon spread to Croatia , where the conflict would be more protracted and bloodier.

105. In response to the Croatian vote for independence, Serbs living in Croatia's Krajina region established a Serbian National Council and scheduled an August referendum on their secession from Croatia. Breakaway republics were also established by the Serbs in BiH. These breakaway republics received small arms, artillery, missile launching systems and other support from their supporters in Serbia. In addition, Croats living in BiH established the Croatian Republic of Herzeg-Bosna, and they received arms and other assistance from supporters in Croatia. 45/

106. The JNA, according to numerous reports, was involved in the conflict in Croatia from its inception. When the Serbs of Croatia's Krajina region declared their independence, there was a massive transfer of heavy weapons from the JNA to Serb paramilitary forces. In addition, there was an influx of supplies from Serbia itself. Serb paramilitary units operating in Croatia have worn federal army uniforms and used JNA topographical maps. They also were able to obtain a large number of sophisticated weapons and vehicles. 46/

107. Coordination between the JNA and local Serb forces was apparent in the destruction of Vukovar in 1991. A mass grave found at Ovcara is thought to contain the remains of at least 200 Croats who had been taken from a Vukovar hospital, summarily executed, and buried in a shallow grave.

108. In April 1992, when the conflict in BiH broke out, the JNA had approximately 80,000 troops deployed there. In early May, General Ratko Mladić was appointed JNA commander. Under pressure from the international community, on 19 May 1992, the FRY announced that it was withdrawing its forces. However, Yugoslav officials said that JNA personnel from BiH could remain there and fight on behalf of the Bosnian Serbs (see Annex III, Military Structure).

109. In the weeks following BiH's recognition by the European Community, JNA and Bosnian Serb forces attacked Bosnian towns such as Prijedor and other villages in the Kozarac region of north-east BiH, and Zvornik in north-west BiH. Similar attacks have occurred in many cities and villages along the

Drina and Sava Rivers. These areas of BiH have high concentrations of Bosnian Serbs. The purpose of the attacks seems clear: Serb forces have sought to consolidate their control over these territories and link them with each other, as well as with Serb-controlled areas of Croatia.

VI. THE "ETHNIC CLEANSING" CAMPAIGN IN BiH

110. Although "ethnic cleansing" occurred to some extent in the conflict in Croatia, it was in BiH that a distinct pattern of "ethnic cleansing" could be discerned. First, Bosnian Serb paramilitary forces, often with the assistance of the JNA, seize control of the area. In many cases, Serbian residents are told to leave the area before the violence begins. The homes of non-Serb residents are targeted for destruction and cultural and religious monuments, especially churches and mosques, are destroyed. Second, the area falls under the control of paramilitary forces who terrorize the non-Serb residents with random killings, rapes and looting. Third, the seized area is administered by local Serb authorities, often in conjunction with paramilitary groups. During this phase, non-Serb residents are detained, beaten and sometimes transferred to prison camps where further abuse, including mass killings, have occurred. Non-Serb residents are often fired from their jobs and their property is confiscated. Many have been forced to sign documents relinquishing their rights to their homes before being deported to other areas of the country.

111. According to one military expert of Jane's Information Group:

"[the Commander of the Bosnian Serb military forces] has a clear military aim: the consolidation of Serb-held territory of Bosnia; the eradication of Muslim enclaves within them, such as Goražde, and the severance of any possible military link between Muslims in Bosnia and those in the Sanjak area of Serbia." 47/

112. The policy of "ethnic cleansing" has been implemented consistently throughout an area incorporating an arc that ranges from north-eastern BiH through the regions of eastern and western BiH, adjacent to the Serb Krajina area of Croatia.

113. The Serbs "ethnic cleansing" campaign was shaped by several factors. First, the demographics of the region ensured that any attempt to establish "ethnically pure" areas would entail tremendous dislocations. In BiH, the pre-war population was approximately 40 per cent Muslim, 32 per cent Serb, and 18 per cent Croat. 48/ The areas of Serb preponderance are primarily located in the north-east, south-east and north-west portions of the country. However, these areas are neither homogenous nor contiguous. The areas in which Serbs are numerically dominant include substantial populations of Muslims and Croats.

114. Populations can be removed, even forcibly removed, without extreme bloodshed. Ethnic minorities could have been ejected from their homes, gathered at a central locations, and transported to another region. This, however, would have required a strong and well-organized regular army. The Bosnian Serb Army was neither numerically strong enough, nor sufficiently well-organized, especially in the first stages of the conflict in BiH, to accomplish this task. Thus, Serb officials relied on the use of terror, entailing mass killings, torture, rapes, and prison camps to eradicate the non-Serb population. The non-Serbs had to be sufficiently terrorized to ensure that they would flee the area and never return.

115. The character of "ethnic cleansing" was partly determined by its reliance on local officials and paramilitary leadership. Local officials

relied on police and militia to help expel non-Serbs from Serb-controlled land, and these forces were often ill-equipped and untrained. The use of terror was their most efficient weapon. Police and local militia were frequently supplemented by paramilitaries. These groups often operated outside any discernable centralized command and control structure. Paramilitaries were often recruited from a population of rural, uneducated youth. Sometimes a deliberate effort was made to recruit those with criminal backgrounds. The apparent lack of control over paramilitaries conveyed the message that the most brutal acts would be permitted, or at least they would go unpunished.

116. The fragmentation of authority has provided FRY and Bosnian Serb officials with "plausible deniability". If ties between paramilitaries and officials are obscured, government officials might be able to evade responsibility for "ethnic cleansing". Thus, even after the JNA became better organized and able to assert greater control in 1993, it did not establish effective command and control over the paramilitaries.

117. While regular military units, militia, police and local citizens have all participated in "ethnic cleansing" campaigns. Paramilitary units are responsible for some of the most brutal aspects of "ethnic cleansing." Two of the units that have played a major role in the "ethnic cleansing" campaign in BiH, the "Četniks" associated with Vojislav Šešelj and the "Tigers" associated with Željko Ražnjatović (Arkan), have been active in the Republic of Serbia as well. Šešelj's followers have reportedly waged "ethnic cleansing" campaigns against ethnic minorities in Serbia's provinces of Vojvodina and Kosovo. Arkan's "Tigers" have staged military training exercises allegedly designed to intimidate Albanian residents in Kosovo.

118. These paramilitary units have launched operations from within the Republic of Serbia. In addition, paramilitary training camps are located within the Republic of Serbia.

VII. THE ATTACK ON ZVORNIK 49/

119. The attack on Zvornik, in north-eastern BiH, reveals a similar pattern of events that was repeated throughout much of the area. In the weeks prior to the attack (which occurred on 8 April 1992), tensions between ethnic groups in the city had increased. Members of each ethnic group had obtained weapons for their personal use. Muslims were warned by their Serb friends that they should leave the area. Prior to 8 April, many Serbs left Zvornik, apparently having been forewarned of the impending attack. On the weekend before the attack, Serbs constructed a barricade, preventing many Muslims from reaching their work site or school. In retaliation, Muslims also erected a barricade at the same location. It was protected by Muslim police officers and armed volunteers.

120. On the day before the attack, JNA troops moved into the region. On television, a Belgrade commentator reported that the JNA was needed in the region because they expected an attack by Muslim extremists.

121. On 8 April, Serb representatives of SDS, as well as the paramilitary leader known as "Arkan," called for the Muslims to peacefully surrender the city. Negotiations proceeded in which the division of the city into Muslim and Serb enclaves was discussed. The negotiations broke down, however, apparently because Arkan was dissatisfied with the result.

122. After the failure to reach an agreement, the attack on the town began. The JNA, using tanks, artillery and infantry units, was joined by Arkan's

paramilitary troops, sometimes known as "Arkanovci." There was heavy shelling of the Muslim sections of the city.

123. The next day Arkan's troops, along with paramilitary units known as "Šešeljovci" and the Beli Orlovi (White Eagles), entered the city. Serb territorial defence units (TOs) also participated. It was reported that these troops committed random executions and rapes after entering Zvornik.

124. The next day, a provisional government was established that was headed by local Serbs, primarily members of SDS. A curfew was imposed, and residents had to obtain a police permit to travel within the city. Several Muslims who went to the police station to obtain a permit were taken into custody and deported to an outlying prison camp. Except for indispensable personnel such as hospital employees, Muslim men were prevented from working. During the following days, paramilitary units continued to patrol the streets, and there were many reports of looting, rape and other acts of brutality.

125. In late April, an appeal was made to Muslims to return to the area from which they had fled. Many returned because they feared losing their property. On arriving in Zvornik, Muslims were told that they must register their property. An "agency for the exchange of houses" was established. In exchange for relinquishing their homes, Muslims were promised the former homes of Serbs in Tuzla. Departure from the town was only possible on the condition that their property was turned over to Serb authorities. From late May to early June 1992, the entire Muslim populations of villages in the surrounding area were deported. The expelled Muslims were allowed to take few personal possessions with them. Even these items were often stolen at Serb check-points on the roads leaving the area.

126. According to an account in Vreme, the "cleansing" was followed by organized looting. "Some stole gold, hard currencies, household appliances or cars. Others robbed department stores. Electricity plugs were torn out of the walls and children's toys were sold and bought. Even entire bedroom suites could be seen floating down the river". 50/

ANNEX V - PRIJEDOR

127. Commissioner Greve prepared Annex V with the assistance of Morten Bergsmo, Assistant to the Commission of Experts. Annex V is an extensive report, consisting of 128 pages of text, on the genocide and "ethnic cleansing" which occurred in Opština Prijedor.

128. Commissioner Greve and Mr. Bergsmo collected approximately 400 statements from victims and witnesses of the events in Opština Prijedor which were the main resource for the report. In addition, Commissioner Greve relied on local Serbian media reports of the events and her own research.

129. For security reasons, the information gathered from victims and witnesses is kept confidential. These statements are contained in four separate volumes (a total of 911 pages) and are provided exclusively to the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (ICTFY).

I. GENERAL DESCRIPTION

130. Opština Prijedor is a district located in north-western Bosnia and Hercegovina (BiH) in an area which is part of Bosnian Krajina. It is located in between the town of Sanski Most (to the south), the Bosnian-Croatian border towns of Bosanski Novi (to the west) and Bosanska Dubica (to the north), and

the regional capital of Banja Luka (to the east). Except for the area of Sanski Most, the other neighbouring districts had Serbian majority populations before the armed conflicts started in BiH.

131. According to the 1991 census, Opština Prijedor had a total population of 112,470 people, of whom 44 per cent were Muslims, 42.5 per cent Serbs, 5.6 per cent Croats, 5.7 per cent "Yugoslavs" and 2.2 per cent others (Ukrainians, Russians and Italians). In early April 1992, the total population may have been approximately 120,000 people, augmented, inter alia, by an influx of people who had fled the destruction of their villages in areas to the west of Opština Prijedor.

132. Comparing the 1991 census figures with the results of a population count of June 1993, as published in Serbian-controlled media, gives the following overall picture:

	<u>1991</u>	<u>1993</u>	<u>Reduction</u>	<u>New arrivals</u>
Serbs	47,745	53,637	---	5,892
Muslims	49,454	6,124	43,330	---
Croats	6,300	3,169	3,131	---
Others	8,971	2,621	6,350	---

Thus, the total number of killed and deported persons as of June 1993 is 52,811 (including limited numbers of refugees and people missing). Since then, the number of non-Serbs in the district has continued to decrease. The extreme persecution to which non-Serbs are subjected and their almost total lack of protection in the district is illustrated by the fact that the ICRC and the UNHCR asked permission from the Serbs, ultimo March 1994, to evacuate all remaining non-Serbs from Opština Prijedor.

II. SERBS TAKE POWER ON 30 APRIL 1992

133. According to Kozarski Vjesnik, a Serbian-controlled newspaper in Opština Prijedor:

"The man [Simo Drljača], who the Serbian Democratic Party of the Opština Prijedor put in charge of forming the Serbian police after half a year of illegal work, had done his job so well that in 13 police stations 1,775 well armed persons were waiting to undertake any difficult duty in the time which was coming. In the night between 29 and 30 April 1992, he directed the takeover of power [by the Serbs], which was successfully achieved in only 30 minutes, without any shots fired. The assembly of the Srpske Opštine Prijedor, at the end of March last year [1992], appointed him Chief of the public security station [i.e. in charge of the secret police]. He was in charge of this job during the most demanding period and remained in the position until January 1993.

These days he has been appointed Vice-Minister of Internal Affairs of the Serbian Republic. He will commence his new function in Bijelina on Monday." 51/

134. More than six months prior to the power change in 1992, the Serbs started to build up their own administration parallel to the legitimate authorities in Opština Prijedor, what they called the Serbian Opština Prijedor. This included, inter alia, a pure Serbian police force with secret service functions. The legitimate authorities in Opština Prijedor had been lawfully elected and the Prijedor Assembly reflected the ethnic composition of

the district.

135. In early 1992, a very small Serbian paramilitary group took control of the television transmitter on the Kozara Mountain in Opština Prijedor. As a consequence, the population in the district could not receive television programmes from Sarajevo or Zagreb any longer, only from Belgrade and later Banja Luka. The television programmes from Belgrade insinuated that non-Serbs wanted war and threatened the Serbs.

136. Prior to the power change on 30 April 1992, Serbs secretly armed other Serbs in the district. Many soldiers from the JNA withdrew from Croatia to north-western BiH in early 1992. Instead of demobilizing those who returned to Opština Prijedor, the legitimate authorities were pressured to accept redeploying them to control all inroads to and exits from the district together with police and the TO. The pressure applied was an ultimatum. The legitimate authorities were invited for a guided sightseeing tour of two Croatian villages just north of Bosanska Gradiška which had been destroyed and left uninhabited. The message was that if the ultimatum was not met, the fate of Prijedor would be the same as that of these villages. The ultimatum was accepted.

III. IMMEDIATE CONSEQUENCES OF THE SERBS TAKING POWER

137. An immediate consequence of the Serbian takeover was severed communications between Opština Prijedor and the outside world. It became more difficult to travel and the telephone system was no longer fully operational.

A curfew was introduced in Prijedor town - the main town in the district - and travel permits were required in many areas even to move among local villages. Bus services were closed down.

138. In the wake of the power change, most non-Serbs were dismissed from their jobs, be it as police, public officials or even manual workers. In all key functions such as police and local administration, the empty posts were taken over by Serbs.

139. Already before 30 April 1992, Serbs had started to visit the non-Serbs who were licensed to hold weapons and demand that they give their weapons up.

This process was intensified after the takeover, and combined with a campaign where non-Serbian police and Territorial Defence Forces (Teritorijalna Odbrana or TOs) were instructed to hand over their weapons, and non-Serbian houses and villages were searched for arms.

140. Also, the local media, Radio Prijedor and Kozarski Vjesnik, joined in the anti non-Serb propaganda. The media slandered former non-Serbian leaders by criticizing everything from their alleged lack of efficiency to their private lives. In addition, the media claimed that many dangerous - in particular Muslim - extremists were in the area, preparing genocide against the Serbs.

IV. THE MAJOR SERBIAN MILITARY OPERATIONS IN THE DISTRICT

141. Following an incident in which less than a handful Serbian soldiers were shot dead under unclear circumstances, the village of Hambarine was given an ultimatum to hand over a policeman who lived nearby where the shooting had occurred. As it was not met, Hambarine was subjected to several hours of artillery bombardment on 23 May 1992. The shells were fired from the aerodrome Urije just outside Prijedor town. When the bombardment stopped, the village was stormed by infantry, including paramilitary units, which sought

out the inhabitants in every home. Hambarine had a population of 2,499 in 1991.

142. On 24 May 1992, a large-scale attack on the entire Kozarac area east of Prijedor town, under the Kozara Mountain, was carried out with intensive bombardment from all directions by artillery, tanks, and small firearms. The bombardment lasted for more than 24 hours, before infantry and paramilitary groups stormed Kozarac and nearby villages and searched for people in every building. The affected area had a total population of almost 27,000 non-Serbian people.

143. On 30 May 1992, a group of probably less than 150 armed non-Serbs had made their way to the Old Town in Prijedor to regain control over the town. They were defeated, and the Old Town was razed. In the central parts of Prijedor town, all non-Serbs were forced to leave their houses as Serbian military, paramilitary, police and civilians advanced street by street with tanks and lighter arms. The non-Serbs had been instructed over the radio to hang a white piece of cloth on their homes to signal surrender.

144. Starting on 20 July 1992, a large area of predominantly non-Serbian villages on the left bank of the Sana River (the larger Hambarine/Ljubija area) was attacked in a similar manner to the Kozarac area. However, it was predominantly infantry and paramilitary groups that carried out the destruction. At the time of the attack, the areas had a population of close to 20,000 people, including people who had come for shelter after their villages west of Opština Prijedor had been destroyed.

145. Today, the former homes of almost 47,000 people in the Kozarac and Hambarine/Ljubija areas are empty and destroyed. Some were hit by artillery shells, while others were set ablaze in the initial attack. All the homes were pillaged and a large number blown up, one at a time from inside, destroying especially the inside and the roofs. Most of the artillery used during these attacks had been moved into position some time before the Serbs took power on 30 April 1992.

V. CONCENTRATION CAMPS AND DEPORTATIONS

146. As non-Serbs were attacked in the villages and Prijedor town, hundreds, possibly thousands, were killed in their home areas, frequently after maltreatment. The survivors who temporarily managed to flee or hide were divided. Females, boys under the age of sixteen (sometimes the age limit may have been lower) and elderly men (older than 60 or 65) made up one group, while the other men comprised the second group.

147. The second group - the men - were taken to hastily opened concentration camps in a ceramic tile factory, Keraterm, next to Prijedor town and on the premises of the iron ore mine and processing plant at Omarska. Massacres, torture, and appalling living conditions quickly depleted the number of detainees.

148. In an interview of Simo Drljača (Chief of the Serbian secret police in Prijedor), he stated that:

"In the collection centres 'Omarska', 'Keraterm', and 'Trnopolje' more than 6,000 informative talks were held. Of this number 1,503 Muslims and Croats were sent to the camp 'Manjača', on the basis of solid documentation of active participation in the fighting against the Army of Republica Srpska, and also participation in genocide against the Serbian people. Instead of letting them get

their deserved punishment, the powerful men of the world expressing disdain forced us to release them all from Manjača." 52/

149. As the "informative talks" or interrogations basically took place in the Omarska and Keraterm camps, it can be concluded that more than 6,000 adult males were taken to these concentration camps in the short period they existed (from the end of May to the beginning of August 1992). Since only 1,503 were moved on to Manjača camp according to Mr. Drljača, a limited number transferred to the Trnopolje camp, and almost none released, it may be assumed that the death toll was extremely high, even by Serbian accounts. The concentration camp premises were sometimes so packed with people that no more inmates could be crammed in. On at least one occasion, this allegedly resulted in an entire bus-load of newly captured people being arbitrarily executed en masse. Some 37 women were detained in Omarska, whilst no women were kept over time in Keraterm.

150. The women's groups (almost all the females, the boys under the age of sixteen and the elderly men) were normally taken to the Trnopolje camp. Here the regime was far better than in Omarska and Keraterm; none the less harassment and malnutrition was a problem for all the inmates. Rapes, beatings and other kinds of torture and even killings were not rare. Some of these detained women were released after a few days as there was a lack of space in the Trnopolje camp as well.

151. On their way to the concentration camps, some captives were detained for shorter periods at improvised detention facilities such as sports halls in schools and stadiums (notably in the Prijedor suburb of Tukovi, and in Ljubija).

152. As soon as the Serbs had captured the first groups of non-Serbs, the large-scale deportations of the women's group started. Some were deported straight from the improvised detention facilities, the majority from the Trnopolje camp. The majority of deportees were cramped into buses or onto military trucks and sent towards Travnik. These deportees had to walk almost 30 kilometres from where the trucks and buses dumped them in a desolate area on the outskirts of the Vlašić Mountain, to reach non-Serbian-held areas in central BiH. A few were deported the safer way to Bosanska Gradiška. Sizable numbers were taken by rail - many in cattle wagons - to Travnik, some were let off the trains in Doboj from where they were ushered ahead on foot in the direction of Tuzla. Some individuals perished during the transport due to the mid-summer heat and next to suffocating conditions both in cattle wagons and on closed military trucks where the deportees were also deprived of food and water.

VI. THE STRATEGY OF DESTRUCTION

153. The Serbs took power in Opština Prijedor on 30 April 1992, after more than six months of careful planning. After this, the non-Serbs had their homes and communities destroyed, their families split, and their employment denied. The majority of the non-Serbs were soon captured, thousands incarcerated in concentration camps, and even larger numbers deported. This all happened after the Serbs had sealed off most exits from the area. The non-Serbs presented no real threat to the Serbs under these circumstances, the district of Prijedor being surrounded at the time by areas controlled and dominated by the Serbs (the non-Serb majority population in the Sanski Most district was purged simultaneously as in Prijedor).

154. Despite the absence of a real non-Serbian threat, the main objective of

the concentration camps, especially Omarska but also Keraterm, seems to have been to eliminate the non-Serbian leadership. Political leaders, officials from the courts and administration, academics and other intellectuals, religious leaders, key business people and artists - the backbone of the Muslim and Croatian communities - were removed, apparently with the intention that the removal be permanent. Similarly, law-enforcement and military personnel were targeted for destruction. These people also constituted a significant element of the non-Serbian group in that its depletion rendered the group at large defenceless against abuses of any kind. Other important traces of Muslim and Croatian culture and religion - mosques and Catholic churches included - were destroyed.

VII. THE GENERAL LACK OF PROTECTION FOR NON-SERBS

155. From the time when the Serbs took power in the district of Prijedor, non-Serbs in reality became outlaws. At times, non-Serbs were instructed to wear white arm bands to identify themselves. Non-Serbs were subjected to crimes without the new Serbian leaders attempting to redress the problem. For example, rape became a serious problem for many women who were left alone as their husbands had been detained. The impression was allowed to spread among Serbs that they would be exonerated if they made life difficult for non-Serbs so that the latter would ask permission to leave the district. According to new Serbian regulations, those leaving the district had to sign over their property rights to Serbs and accept never to return, being told that their names simultaneously would be deleted from the census.

VIII. RESPONSIBILITY

156. When the Serbs took power in the district of Prijedor, they immediately declared the existence of a Crisis Committee of the Serbian district of Prijedor (Krizni Štab Srpske Opštine Prijedor). Some of the members of this crisis committee were the military commanders Colonel Vladimir Arsić and Major Radmilo Zeljaja, and other district leaders, such as Major Slobodan Kuruzović; the Chief of Police, Simo Drljača; Mayor Milomir Stakić; the President of the Executive Board of the Assembly in Prijedor, Mićo Kovačević; the President of the Serbian Democratic Party (Srpska Demokratska Stranka or SDS) in Prijedor, Simo Mišković; and the President of the Red Cross in Prijedor, Srdjo Srdić.

157. The military destruction of the non-Serbian habitations in Opština Prijedor took place when the area was under the command of Colonel Vladimir Arsić and Major Radmilo Zeljaja in close cooperation with military superiors, at least in the regional capital Banja Luka. Units stationed outside of Opština Prijedor assisted in the military destruction, as did paramilitary units whose attacks were timed to fit with the artillery attacks and the manoeuvres of the regular army units.

158. In the above-mentioned interview, Simo Drljača stated that:

"[T]hey [the police force (including the secret services)] carried out my orders and the orders of the CSB [the Public Security Centre] Banja Luka and the Minister of Interior.

...

... the cooperation was excellent with the Army of Republika Srpska and with the officers of that army. The cooperation was manifested in the joint cleansing of the terrain of traitors, joint work at the checkpoints, a joint intervention group against disturbances of public order and in fighting terrorist groups." 53/

159. The secret police and the military police provided the concentration camps with interrogators and guards. For some of the most gruesome torture and killings of detainees, the assistance of paramilitary units and some locals was also called upon. The joint police and military intervention units were used to trace and capture the non-Serbian leadership. The latter units killed prisoners arbitrarily during transport to the Manjača camp and arranged mass-killings of "deported" prisoners in the Vlačić Mountain area.

160. The other members of the Krizni Štab Srpske Opštine Prijedor ran the community in which all these violations occurred. They participated in the administrative decision-making. The gains of the systematic looting of non-Serbian property were shared by many Serbs on different levels.

161. The Commission of Experts possesses the names of hundreds of alleged perpetrators at different levels and in a variety of capacities.

IX. CONCLUSIONS

162. It is unquestionable that the events in Opština Prijedor since 30 April 1992 qualifies as crimes against humanity. Furthermore, it is likely to be confirmed in court under due process of law that these events constitute genocide.

ANNEX VI - THE BATTLE AND SIEGE OF SARAJEVO

163. Annex VI was prepared by staff members of IHRLI, under the direction of Chairman Bassiouni. It consists of 1,300 pages of text. Section 1 is the summary, which follows. Section 2 is the chronology which details daily combat and shelling activity, targets hit and damage to those targets, sniping activity, and total casualties reported. The chronology also contains a narrative of daily military activities as well as narratives of local and international events relating to the battle and siege. Each section is followed by detailed appendices, illustrating the information contained in the report.

I. SUMMARY AND ANALYSIS

A. Methodology

164. The Study of the Battle and Siege of Sarajevo presents a daily chronology documenting events in the city from 5 April 1992 to 28 February 1994. The chronology is based on incidents reported in the database, source materials and media reports. It details, in so far as information is available: daily combat and shelling activity; specific identified targets hit; known damage to targets; sniping activity; and total casualties reported. The chronology also contains a narrative of daily military activities and narratives of local and international events relating to the battle and siege. The purpose of the chronology is to describe the events and consequences of the battle and siege of Sarajevo and to evaluate apparent patterns of violations of humanitarian law. Where facts, figures or accounts of events have differed in the reports reviewed, all the conflicting versions are recorded in the chronology.

165. To present the most complete picture of the events in Sarajevo during the siege, a number of sources were utilized to prepare the chronology. Daily, weekly and monthly UNPROFOR reports were incorporated where available, to record the number of shells fired into the city, as well as to develop a

greater understanding of the events as witnessed by the military observers on the ground. UNPROFOR orders of battle were also reviewed and included to identify the command structure of the forces in and around the city.⁵⁴ In many instances, information was obtained through specialized UNPROFOR and other UN reports, containing details on the numbers of relief flights into the city, the status of utilities and attempted utility repairs, specific crater analyses after serious shelling incidents, and other significant events. In addition to UNPROFOR reports, valuable information was gathered from local sources and incorporated into the chronology. In particular, cumulative statistical reports and reports on daily, weekly and monthly casualties in the city were obtained from the Bosnia and Herzegovina (BiH) Institute of Public Health Bulletins. Other valuable information was submitted by the BiH government and was incorporated into the chronology. This information included reports on property destruction in the city and photographs of destroyed structures submitted by the BiH War Crimes Commission in Sarajevo. Photographs and videotapes obtained independently by the United Nations Commission of Experts were also utilized. These materials confirmed the widespread structural and property damage in the city.

166. To supplement the above information, an on-line international media search was conducted to locate relevant press accounts pertaining to the events in Sarajevo. This search resulted in nearly twelve thousand pages of information which was put into source files and incorporated into the chronology. These media sources were cross-checked and verified against one another. Where accounts differed, both sides were recorded. Local media sources such as the Belgrade based Tanjug news agency and Vreme, as well as Sarajevo Television and Radio were consulted. This media-based information played an especially important part in the chronology, particularly during the first few months of the siege when UNPROFOR and other sources of information had not yet begun their efforts to record relevant data in the city. Additional information was also gathered pertaining to relevant negotiations and political events. In particular, the staff of IHRLI prepared a separate chronology of the negotiations which was incorporated into the chronology on the battle and siege of Sarajevo. The chronology of the negotiations drew much of its information from reports of the International Conference on the Former Yugoslavia, the Foreign Broadcast Information Service, a Carnegie Endowment Special Publication prepared on the negotiations,⁵⁵ and press reports.

167. In conjunction with the preparation of the chronology, many hours of video footage were viewed. This film was gathered and archived by IHRLI, with the assistance of Linden Productions.⁵⁶ The footage viewed ranged from local home video to western media reports providing details on the many events and venues featured in the chronology. To accurately identify and locate targets in the city and to verify reports in the chronology, a number of informal interviews were also held with individuals who had been in Sarajevo during the siege. This provided an excellent opportunity to hear detailed first-hand accounts of the siege. Since the individuals interviewed were native Sarajevans, the meetings also served to identify specific targets in the city, as well as many of the sites pictured in photos received.

168. Once a draft of the chronology was completed, a team of analysts was assembled to examine the information contained therein.⁵⁷ One analyst, for example, was assigned the task of collecting all of the information in the chronology pertaining to specific targets shelled in the city. Working with this information he prepared a map identifying the specific locations of shelled targets reported in the chronology.⁵⁸ Other analysts also:

- (a) prepared a list of the most frequently hit targets in the city;⁵⁹

(b) prepared a table of frequency of shelling, by dividing the city into designated areas and determining the most frequently shelled areas;⁶⁰ and

(c) accumulated and identified photographs picturing targets shelled in the city.⁶¹

169. Statistical analysts then examined the numerical data contained in the chronology.⁶² As part of their effort, statistical charts were prepared recording

(a) total daily shelling activity in the city;⁶³

(b) daily numbers of persons killed;⁶⁴

(c) daily numbers of persons wounded;⁶⁵ and

(d) combined reported shelling activity and casualties by day and by week.⁶⁶

In preparing this statistical information, only reports in the chronology with daily totals (e.g. total number of persons killed on a given day, or total number of shells fired) were included. This methodology was utilized to prevent incomplete data from being factored into the daily averages computed.

170. After an initial review of the statistics and the other data in the chronology, it became apparent that a possible connection existed between the increase and decrease in shelling activity and related political events such as negotiations, meetings, preparations for negotiations, the hardening or softening of public positions by international and local leaders, and changes and potential changes of positions by certain governments. The relevance of this connection is that it establishes a possible link between military and political activities or objectives. With this fact in mind, a graph was created to track significant local and international events contained in the chronology with the level of shelling in Sarajevo.⁶⁷ The political events included in this graph are as follows:

(a) international peace conferences involving the former Yugoslavia;

(b) statements by parties to the conflict; and

(c) statements made by other countries or international organizations relating to the former Yugoslavia.

B. Brief description and history of the city

171. Sarajevo, the capital of BiH, is located in central BiH in the Miljacka River valley. It is a long and narrow city (occupying 2,049 sq.km.) surrounded by hills and mountains.⁶⁸ The 1991 census indicates that before the siege the city and its surrounding areas had a population of 525,980. There are estimates that prior to the siege the population in the city proper was 435,000. The current estimates of the number of persons living in Sarajevo range between 300,000 and 380,000 residents.

172. The history of Sarajevo dates back to the Roman conquest of the area. Slavs later colonized the area and erected a castle in the south-east of the city. The city's name is derived from the Turkish word 'Seraglio' (palace in the fields). This name was given to the region by the Turks in the early 15th Century after the capture of the castle that the Slavs had erected. The city has been a cultural, religious and commercial centre since the 15th Century.

In 1878 Sarajevo was assigned to Austria by the Treaty of Berlin. On 28 June 1914, a student, Gavrilo Princip, assassinated the Austrian Archduke Franz Ferdinand and his wife on what now is the site of the Princip Bridge. The assassination set into motion the events leading to World War I.

173. Sarajevo contains an architectural blend of three major influences: the old Oriental heart of the city, the turn of the century Viennese city around it, and the contemporary high-rise apartment buildings and industrial facilities through its outskirts. The Old Town was built by the Turks and contains ancient structures and objects of cultural importance. Its centre, the medieval square known as Baščaršija (Market Square) serves as its marketplace. The city also has a very comprehensive modern tram and mass transit system. In addition to its many orthodox churches, Sarajevo has numerous mosques.

174. Sarajevo became the focus of world attention as host of the 1984 Olympic Games. Prior to the siege, it was a cosmopolitan city where persons of different religions lived and worked together.⁶⁹ Inter-marriages between the ethnic groups were not uncommon. According to the 1991 census, the city's multi-ethnic population distribution prior to the siege was as follows: Muslims 49.3 per cent; Serbs 29.9 per cent; Croats 6.6 per cent; Yugoslav 10.7 per cent. Jews and other groups made up the remaining 3.5 per cent of the population. Observers have noted that in the beginning of the siege many of Sarajevo's Serbs fled the city. According to reports, some joined the Bosnian Serb army. Others relocated to Serb-held areas in the outlying districts. There are estimates that 40,000 Serbs remain in government-held parts of the city. According to reports, the city's 400-year-old Jewish community numbered 14,000 before World War II and 1,400 before the current conflict. It has been reported that as a result of evacuations and casualties, only a few hundred Jews remain.

C. Summary of the battle and siege

175. The battle and siege of Sarajevo began on 5 April 1992, the eve of European Community recognition of BiH as an independent state. On that date, thousands of persons took to the streets in spontaneous peace marches. The largest body of demonstrators headed towards the Parliament building and other buildings reportedly seized by Serb forces. Unidentified gunmen were then reported to have fired into the crowd. One protestor was confirmed dead. Since that date, the siege and relentless bombardment from the hills surrounding Sarajevo has taken a tremendous physical toll on the city and its inhabitants.

176. Since the beginning of the siege it is estimated that nearly 10,000 persons have been killed or are missing in the city. This total includes over 1,500 children. An additional 56,000 persons have been wounded, including nearly 15,000 children. It has been estimated that over the course of the siege the city has hit been hit by an average of approximately 329 shell impacts per day, with a high of 3,777 shell impacts on 22 July 1993. This shellfire has caused extensive damage to the city's structures, including civilian and cultural property. The BiH Government has estimated that shelling has destroyed over 10,000 apartments and damaged over 100,000 others. Of the other buildings in the city, 23 per cent were reported seriously damaged, 64 per cent partially damaged and 10 per cent slightly damaged. The Council of Europe's Committee on Culture and Education concluded that most of the buildings in the city had been damaged to a greater or lesser degree and that 35,000 dwellings had been destroyed through September 1993.

D. Civilian casualties

177. The chronology contains cumulative casualty reports submitted by the BiH Institute for Public Health.⁷⁰ It also contains casualty reports from UNPROFOR and other sources. According to the BiH Institute reports, as of 15 November 1993, 9,539 persons had either been killed, died of malnutrition or from the cold, or were missing in the city. This total included 1,525 children. Additionally, 55,801 persons had been wounded, including 14,538 children.⁷¹ 178. Based on the chronology's sources of information, a large number of Sarajevans have been killed and wounded with regularity throughout the siege.

(a) The chronology contains reports on 315 days where the total numbers of persons killed was documented.⁷² On those days a total of 2,474 persons were reported killed, totaling an average of approximately eight killed in the city per day.

(b) The chronology also contains reports on 306 days on which the total number of persons wounded was documented.⁷³ On those days, a total of 13,472 persons were reported wounded, totaling an average of approximately 44 wounded per day.

It should be noted that actual daily casualty numbers in Sarajevo are probably higher than those reported in the chronology. This is because the varied centralized city casualty counts relied upon may not include many victims who are taken to district morgues and clinics.

179. The siege has not spared any sector of Sarajevo's population. UNICEF reported that of the estimated 65,000 to 80,000 children in the city: at least 40 per cent had been directly shot at by snipers; 51 per cent had seen someone killed; 39 per cent had seen one or more family members killed; 19 per cent had witnessed a massacre; 48 per cent had their home occupied by someone else; 73 per cent have had their home attacked or shelled; and 89 per cent had lived in underground shelters. It is probable that the psychological trauma suffered during the siege will bear heavily on the lives of these children in the years to come.⁷⁴

180. As a result of the high number of casualties and the wartime conditions present, makeshift cemeteries appear throughout Sarajevo and its surrounding areas. Parks, athletic fields, and other open spaces have been utilized as graveyards.⁷⁵ One such site is the sports complex built for the 1984 Winter Olympics.

181. The siege has also had a profound effect on the psyche and future of the city's population. The BiH Government has reported a soaring suicide rate by Sarajevans, a near doubling of abortions and a 50 per cent drop in births since the siege began.

E. Structural and property damage and destruction⁷⁶

182. The structural and property damage in Sarajevo as a result of the siege includes specifically protected targets such as hospitals and medical complexes, medical facilities (including ambulances) and medical personnel, as well as cultural property. Furthermore, there have been attacks upon civilian property which are not justified by military necessity and are equally prohibited. The BiH government has estimated that shelling has destroyed over 10,000 apartments and damaged over 100,000 others. Of the other buildings in the city, 23 per cent have been reported as seriously damaged, 64 per cent as

partially damaged and 10 per cent as slightly damaged.⁷⁷ In its report, the Council of Europe's Committee on Culture and Education commented on the structural damage in the city. The Committee stated:

". . . [I]t is plain that Sarajevo has suffered badly at the hands of its attackers. Apart from the obvious human cost in the continued suffering and difficulties of day to day living, there has been serious damage to the urban fabric. The infrastructure (drainage, electricity, telephone services, etc.) is badly damaged. Most buildings are damaged significantly and probably all buildings are damaged to a greater or lesser degree (broken glass etc.). Some buildings have been completely destroyed including ancient monuments (such as the Library) and including a number of modern steel framed buildings (such as the Unis Building) which in some cases have simply collapsed. 35,000 dwellings are also assessed to have been destroyed during the past year."⁷⁸

183. The chronology documents the widespread structural and property damage and destruction of the city.⁷⁹ The following list is only illustrative and does not distinguish on a legal basis between specifically protected targets and others. The targets shelled and documented in the chronology include:

(a) hospitals and medical complexes: the Koševo Hospital; the Military Hospital (a.k.a. French Hospital); the Jezero Hospital; and the Institute for Physical Therapy and Rehabilitation.

(b) media and communication centres: the Oslobodjenje buildings; the radio and television administration buildings; the main post office; the television tower; and the PTT building.

(c) civilian and industrial targets: the electric tram depot; the town hall; the Hotel Bristol; the tobacco factory; the public transportation network; university buildings; the market place/bazaar area (the Old Town/Baščarišja); the Hotel Europa; the Lion, Jewish, and other cemeteries in and around the city; Olympic sites; the Bosna Hotel; the Islamic Theological School; the main library; the Gazi Husref Begova Mosque; the Olympic Museum; the Klas Šarko and Velepekara Building (flour mill, main bakery); the Holiday Inn Hotel; the National Museum; the candy factory; the People's Bank; the Veterinary College; Morića Han; the Tvornica Armatura (factory); the Elektroprivreda building; and Skenderija.

(d) Government buildings: the Presidency building; the Parliament; and the Sarajevo Courthouse.

(e) military and United Nations centres: the airport; UNHCR facilities; the Lukavica Barracks; UNPROFOR headquarters; the Halilovici Barracks (a.k.a. UNPROFOR "Camp Beaver"); the Bistrik Camp (UNPROFOR); and the former Maršal Tito Barracks.

184. Shelled quarters of the city and suburban areas documented in the chronology include: Oteš; Azići; Stup; Ilidža; Butmir; Nedžarići; Dobrinja; Mojnilo; Novi Grad; Buča Potok; Hrasno; Grbavica; Novo Sarajevo; Baščaršija; Bistrik; Stari Grad; Igman, Trebević and Žuč Mountains; Čengić Vila; Pofalići; Vasin Han; Rajlovac; Vraca; Marijin Dvor; Doglodi; Bjelave; Vratnik; Velešići; Dolac Malta; Stupsko Brdo; Katorac (upper); Katorac (lower); Kasindol Street; Pero Kosorić Square; Darovalaca Krvi Street; Vase Miškina Street; Vojničko Polje; Alipašino Polje.

F. Structure and location of forces in and around the city⁸⁰

1. The defensive forces

185. Since the beginning of the siege, the First Corps Sarajevo has served as the BiH defensive force in and around Sarajevo. Most assessments characterize the First Corps Sarajevo as superior to the besieging forces in infantry numbers, but clearly deficient in its firepower. It has been estimated that there are as many as 70,000 soldiers in the BiH forces committed to the defence of the city. More conservative estimates range in the area of 25,000 to 30,000. The First Corps Sarajevo headquarters is located in Sarajevo and was originally commanded by Mustafa Hajrulahović.⁸¹ The most recent commander was Vahid Karavelić. Observers have noted that a recent reorganization of the First Corps has led to better command and control of the forces.

186. At the beginning of the siege, a score of men with criminal backgrounds formed groups to defend the city. Among these men were Musan Topalović (a.k.a. Čačo) and Ramiz Delalić (a.k.a. Čelo). Čačo, a 29 year-old former musician ultimately commanded the BiH army's Tenth Mountain Brigade. Čelo commanded the Ninth Brigade. Both men reportedly controlled gangs operating on the Bosnian Serb siege line, bringing truckloads of contraband over the bridges across the Miljacka river separating Grbavica from the city centre. On 26 October 1993, the BiH government initiated a crackdown against these commanders, surrounding their headquarters in separate stand-offs. Čačo was killed during the course of his capture and Čelo was reported to have given himself up.

187. The Croatian Defence Council (HVO) and the First Corps forces fought together in defence of the city throughout much of the siege despite opposing one another in Mostar and in other parts of BiH. The HVO had an estimated 2,000 soldiers deployed in Sarajevo, in an area on the Miljacka River facing the Serbian-held districts of Kovačići, Grbavica and Hrasno which had reportedly not seen as much heavy fighting as other fronts. In late September 1993 there were reports that Bosnian Serb forces held their fire along these sections of the front defended by the HVO and that the forces traded cigarettes and food across the Miljacka. On 10 November 1993, several groups of HVO troops were marched under BiH army guard and the HVO barracks were occupied by BiH army troops. The HVO commander, Slavko Zelić, was subsequently arrested. The BiH army thereafter announced that it was disbanding the HVO in Sarajevo and accused some of its members of "actively cooperating" with BSA forces around the city, jeopardizing its defences. The BiH army then invited HVO soldiers to join a new Croatian brigade of the First Corps.

2. The besieging forces

188. The Sarajevo Romanija Corps is the Bosnian Serb force of the Bosnian Serb Army (BSA) which has surrounded the city since the beginning of the siege. It is the successor of the same unit of the Yugoslav National Army (JNA) which occupied the same position until May 1992. There are indications that early in the siege the JNA was involved in the fighting in Sarajevo. Bosnian officials frequently charged that JNA tanks joined Bosnian Serb forces in barrages, and that the JNA provided the Bosnian Serb forces with logistical support and protection. In late April 1992, the BiH government ordered the withdrawal of all JNA forces from its soil. The Belgrade government announced that it would withdraw from BiH, troops who were not residents of the Republic. Since most of the JNA troops in BiH were Serbs of Bosnian nationality, this withdrawal policy reportedly had little effect. Some 80,000 Yugoslav soldiers were thereafter transferred with their equipment to the Territorial Defence Forces of the Serbian Republic of Bosnia and Herzegovina (SRBiH).

189. The Sarajevo Romanija Corps headquarters are located in the hills overlooking the city at Lukavica. The Corps was originally commanded by Major General Tomislav Šipčić and was most recently commanded by Major General Stanislav Galić. The command structure has for the most part remained the same throughout the siege. While the defensive forces seem to have numerical superiority in their infantry troops, the besieging forces have firepower superiority. Reports estimate that the Sarajevo Romanija Corps numbers some 13,000 troops which are formed into eight brigades directly surrounding the city. A possible explanation for the shifting of firing sites from the mountainous areas surrounding Sarajevo may be that artillery personnel move from one emplacement to the other. Another explanation for this phenomenon could be the pattern of delivery of munitions. There are, however, no apparent munitions shortages.

190. Although the BSA forces surrounding the city have superior firepower, it has been observed that it is unlikely that they could effectively take control of the city. This observation is based, in part, on the fact that the BiH forces have more fighters. In addition, controlling the city and its numerous buildings and streets could prove an overwhelming task for the BSA forces. The BSA forces have therefore concentrated their efforts on weakening the city through constant bombardment from the surrounding hills.

G. Location and nature of artillery of the besieging forces

191. Many reports in the chronology generally describe shelling as coming from gunners in the hills surrounding the city. Far fewer pinpoint specific areas from which the shelling has originated. Reports of the besieging artillery and other heavy-to-medium weapons employed in the attacks vary from 600 to 1,100 pieces, but no verified account is available. These estimates do not include a large number of tanks. Some of the weapons are in fixed emplacements such as bunkers in the wooded hills and mountains surrounding Sarajevo and its suburbs. Because of the dense foliage, the emplacements are hard to detect from the air, particularly in the summer. Although the bunkers are difficult to see from the roads above or below the emplacements, it is possible to detect some of them. It is, however, very difficult to determine whether the bunkers contain artillery pieces, mortars or machine-guns, or have only snipers with small arms. From their hillside vantage points the besieging forces have a commanding view of the city. It is thus likely that they know which targets they are hitting with their artillery fire.

H. Nature and frequency of shelling by the besieging forces

192. The nature of the shelling observed in Sarajevo takes several forms: 1) specific targeting; 2) indiscriminate shelling; and 3) random shelling. With respect to specific targeting, a question arises as to whether or not a target is a protected target which makes the shelling a war crime. Indiscriminate shelling does not target a specific object, but by virtue of not discriminating or distinguishing between targets, it constitutes a war crime if within the area selected for shelling there are protected targets. Lastly, random shelling may include indiscriminate shelling as well as specific targeting, but the manner in which it is executed is not selective. Random shelling, can be methodical and systematic. If it includes protected targets it is a war crime.

193. Protected targets, whether objects or persons, are specifically identified in the four Geneva Conventions of 12 August 1949⁸² and the Additional Protocols of 1977.⁸³ They are also established in the customary law of armed conflict and in the 1907 Hague Convention on the Regulation of

Armed Conflict.⁸⁴ In addition, the 1954 Hague Convention on the Protection of Cultural Property in Times of War also applies.⁸⁵ Both the conventional and customary law of armed conflict provide for specific prohibitions but also for what may be termed as circumstances exonerating from war crimes responsibility (but only with respect to certain types of violations). These exonerating conditions are: proportionality in responding to enemy fire; military necessity; and reprisals.⁸⁶ Since this study does not go into the question of individual criminal responsibility with respect to specific incidents, the analysis shall not cover the legal questions raised above. However, from a macro-analysis perspective, it is clear that, irrespective of whether a given instance establishes or not the individual responsibility of those who performed the act, the totality of the circumstances described in this report evidence command responsibility.

194. UNPROFOR and city officials have indicated that shelling of the city ranges from about 200 to 300 impacts on what they refer to as a quiet day to 800 to 1,000 shell impacts on an active day. The chronology confirms that the city has been relentlessly shelled over the course of the siege.⁸⁷

(a) On the 196 days in the chronology where a total shelling count was available, Sarajevo was hit by 64,490 shells, totaling an average of approximately 329 shell impacts on the city per day. The range of shelling activity on these days varied from a low of two shell impacts on 17 and 18 May 1993 and 24 August 1993, to a high of 3,777 shell impacts on 22 July 1993.

195. Observers have noted that UNPROFOR shelling reports in many cases record only a fraction of actual shelling activity.⁸⁸ This is due in part to the logistical difficulties encountered by the UNPROFOR contingent during the siege. Therefore, it should be assumed that Sarajevo has been hit by a greater number of shells than that which has been recorded by observers.

1. Systematic shelling of specific targets by the besieging forces

196. The majority of shells counted on most days are usually directed towards BiH-controlled areas of the city suggesting a strategy to hit those areas. An examination of the range of destruction reveals a system of specific targeting as evidenced by the severe damage to almost all mosques, Catholic churches and major commercial buildings and facilities in the centre of the city.

197. The following targets have been documented in the chronology as being among the most frequently targeted sites in the city:⁸⁹ the Sarajevo radio and television stations; the Oslobodjenje Newspaper building which is still in operation;⁹⁰ the public transportation system; the Holiday Inn Hotel (which is the base of many foreign journalists); the Presidency and Parliament buildings; the main city brewery; the flour mill; the main bakery; the Olympic complex; the Post Telegraph and Telephone building; the industrial area of Alipašin Most near the railway station and main television tower; the Jewish cemetery; the Lion cemetery; the city airport; the tobacco factory; the Dobrinja apartment complex; the central district; Bašćaršija (the old quarter of mosques); the Stari Grad section; New Sarajevo; the main thoroughfare on Maršal Tito Street; and the shopping district at Vase Miškina.

198. The chronology confirms that certain areas of the city have been systematically shelled throughout the course of the siege.⁹¹ For example, the city centre has consistently been the most often targeted area, with shelling attacks reported in that particular area of the city on 240 days. Also heavily shelled were the airport area and south-western suburbs (shelling attacks reported on 158 days) and the Old Town area (shelling attacks reported on 113 days).

199. Systematic targeting can be inferred from the shelling of hospitals and in particular the Sarajevo University Clinical Centre Koševo which has constantly been under shell and sniper fire.⁹² The Koševo complex has reportedly been shelled at least 264 times since the siege began, killing staff and patients alike.⁹³ An examination of the sheer number of shells and the high percentage of direct hits on the complex indicates an intent by the besieging forces to hit this civilian target. Moreover, much of the shelling from the surrounding hillsides has taken place at midday, the time when the hospital is busiest with visitors. It is therefore obvious that the besieging forces have knowledge of the patterns of operation of this facility.⁹⁴ Despite extensive damage, a shortage of electricity, water and necessary equipment, the Koševo Hospital is by necessity still in operation.

2. Patterns of random shelling by the besieging forces

200. A review of the incidents in the chronology also indicates a random process of shelling throughout the civilian areas of the city. The shelling which occurs at different times of the day without any particular pattern or target has a terror-inspiring effect on the civilian population. It is particularly telling that deaths, injuries and destruction have occurred in various parts of the city and in such presumably well-known civilian settings as schools, markets, streets, parks, football and athletic fields, cemeteries, hospitals, and even bread, water and relief lines in the city.

201. It is noteworthy that shell fire increases at night and often continues into the early morning hours. This may be attributable to the fact that many of those engaged in the shelling and sniping are working in the fields and at other jobs during the daytime hours. Observers have also noted that the shelling by the besiegers is generally lower during the week than on weekends. At times, night shellings are observed to follow a systematic directional pattern as if the same artillery pieces are simply changing their range. At other times, the shelling comes from different locations. A pattern of heavy shelling into the city has been observed to have occurred after reports of early morning small-arms fire. This suggests that the besieging forces have used heavy shelling of the city as a means to respond to efforts by the defending forces to break the siege.⁹⁵

202. Most of the besieging forces firing from the hills surrounding Sarajevo are drawn from people who once lived in the city or who still live in the surrounding areas. There could, therefore, be a connection between the targeting of sites and the patterns of city life known to the besiegers. There have also been indications that "informants" within the city notify gunners in the hills of potential targets on certain days. For example, a child was killed in November 1992 after a mortar shell exploded as people were leaving a show in the city. Subsequent notifications of performances and exhibitions in the city have been more discreet in order to avoid the attention of the BSA artillery.

I. Sniping attacks by the besieging forces

203. Unlike artillery, mortar and tank shellings where accuracy may or may not be precise, and where the shelling may or may not be deliberate targeting, sniping is both deliberate and precise. It is a war crime when sniping is purposefully directed towards civilian targets. Sniping attacks by the forces⁹⁶ in and around the city display an intent to hit civilian and non-combatant targets. These shootings appear to lack military purpose or justification. Skilled marksmen often kill their targets with a single shot to the head or heart, and it is clear that they have exercised the specific intent to hit

obvious civilian targets with no other purpose than to cause death or serious bodily injury. In many cases snipers with a clear view from high rise buildings and the surrounding hillsides have targeted the most vulnerable of civilians, including: children (even infants); persons carrying heavy plastic containers filled with water; persons in queues; pedestrians at intersections; and rescuers attempting to come to the aid of sniping and shelling victims.

204. Snipers have been reported in positions throughout the city and have been known to travel in teams. In numerous incidents documented in the chronology, sniper fire has been directed towards ambulance drivers, fire fighters, relief workers and others attempting to secure those wounded in attacks.⁹⁷ There have also been numerous sniping attacks on UN and UNPROFOR personnel and facilities near the airport, observation posts and barracks.

J. Link between shelling activity by the besieging forces and political events

205. Heavy shelling of the city has occurred on numerous occasions prior to and during the various peace conferences, suggesting a political objective or link to the attacks.⁹⁸ There is an apparent correlation between the increase and decrease of shell fire in connection with political events such as: negotiations; meetings; the preparation for negotiations; the hardening or softening of public positions by international and local political leaders; and changes and potential changes of positions by certain governments.⁹⁹ The relevance of this is that it establishes a link between military and political activities or objectives. This fact also has a bearing on the interpretation of the rules of armed conflict with respect to proportionality and military necessity as mentioned above. It is also relevant to the establishment of senior command responsibility as well as the responsibility of political leaders who may have been involved in the decision making process related to the shelling activity.

206. The following are examples of reports appearing in the chronology which indicate a possible link between the shelling attacks in Sarajevo and political events:¹⁰⁰

(a) On 23 August 1992, mortar shells hit Sarajevo for the fourth day with both sides accusing each other of trying to seize the initiative ahead of the coming peace talks in London. Twenty-two persons were reported killed and 100 injured on this day.

(b) On 14 September 1992, the BiH Presidency announced that it would not go to the following Friday's peace talks in Geneva. The announcement, reported on Sarajevo Radio, was met by a sharp upsurge of mid-morning shelling which shattered a two-day lull in the city. At least 20 people were reported killed and wounded in the first two hours of the attacks which began at 10:00 a.m.

(c) On 17 September 1992, fierce fighting was reported in Sarajevo on the eve of new peace talks as BSA gunners reportedly shelled the city with heavy weapon-fire. An artillery duel took place in the downtown area as the BiH delegation left for renewed peace talks in Geneva. Shelling and street fighting in the city lasted until about midnight in what Sarajevo radio called Sarajevo's "worst day of hell." More than 400 shells were fired by 4:00 p.m., mostly on BiH positions.¹⁰¹

(d) On 29 October 1992, the day after the new constitutional proposals for BiH were released (the Vance-Owen Plan), Sarajevo was hit with what was described as the worst shelling in two weeks with dozens of shells hitting the

Old Town area. Heavy shellfire and high numbers of casualties were reported in the days to follow, including 749 shells, 31 people reported killed and 118 wounded in the 24 hour period ending at 5:00 p.m. on 31 October 1992.

(e) On 11 January 1993, 1300 incoming shells hit the city on the day of the resumption of the Geneva Peace talks. On 27 January, 1,500 shells hit the city during the peace talks.

(f) On 17-22 March 1993, a high level of shelling activity was reported during the peace negotiations. On 17 March, the city was hit with 962 shells (mostly around the Presidency) as the peace conference resumed in New York. During peace negotiations on 18 March, BSA forces reportedly launched the heaviest barrage in months against the city. However, no shelling numbers were reported. Thereafter, BiH President Izetbegović temporarily pulled out of the peace talks, stating that he could not be involved as long as BSA forces continued their attacks. On 19 March, artillery and mortar fire resulted in one of the heaviest tolls in a year, killing 25 and wounding 76. A high level of shelling continued and intensified fighting was reported on 21 March as Bosnian Serb leader Radovan Karadžić warned that if the UN Security Council authorized the use of military means to enforce a no-fly zone over BiH, his delegation could pull out of peace talks. Observers in the city counted 2,398 shells hitting the city on that day. On 22 March, UNPROFOR Commander Colonel Marcel Valentin called on the BSA forces to account for the shelling of civilian targets. He said that it was "quite obvious" that the Bosnian Serbs were trying to gain territory before signing a peace agreement being negotiated in New York.

(g) On 13 April 1993, one person was killed and 35 people were injured in an hour-long artillery assault after planned peace talks with BiH army commanders collapsed.

(h) On 2 May 1993, following news from Athens that Bosnian Serb leader Radovan Karadžić had signed a peace plan, the first shells were fired into the city from surrounding mountainsides at 7:45 p.m. According to hospital sources, five people were killed.

(i) On 22 May 1993, the day marking BiH's first anniversary of admission to the United Nations, BSA forces reportedly hit the city with artillery fire, killing at least nine persons and wounding more than 100 others. BSA and BiH forces blamed each other for beginning the artillery duel shortly before noon. A hospital official characterized the day as the worst in many weeks.

(j) On 17 July 1993 the BiH Presidency announced that it had agreed in principle to take part in the next round of peace talks in Geneva scheduled for the following week. BiH troop movements continued and it was reported that BSA forces launched a major offensive in the region of the Igman mountains with 2,000 shells hitting BiH positions outside the city.

(k) On 18 July 1993, BiH President Izetbegović ruled out attending renewed peace talks in Geneva unless BSA forces stopped offensives. On 21 July 1993, Sarajevo suffered what was described as "the heaviest shelling in weeks." However, no shelling numbers were reported. On that day United States Secretary of State Warren Christopher ruled out US military action or other direct intervention to prevent BSA forces from capturing Sarajevo. Commentators noted that those remarks may have removed any fears that Bosnian Serb leaders may have had about whether taking Sarajevo or other UN declared "safe areas" would draw military retaliation from the United States. On 22 July 1993, UNPROFOR recorded a siege-high 3,777 BSA fired shells in a 16 hour period. BiH President Izetbegović reiterated his earlier position that he

would not attend the peace talks while fighting continued.

(l) On 24 July 1993, UNPROFOR reported that the BiH-controlled area of Žuč was hit by over 3,000 shells in a renewed Serbian offensive apparently seeking a breakthrough that could bring parts of the city under BSA control. Bosnian Serb leader Karadžić stated that BiH President Izetbegović must accept the partition of BiH into three ethnic states or BSA forces would settle the question on the battlefield. Karadžić said that peace talks should be postponed for months because negotiating would be pointless.

(m) On 27 July 1993 all three of the factions held a rare joint meeting. Bosnian Serb leader Karadžić stated that "[t]his is the last chance for an honest peace." Sarajevo was reported to have been hit by 2,390 shells on this day. On 28 July, shelling in the Žuč area reportedly eased as the peace talks in Geneva took a positive turn when leaders of the three factions met without mediators for the first time.

(n) On 29 September 1993, four to five mortar shells hit downtown Sarajevo in the afternoon just minutes after the radio announced rejection by parliament of the latest Geneva peace plan. This was reported to be the first mortaring of the city centre by BSA forces in several weeks. There had been reports in the days preceding the vote rejecting the peace plan that BSA commanders warned that they would respond to a rejection of the plan by "flattening" Sarajevo and by renewing offensives elsewhere.

(o) On 7 October 1993, shelling and sniping activity reportedly increased after BiH President Izetbegović stated that he could never accept the latest peace plan that would have divided BiH into three ethnic mini-states. Sarajevo which had reportedly enjoyed relative quiet in recent days, experienced increased shelling and sniping activity. The UN described the situation in the city as "unstable," with shelling around the airport and small-arms and heavy machine-gun fire in the city. No shelling totals were reported on this day.

(p) On 28 November 1993, BSA shellfire reportedly killed five people in the city on the eve of a new round of peace talks. An artillery barrage on the city reportedly came as BiH President Izetbegović left for Geneva. Moments earlier, Izetbegović told reporters, "If the Serb side does not return territories, sanctions should be tightened and not lifted."

(q) On 21 December 1993 the city was reportedly hit by a total of 1500 artillery shells. This shelling attack occurred as BiH officials in Geneva considered whether to accept a new Serb-Croat map for BiH. In the evening, a BiH spokesman said that the new map was "totally unacceptable."

(s) On 22 December 1993 the city was reportedly hit by a total of 1744 shells. This shelling occurred as the warring factions met in Brussels and agreed to a cease-fire in time for Christmas.

(t) On 23 December 1993 the city was reportedly hit by a total of 1309 artillery shells. This shelling activity occurred as peace talks in Brussels ended without a settlement, with the parties agreeing to meet again on 15 January.

(u) On 4 January 1994, the city was reportedly hit by a total of 868 shells. This shelling occurred as BiH and Croatian leaders held talks in Vienna.

(v) On 5 January 1994, the city was reportedly hit by a total of 1,409 shells. This shelling occurred as BiH and Croatian leaders held a second day

of talks in Vienna. On 6 January 1994, Sarajevo was reportedly hit by a total of 732 shells as BiH President Izetbegović demanded that the UN Security Council stop the shelling of the city. On 7 January the city was reportedly hit by a total of 906 shells. This continued bombardment prompted the UN Security Council to condemn the bombardment of the city.

K. The blockade of humanitarian aid

207. The blockade of humanitarian aid has been used as an important tool in the siege. Such interference with humanitarian aid which endangers the lives and well being of civilians is a war crime. Four hundred and 30 thousand people are estimated to be dependent on food aid in Sarajevo and its surrounding areas.¹⁰² Not only has the blockade of aid contributed to the demoralization of the civilian population, but it has adversely affected its physical health.¹⁰³ A shortage of food has led to a malnutrition rate described by UNHCR as being on par with that of the poorer developing nations. A shortage of fuel has resulted in the shutdown of the city's bakery, the water pumping station and other essential services. In addition, hospitals have been without power and have had to function without lights, x-ray machines, monitors, or proper anesthetics.

208. Unlike other enclaves in BiH which depend on overland convoys, the international humanitarian airlift into Sarajevo's United Nations controlled airport has helped to bring most supplies into the city. On 12 October 1994, the UNHCR announced that the Sarajevo airlift was in its 467th day, overtaking the 462 days of the Berlin airlift between June 1948 and September 1949.¹⁰⁴ On 18 January 1994, UN officials reported that 7,272 flights had brought in 81,948 tons of aid into Sarajevo via the humanitarian airlift. However, due to airport closings and airlift suspensions caused by shelling and sniping attacks in the area, this effort is often suspended.¹⁰⁵

209. The chronology documents the fact that the airport area has been one of the most often shelled areas of the city.¹⁰⁶ This activity suggests a possible correlation between the high level of shelling in the airport area and an intent to blockade humanitarian aid.¹⁰⁷ It can be argued that while the besieging forces are blockading overland humanitarian aid throughout BiH, they are accomplishing the same result in Sarajevo by shelling the airport area, forcing the suspension of the humanitarian airlift.

210. Over land, the city is surrounded by BSA forces and entry requires passing through numerous BSA checkpoints. The besieging forces have continued to use aid as a weapon in the siege. During late November 1993, the commanders on the Bosnian-Serb border reportedly delayed trucks carrying winter supplies to Sarajevo such as plastic sheeting and shoes in defiance of an aid-delivery accord signed at the beginning of the month. On 25 December 1993 a convoy carrying beans, mattresses and 60 tons of diesel fuel arrived in the city. However, the United Nations reported that the trucks were initially held up by BSA forces who tried to divert the convoy onto an impassable route.

L. The use of utilities as a weapon of war

211. Throughout the siege, the destruction of electric, gas, phone line and water facilities has been used as a weapon against the inhabitants of the city. Both the defenders and the besiegers have often accused each other of using these utilities as weapons of war. UN and local attempts to repair damaged lines and pumping stations have often been rebuffed with shell and sniper fire, resulting in numerous deaths and injuries. For example, it had been reported that by March 1993, 18 of the city's water repair technicians

had been killed while trying to repair damaged pipes.

212. The city's drinking water depends on power to the main pumping station. Power lines have frequently been cut by fighting or by forces using the utilities as weapons against civilians. The besieging forces have on several occasions reportedly turned off the city's main water supply and have refused to permit work crews to repair and replenish necessary water purification systems. The water cut-off has led to long queues outside water sources in the city. These long lines have attracted sniper and shellfire from the besieging forces on several occasions and have resulted in the deaths of many civilians. Civilians are also vulnerable to sniper fire as they are forced to carry containers filled with water obtained from the few remaining water sources. These heavy containers are frequently carried for miles by hand, or carted on bicycles, baby carriages and shopping carts.

213. Winter conditions put the city's residents in danger of starving or freezing to death. Because of a shortage of heating fuel, many of the city's trees have been cut down and used as firewood.¹⁰⁸ Residents have also been forced to burn books, furniture and any other materials gathered burn to provide themselves with heat.

M. Concluding observations

214. On 5 February 1994, at least 68 persons were killed and 200 others were wounded in the shelling of a market in the Sarajevo city centre.¹⁰⁹ In reaction to that attack, NATO issued an ultimatum on 9 February giving BSA forces 10 days, beginning on 11 February, to withdraw their heavy weapons from a designated exclusion zone or face heavy airstrikes. Very little progress was made until 17 February when Russia announced that it was sending a contingent of 400 troops to the city and persuaded BSA forces to comply with the NATO ultimatum. On 20 February, NATO declared that there had been virtual compliance with its ultimatum and that there was no need for airstrikes at that stage.¹¹⁰ Since that date, artillery fire has substantially decreased in Sarajevo.¹¹¹

215. Based on the events reported over the course of the siege, any military personnel who has engaged in unlawful sniping or shelling activity is individually responsible if he knew that such acts would cause the death or injury of innocent civilians, the destruction of protected targets, or the destruction of public and civilian property which had no apparent military purpose and for which there was no valid military necessity.

216. On the basis of the conduct observed from April 1992 to February 1994, it is apparent that the Sarajevo Romanija Corps of the BSA and its commanders are responsible for a great deal of the widespread destruction in Sarajevo. It is also apparent that the command structure knew, or should have known, that they were attacking civilian targets. The Sarajevo Romanija Corps of the BSA has surrounded the city since the beginning of the siege. Given the magnitude of the shelling over the course of the siege, the logistics required to re-arm the besieging forces, and the continuous attacks on civilian targets, the commanders of the Sarajevo Romanija Corps should be held accountable for the extensive destruction to private and public property, and for the resulting loss of civilian lives.

**ANNEX VI.A - INCIDENT STUDY REPORT REGARDING MORTAR
SHELLING DOBRINJA, SARAJEVO ON 1 JUNE 1993: INVESTIGATION**

217. Annex VI.A also concerns Sarajevo. It is a six page report prepared by Commissioner Fenrick and a team of Canadian military lawyers. The Commission decided to conduct an investigation of a specific incident in the siege of Sarajevo to determine the feasibility of identifying and prosecuting alleged perpetrators. The Commission asked Commissioner Fenrick, the Rapporteur for On-Site Investigations, and a team of Canadian military lawyers to conduct the investigation. They chose to investigate the mortar shelling of a soccer game in Dobrinja, a suburb of Sarajevo, which occurred on 1 June 1993.¹¹² The investigation team interviewed many Bosnian witnesses, but was unable to interview Serbian witnesses. Additionally, the team reviewed an analysis, prepared by UNPROFOR, of the mortar craters resulting from the shells. Based upon the information gathered, the team wrote an eight page report.

ANNEX VI.B - THE BATTLE OF SARAJEVO AND THE LAW OF ARMED CONFLICT

218. Annex VI.B is a 37 page study of the battle of Sarajevo and the law of armed conflict. The study was prepared by Commissioner Fenrick and a Canadian military lawyer from the Canadian War Crimes Investigation Team.¹¹³ The study addresses the issues of armed conflict and misconduct on the part of the military during the siege of Sarajevo. The objective of the study was to impute command responsibility for violations of the laws of war by preparing an analytical survey of the battle and all violations committed.

ANNEX VII - THE MEDAK INVESTIGATION

219. Annex VII is a 16 page report on the Medak Pocket Operation which occurred in early September 1993.¹¹⁴ Croatian forces entered and attacked the area of small, rural villages known as the Medak Pocket.¹¹⁵ However, when the forces agreed to relinquish the territory, they allegedly destroyed and burned everything before they left. UNPROFOR troops arrived at the end of the retreat and were able to collect a significant amount of evidence. Based on several witness interviews conducted by the investigation team and the UNPROFOR reports, the team produced the Annex.

ANNEX VIII - PRISON CAMPS

220. Annex VIII was prepared by staff members of IHRLI, under the direction of Chairman Bassiouni and consists of 880 pages of text.

I. INTRODUCTION

221. This report on detention facilities, attempts to identify and provide relevant information concerning all alleged detention facilities (camps) within the territory of the former Yugoslavia. This study is not designed to classify detention sites based on their prosecutorial potential, but is intended to provide a description and analysis of the detention facilities reported to have existed.

222. The report is divided into two sections. The first section is the summary and analysis. The summary and analysis discusses the methodology of the report and provides the total number of reported detention facilities in the territory of the former Yugoslavia. The total number of detention facilities is also broken down by geographic region. In addition, the summary

and analysis discusses patterns, trends and commonalities which have manifested themselves in the various reports of detention facilities.

223. The analysis by geographic location in Section II, divides detention facilities by their location, i.e, whether they were located in Bosnia and Herzegovina (BiH), Croatia, the Federal Republic of Yugoslavia (FRY), or Slovenia. Within those locations, it further breaks down reported facilities by the county or region in which they were located. The 1991 population and ethnic distribution figures are also provided for each county or region, as well as other background information.

II. SUMMARY AND ANALYSIS

A. Methodology

224. To analyse the contents of the database for this report, all documents in IHRLI documentation centre were first reviewed to identify those reports containing allegations of detention facilities within the territory of the former Yugoslavia. After initial review, the documents were organized geographically by county or region and then analysed. Relevant information pertaining to alleged detention facilities was then gleaned, and individual geographic reports were thereafter prepared, containing information, wherever available, identifying: 1) the name, location, dates of operation, and physical description of alleged detention facilities; 2) information concerning command and control, including the identities and ethnicity of commanders and guards, and any other groups or individuals reported to be involved in the camp operation; 3) information pertaining to prisoners, including their ethnicity, civilian or military status, subsequent transfers, and total reported prisoner population; 4) the treatment of prisoners, including, maltreatment or good treatment, food, hygiene, toilet and medical facilities, sleeping accommodations, and other conditions.

225. The main criterion for determining whether a site would be deemed a detention facility for purposes of this report, depended mainly upon whether persons were alleged to have been held against their will, and whether the detention site appeared to have been established as a result of the armed conflict between the warring factions identified.

226. In some instances, the existence of certain detention facilities were well documented and independent sources corroborated reports of those alleged facilities. In other instances, only uncorroborated claims or corroborated reports by non-neutral sources were received. Those claims were included in the report and are indicated as such.

227. It is significant to note that a wide variety of sources were utilized in this report. It should also be noted that the Commission had no basis to confirm the information contained in that source material. To make a qualitative assessment of the information contained in this report, efforts were therefore made to confirm or corroborate allegations of camps wherever possible. To this effect, it is indicated in each camp report whether: 1) the existence of the detention facility was corroborated by multiple neutral sources; 2) the existence of the detention facility had been corroborated by a neutral source; 3) whether the existence of the detention facility had been corroborated by multiple sources, none of which were neutral; or 4) whether the existence of the detention facility had not been corroborated by multiple sources.

B. Observations

228. Since the armed conflict in Slovenia in June 1991, the warring factions have operated a variety of detention facilities (camps). It appears that as the situation in the former Yugoslavia disintegrated and war erupted, detention facilities came into existence in increasing numbers. A large number of camps came into existence in Croatia after the beginning of hostilities in September 1991. The greatest number of camps came into existence in BiH in the period after April 1992. It appears that many of the camps appearing in this report are now closed.

229. The reports reviewed allege a total of 960 reported places of detention in the territory of the former Yugoslavia. Of those 960 alleged places of detention, 466 (48.5 per cent) were reportedly operated by Bosnian Serbs or forces of FRY; 121 (12.6 per cent) by Bosnian Croats or the Government of Croatia and the Croatian Army; 84 (8.8 per cent) by the Government and Army of BiH or Bosnian Muslims; 32 (3.3 per cent) jointly by Bosnian Muslims and Bosnian Croats; 9 (.9 per cent) as private prisons, individuals or groups; 4 (.4 per cent) by the Government or armed forces of Slovenia; and 244 (25.4 per cent) by unidentified forces.

230. As the above statistics and following discussion indicate, the number of camps and reported violations in camps controlled by the Government of BiH and its army are the fewest among the warring factions, irrespective of the ethnic or religious background of the detainees held. The number of reported violations by the Croatian Government, the Croatian Army, and the Croatian Defence Council is larger, particularly against Serbs in Krajina and in eastern and western Slavonia and against Muslims from BiH in Herzegovina. The period of time during which those camps were operated in each of these contexts is relatively limited. The two warring factions identified above are, however, reported to have committed far fewer numbers of violations than those committed by the Serb forces and those working on their behalf, whether in Croatia or BiH. Camps operated by Serbs in BiH are by far where the largest numbers of detainees have been held and where the harshest and largest number of violations occurred.

231. The information concerning the number of prisoners includes a wide range of estimates. It appears that none of the detaining powers involved in the conflict made a concerted effort to identify and maintain records of the number of individuals they detained. If they have done so, such information was not made available.

232. The camps reported range in size from small detention and screening centres that temporarily housed a few prisoners, to camps that housed large numbers of prisoners. The duration of their operation varied from days to months. The vast majority of places used to detain prisoners were pre-existing structures, such as penitentiaries, municipal buildings, administrative offices, schools, sports arenas, factories, warehouses, mines, farms and private homes, hotels, restaurants, and apartments. In a very few examples, camps were reported to have been newly constructed for the purpose of detaining prisoners.

233. Due to a lack of information, it was generally very difficult to determine the command and control in the camps. The information, when available, was usually limited to individual camps at a very immediate and local level. The extent to which superior or central authorities had control in the operation of camps was usually unknown.

234. Some reports describe a situation whereby camps were maintained and operated by a mix of military personnel, former army officers and soldiers,

various paramilitaries, local volunteers, members of civilian police forces, or politicians. There were also many reports of situations where there was movement in and out of camps by visitors, including local civilians, paramilitary forces, and the army, who perpetrated abuses upon the prison population.

235. Most detainees appeared not to be prisoners of war, but, rather, civilians. POWs and civilian prisoners were detained together, and prisoners from the conflict were sometimes mixed in with the common criminal population of a penitentiary. Often, civilians were arrested and detained for the purpose of collecting prisoners for exchange.

236. There is little to suggest a legitimate purpose for the internment of so many non-combatant civilians by the various authorities and forces concerned. There is much to suggest that such internment was wholly illegitimate and intended to serve the geopolitical and military objectives of the detaining powers.

237. The parties to the conflict acknowledged and agreed on a number of occasions to the valid effect of those aspects of international humanitarian law relating to the treatment of prisoners of war, civilians and others detained by the parties to the conflict.

238. Under the law of armed conflict, prisoners of war are considered to be in the hands of the detaining power. The detaining power, therefore, is responsible for the treatment given prisoners of war irrespective of the individual responsibilities that may exist. The same holds true for the treatment of civilians detained.

239. It appears that little or no effort was made by any of the detaining powers to provide the judicial or administrative bodies required by law to identify, record, and determine the status of prisoners of war and internees.

240. Parties to the conflict appear to have considered the detention of those thought to be potentially capable of fighting as a legitimate activity. There are many instances of detention apparently based upon the suspicion of hostile activity against the detaining power.

241. Prisoners were commonly subjected to the most inhumane treatment imaginable. Mass executions, torture, rape, and other sexual assaults were frequently reported. Those in control of the apprehension and detention of prisoners were often reported to have stolen prisoner belongings. Guards and soldiers frequently humiliated those detained. Sometimes prisoners were placed in dangerous situations and used in military operations, such as mine clearing. There were also reports of reprisal killings carried out upon innocents detained in a number of camps.

242. The ethno-religious aspects of the conflict appear to have translated directly into prisoners suffering actively adverse distinctions based on nationality, religious belief, and political opinions.

243. The patterns and violations in the camps appear to differ to some extent, depending on the controlling authority, the purpose of the camp, and the camp commander.

244. The conditions in most camps were generally described as very poor. The camps commonly lacked sufficient heat, light, food, and water. Lack of hygiene was pervasive. Little or no medical attention was prevalent and a total lack of security for the prisoners was apparent. In fact, it was reported that those in control of camps often allowed drunk soldiers and

others access to abuse the prison population.

245. Wounded and sick prisoners were often maltreated and/or left to suffer, although many wounded and sick prisoners were treated to some extent.

246. The following section of this summary and analysis is divided by location, and contains various observations relating to certain patterns and commonalities in the detention facilities reported. For a more detailed breakdown of individual regions and camps, see Section II below, which contains a geographical listing and full analyses of the individual detention facilities reported.

C. Camps reported in BiH

247. The reports reviewed alleged a total of 677 camps within BiH. Among those camps, 333 (49.2 per cent) were alleged to have been controlled by Bosnian Serbs; 83 (12.2 per cent) by Bosnian Muslims; 51 (7.5 per cent), by Croats; 31 (4.6 per cent) by both Croats and Muslims; 5 (.7 per cent), by private parties; and 174 (25.7 per cent) by unidentified forces.

1. Bosnian Serb controlled camps

248. The reports indicate that Bosnian Serbs operated numerous camps where grave breaches of the Geneva Conventions and other violations of international humanitarian law, including killing, torture, and rape occurred on a large scale. Those camps were mostly in BiH and predominantly held Bosnian Muslims, but also Bosnian Croats and a small number of Serbs.

249. The reports indicate that Bosnian Serbs used camps in BiH to facilitate territorial and political control of geographic regions and to expel and eliminate other ethnic and religious populations from that area. In essence, the Bosnian Serb forces, including former Yugoslav National Army (JNA) officers and soldiers, paramilitary units, police forces, civilians, and the political leadership of the Serbs of BiH, apparently with a significant degree of participation by and cooperation with the Serbs and Montenegrins of FRY, incorporated and exploited the detention of civilians as an integral aspect of their campaign of "ethnic cleansing". While armed, uniformed soldiers of the forces opposed to the Serbs were incarcerated in significant numbers, the vast majority of those imprisoned by Serbs in BiH appear to have been civilians.

250. Groups of camps appear to have been established and operated in clusters in various geographical areas and were frequently part of a network. Prisoners were frequently moved from one facility to another. Different facilities often appeared to have separate purposes, such as mass killing, torture, rape, and exchange of and detention of civilian prisoners.

251. The Bosnian Serb implementation of practically identical strategies and tactics for the conquest of territories and subsequent detention of non-Serb populations suggest an overall plan devised prior to the conflict and carried out locally. There seems to be a similarity in the structure of camps which might suggest a degree of pre-planning before the war was started. The notion of clusters of camps, triage camps, distribution camps, older persons and women and children held in established minimum security facilities, and men of fighting age held in established maximum security facilities, suggests such a plan. The similarities of the allegations of camp usage also strongly suggests that a plan did exist and was carried out across the board geographically. Reports suggest a common method of initial apprehension and identification of those non-Serbs detained for ultimate disposition (either

long-term detention, deportation, or execution). A common plan is also suggested by the implementation of a system whereby prisoners were detained, classified, and subjected to similar types of abuse (e.g., it was often reported that intellectuals, politicians, police, and the wealthy were regularly tortured and killed in certain camps). There is also a similarity in the command and control of the camps, whereby there was a mix of civilian, political, JNA, paramilitary, and local Serb reservists and civilians involved in camp operations. With regard to practical aspects of camp operation, large suitable facilities appear to have been selected and prepared, to some extent, in advance. Whether a plan was established by the military, police, or politicians, is something that could not be ascertained.

252. The method by which the campaign of "ethnic cleansing" was carried out ensured that, comparatively, the most brutal and inhumane treatment of those detained occurred within the geographic arc following the Sava and Drina Rivers of the former Yugoslavia. See examples, camps in Prijedor, Višegrad, Zvornik, Brčko and Foča, and Bijeljina. For, it is within this region of BiH that the Serbs required absolute control in order to establish a separate nation with contiguous borders and an uncompromised geographic link with Serbia and Montenegro. That control required the subjugation, if not the disappearance of the non-Serb populations of the area. In large part, that subjugation and elimination was accomplished by wholesale detention of those populations in various places of detention.

253. Commonly, Serb forces reduced the opposition of a county area and upon conquest of the territory of that BiH county (opština) immediately began to round up the non-Serb population. It sometimes occurred that the entire population of a town or village was gathered together so that the Serb and non-Serb populations could be separated and dealt with accordingly. During the rounding-up process, members of the population were frequently tortured, raped, and killed. Sometimes, the local population would be interned in different locations. Other times, after an initial round of apprehension, non-Serbs would be released and weeks later re-apprehended and placed in various camps to be either killed or moved out of the area.

254. Frequently, the religious, political, civic, professional, and business leaders of the non-Serb population were immediately identified for detention and for the worst abuses. Often on the captors' side, local civil servants, political leaders, and particularly the police, participated or were involved in the rounding-up process. Prisoners were also often forced to surrender their money and valuables to their captors.

255. It was often reported that men between the ages of 18 and 60 were separated from women, children, and elderly men. Apparently, men between the ages of 18 (or younger) and 60 were considered to be of fighting age, constituting a class of quasi-prisoners of war or perhaps legitimate internees because of their potential for hostility. However, rarely did reports include any information to suggest that those considered capable of fighting had ever actually committed hostile acts or had organized to do so. In fact, many Muslim villagers simply surrendered the weapons they had upon an initial demand by the Serb forces in the region. After that surrender, the villagers were in many cases detained. The reports indicate that in many instances, men between the ages of 18 and 60, were ultimately transferred to heavily guarded larger camps where killings or torture were prevalent.

256. A large number of Bosnian Serb places of detention appear to have been used as short term detention facilities before transfer or transport of prisoners out of the area.

257. Smaller camps, in many cases, housed prisoners temporarily until the

captors divided the prisoners into groups and transported them to the larger camps. The prisoners were often packed into buses, trains, and lorries, and were subjected to physical and mental abuse. During transport, and upon arrival at their new camps, prisoners were also reported to have been killed at random and denied food, water, and access to toilet facilities. The prisoners were on occasion transported by automobile to camps by locals, or were marched under armed guard.

258. Detainees were sometimes transported from camps within a given region to camps in another region because of overcrowding, anticipated International Committee of the Red Cross (ICRC) inspections, visits by the media, exchange of prisoners, and as a result of triage for unlawful purposes.

259. Very few camps appear to have been actually constructed for the purpose of detaining captured prisoners or interning the civilian population. The vast majority of the sites used for detention were pre-existing facilities. Some of those facilities were modified in order to create more secure camps. For example, electric and barbed-wire fences were sometimes reported to have been installed around a number of buildings.

260. Bosnian Serbs were also reported to have maintained Muslim "ghettos" in certain towns and sometimes used villages as camps to detain a large group of captives. See examples, Trnopolje camp in Prijedor, Es Naselje in Brčko, and Brezovo Polje in Brčko.

261. There is little to suggest that captured uniformed combatants were treated with the respect required by the law of armed conflict. Those prisoners who had in fact committed hostile acts against the Serbs were frequently punished. The punishments included severe mental and physical abuse and often execution.

262. Those women and children detained were also subjected to the worst kinds of abuse, including rape and other sexual assaults.¹¹⁶ There are reports of many detention facilities in existence for the sole purpose of holding women and girls for rape and sexual entertainment. There are also numerous allegations of rape at camps wherever women and girls were held. Captors reportedly raped female prisoners in front of other prisoners. Those who resisted, were often reportedly killed or otherwise brutalized, often in the presence of others. There were also reports of the sexual abuse of men, as well as castration and mutilation of sex organs.

263. Elderly persons detained often suffered the same level of abuse as the others. This indicates that the captors spared no group from detention and maltreatment.

264. There were reports that certain individuals were spared detention and abuse, because of the intervention of influential Serbs in the area or because they were somehow able to bribe their way out of detention. There were also instances of local Serbs risking their own lives to help Muslims and Croats escape detention in various Serb camps in BiH.

265. There were also reports of Serbs who were detained in Serb-controlled facilities. In those cases, the prisoners had usually refused to participate in the conquest of a region or in the activities of "ethnic cleansing". Those imprisoned Serbs were treated as poorly as the other prisoners.

266. A large number of the Bosnian Serb-controlled camps appear to have served as screening stations for the purposes of interrogation and decisions as to how individual prisoners would be disposed of. Interrogation almost always consisted of questions relating to military and strategic information

(including the location and possession of weapons), political affiliation, and political belief. Captors also interrogated detainees concerning the personal wealth and family connections of other detainees. Interrogations were commonly accompanied by brutal conduct and humiliation and, in some cases, by torture and killing. Confessions were often forcibly extracted from prisoners and used as a reason for their detention and treatment. The forced confessions on many occasions described some sort of offence or hostile act.

267. Reports indicate that upon arrival at the larger camps, prisoners were regularly subjected to random beatings. Reprisals appear to have been carried out against the prisoner population for Bosnian Serb setbacks in battle. Such reprisal activities included beatings, severe torture and killings. Apparently, one motivation for the punishment of inmates was retribution for supposed Serb casualties suffered in battle.

268. The type and amount of torture, abuse and maltreatment visited upon the prisoners detained in Bosnian Serb camps was of a great magnitude. Not only were prisoners physically abused, but they were also commonly humiliated, degraded, and forced to abuse one another. In several instances, prisoners were reported to have been forced to inflict injury upon each other, sometimes as entertainment for the guards. Humiliation often involved behaviour contradictory to the prisoners' religious background. Prisoners were also subjected to mental abuse and humiliation, including barrages of ethnic slurs.

269. Several Bosnian Serb controlled camps served as places of mass and continuous killing and execution by various means. Such camps also maintained large populations of prisoners for considerable periods of time. Other camps housed large numbers of prisoners but were not the site of a great number of killings.

270. At the larger camps, prisoners were reported to have been killed on a daily basis. In some cases, their bodies were left to rot on the camp grounds, or were loaded by prisoners and hauled away by truck to various destinations. The bodies were also reportedly disposed of in mass graves abutting the camps and thrown into rivers, lakes, ravines, mine shafts and mining pits, and other local venues.¹¹⁷ Bodies were also reported to have been incinerated or dismembered.

271. Prisoners who were targeted for torture or death at the larger camps often included prominent members of the community who were wealthy, educated or politically influential. Guards often were reported to have information identifying which prisoners fell into those categories.

272. The conditions in the places of detention were almost uniformly harsh. There was consistently a lack of food, insufficient access to toilets and beatings accompanying toilet-use, little drinkable water supply, an absence of soap and infrequent opportunities to bathe or change clothes, inadequate bedding, and often little protection from the natural elements.

273. Prisoners in some camps were reported to have suffered from dysentery and lice epidemics. Medical attention was, for the most part, non-existent at the camps. In some instances, inmates with medical training, treated fellow prisoners. However, due to an absence of supplies and facilities, such treatment was very primitive.

274. In the larger camps, male prisoners were often reported to be packed tightly into the detention facilities, so that they had no room to lie down or sit, or sometimes even to breathe. The prisoners were in many cases forced to urinate and defecate in containers and on the floors of the rooms in which they were accommodated.

275. Prisoners were often reported to have been subjected to abuse during meals, and, at best, were given one meal per day consisting of small portions of soup or bread. In some reported instances where food was delivered to a camp by the ICRC, the food was not distributed to prisoners, but was instead diverted to Bosnian Serb guards or forces.

276. There appears to have existed a certain degree of acknowledgement by Bosnian Serb authorities that camps were maintained. The camps appear to have been maintained and operated by a mix of former JNA officers and soldiers, Bosnian Serb Army personnel, various Serb paramilitaries, local volunteer Serbs, local impressed Serbs, members of the various Serb police forces and at least some Montenegrins. There also exists information that civilian Serb politicians were intimately involved with the operation of such places of detention.

277. Bosnian Serb authorities often expressed the belief that the above-described detention facilities were legitimate. The reasons stated included the necessity of protecting civilians from the dangers of combat, interning those who threatened the security of the detaining forces and detaining those responsible for criminal activity.

278. It is interesting to note that in at least one Serb-run camp, Batković, Bijeljina, the local Serb population was reported to have become aware of the situation inside the camp and demanded that the prisoners there be treated better. Conditions for the prisoners were reported to have subsequently improved.

2. BiH and Croat controlled camps

279. The BiH Government and Muslim forces and Bosnian Croat forces were also reported to have detained thousands of soldiers and civilians in BiH. At one point, because of an alliance between the two parties, they both imprisoned Serbs. A significant number of camps were reported to have been operated jointly by Croat and BiH forces. After that alliance disintegrated, both sides were reported to have imprisoned each others' soldiers captured in battle, and large numbers of civilians of their opponents' ethnicity.

280. There are indications that BiH forces and Bosnian Croats to some extent reacted to the method of warfare and "ethnic cleansing" initiated by Bosnian Serbs by taking up similar methods of warfare. This included the indiscriminate detention of civilians, rather than maintaining methods of behaviour required by the international law of armed conflict. There seemed to be elements of revenge for past imprisonment of Muslim and Croat civilians. Also, the idea existed, perhaps, that if one held a significant number of the "enemy" prisoner, the "enemy" would be more likely to treat its own prisoners well so as to avoid the impulse for reprisals by the other side.

281. Both BiH forces and Bosnian Croats are reported to have interned civilians for the purpose of exchange for members of their own forces and populations held by the other two parties to the conflict. There also seems to be rather isolated attempts at smaller scale "ethnic cleansing".

282. The BiH and Muslim forces were reported to have imprisoned a number of individuals who resisted military service. Some of those persons were tried and convicted of criminal offences, and others were sent to the front to dig trenches. The BiH authorities also arrested people for possession of weapons. In Kladanj, Serbs were said to be imprisoned for the purpose of protecting them against retaliation by the local Muslim population. In Zenica, the BiH captors reportedly established a tribunal to determine the status of those

imprisoned as either military or civilian.

283. The treatment of prisoners in Bosnian Muslim run camps was in some cases reported to be brutal and degrading. That treatment was often reported to include violent interrogations and beatings. Reports of forced same-sex sexual acts between prisoners also exist. Drunk guards were reported to have abused detainees, and civilians were allowed access into camps to beat and harass prisoners. Personal vendettas were also allowed to be consummated against prisoners of war. The killing of prisoners was not uncommon. There were also reports the Bosnian Muslim forces used prisoners as human shields.

284. There were reports of Bosnian Muslim-run brothels and rape camps. A number of reports also alleged the operation of private prisons controlled by various Bosnian Muslim forces or individuals. The BiH Government, in fact, acknowledged the existence of such Muslim private prisons and officially deplored them.

285. Reported conditions at most BiH and Muslim camps, were generally described as being no better than the vast majority of other places of detention in the former Yugoslavia.

286. In Bihac, BiH forces were reported to have imprisoned captured soldiers and supporters of leader Fikret Abdić. Likewise, the forces of Fikret Abdić reportedly maintained a camp to hold captured BiH forces and civilians deemed in opposition to Abdić's authority.

287. Bosnian Croat forces were also reported to have maintained camps in areas under their control imprisoning both Bosnian Muslims and Serbs. While there is at least one report of a "death camp" run by Bosnian Croats in Orašje, killing of prisoners, though not uncommon, was on a scale much lower than that apparently perpetrated by the Bosnian Serbs.

288. The Bosnian Croat camps were reported to have been maintained by both military and paramilitary forces. The forces of the Republic of Croatia and Bosnian Croat forces apparently cooperated in the detention and transfer of prisoners.

289. The Bosnian Croats were said to have apprehended a significant numbers of individuals to hold for the purpose of prisoner exchanges. Other prisoners were supposedly held to protect them from the dangers of combat. Men were also imprisoned who were considered to be of fighting age. In addition, there appeared to be some attempts to expel non-Croat populations from some areas, such as in Vitez. Some persons there were arrested for so-called security reasons and for possession of weapons.

290. In at least one site, the Central Mostar Prison, it was reported that Croats divided their prisoners into five categories: Serb combatants; enemy collaborators; prisoners held for purposes of exchange; civilians accused of common crimes; and Croatian soldiers serving time for disciplinary infractions.

291. Bosnian Croat captors reportedly maltreated a significant portion of those detained. Allegations of beatings, rape, and theft of prisoners' personal belongings were rather common. The prisoners were also reported to have been used as human shields. The litany of abuses perpetrated in those camps was much like the abuses perpetrated in the other camps in the former Yugoslavia.

3. Reported camps by location

292. Of the reports of 677 camps alleged in BiH, 381 were corroborated (i.e., reported by a neutral source or multiple neutral sources) and 296 were uncorroborated (i.e., reported either by multiple non-neutral sources, or not corroborated by a neutral source). The following is a numerical breakdown of the camps reported to have existed in BiH:

293. **Banja Luka:** Total camps: 9

Run by: Serbs: Corroborated: 7 Uncorroborated: 2

294. **Bihać:** Total camps: 14

Run by: Serbs: Corroborated: 2 Uncorroborated: 2
Muslims: Corroborated: 4 Uncorroborated: 1
Unknown: Corroborated: 5 Uncorroborated:

295. **Bijeljina:** Total camps: 12

Run by: Serbs: Corroborated: 7 Uncorroborated: 1
Muslims: Corroborated: 1 Uncorroborated:
Unknown: Corroborated: 2 Uncorroborated: 1

296. **Bileća:** Total camps: 9

Run by: Serbs: Corroborated: 6 Uncorroborated: 2
Unknown: Corroborated: 1 Uncorroborated:

297. **Bosanska Dubica:** Total camps: 4

Run by: Serbs: Corroborated: Uncorroborated: 4

298. **Bosanska Gradiška:** Total camps: 6

Run by: Serbs: Corroborated: 5 Uncorroborated:
Unknown: Corroborated: 1 Uncorroborated:

299. **Bosanska Krupa:** Total camps: 7

Run by: Serbs: Corroborated: 1 Uncorroborated: 5
Unknown: Corroborated: 1 Uncorroborated:

300. **Bosanski Brod:** Total camps: 8

Run by: Serbs: Corroborated: Uncorroborated: 1
Croats: Corroborated: 1 Uncorroborated: 2
Unknown: Corroborated: 3 Uncorroborated: 1

301. **Bosanski Novi:** Total camps: 7

Run by: Serbs: Corroborated: 5 Uncorroborated: 1
Croats: Corroborated: Uncorroborated: 1

302. **Bosanski Petrovac:** Total camps: 1

Run by: Serbs: Corroborated: 1 Uncorroborated:

303. **Bosanski Šamac:** Total camps: 6
Run by: Serbs: Corroborated: 4 Uncorroborated: 1
Unknown: Corroborated: 1 Uncorroborated:
304. **Bratunac:** Total camps: 3
Run by: Serbs: Corroborated: 2 Uncorroborated:
Unknown: Corroborated: 1 Uncorroborated:
305. **Brčko:** Total camps: 34
Run by: Serbs: Corroborated: 26 Uncorroborated: 4
Unknown: Corroborated: 2 Uncorroborated: 2
306. **Breza:** Total camps: 4
Run by: Muslims: Corroborated: 3 Uncorroborated: 1
Unknown: Corroborated: 3 Uncorroborated:
307. **Bugojno:** Total camps: 12
Run by: Muslims: Corroborated: 3 Uncorroborated: 1
Croats/Muslims: Corroborated: 1 Uncorroborated: 2
Unknown: Corroborated: 2 Uncorroborated: 3
308. **Busovača:** Total camps: 1
Run by: Croats: Corroborated: 1 Uncorroborated:
309. **Čajniče:** Total camps: 4
Run by: Serbs: Corroborated: 3 Uncorroborated: 1
310. **Čapljina:** Total camps: 6
Run by: Croats: Corroborated: 3 Uncorroborated: 1
Unknown: Corroborated: 1 Uncorroborated: 1
311. **Cazin:** Total camps: 3
Run by: Muslims: Corroborated: 1 Uncorroborated:
Unknown: Corroborated: 2 Uncorroborated:
312. **Čelinac:** Total camps: 4
Run by: Serbs: Corroborated: 3 Uncorroborated: 1
313. **Čitluk:** Total camps: 2
Run by: Muslims: Corroborated: Uncorroborated: 1
Unknown: Corroborated: Uncorroborated: 1
314. **Derвента:** Total camps: 4
Run by: Serbs: Corroborated: 2 Uncorroborated: 2

315. **Doboj:** Total camps: 13
Run by: Serbs: Corroborated: 8 Uncorroborated: 1
Unknown: Corroborated: 4 Uncorroborated:
316. **Donji Vakuf:** Total camps: 5
Run by: Serbs: Corroborated: 3 Uncorroborated: 1
Unknown: Corroborated: Uncorroborated: 1
317. **Foča:** Total camps: 15
Run by: Serbs: Corroborated: 7 Uncorroborated: 5
Unknown: Corroborated: 1 Uncorroborated: 2
318. **Fojnica:** Total camps: 2
Run by: Unknown: Corroborated: 1 Uncorroborated: 1
319. **Gacko:** Total camps: 15
Run by: Serbs: Corroborated: 10 Uncorroborated: 3
Unknown: Corroborated: 2 Uncorroborated:
320. **Glamoč:** Total camps: 1
Run by: Serbs/
Montenegrins: Corroborated: Uncorroborated: 1
321. **Goražde:** Total camps: 3
Run by: Muslims: Corroborated: Uncorroborated: 3
322. **Gornji Vakuf:** Total camps: 2
Run by: Unknown: Corroborated: 2 Uncorroborated:
323. **Gradačac:** Total camps: 4
Run by: Croats: Corroborated: 1 Uncorroborated: 3
324. **Grude:** Total camps: 2
Run by: Croats/
Muslims: Corroborated: 1 Uncorroborated:
Unknown: Corroborated: 1 Uncorroborated:
325. **Han Pijesak:** Total camps: 1
Run by: Unknown: Corroborated: 1 Uncorroborated:
326. **Jablanica:** Total camps: 5
Run by: Muslims: Corroborated: 2 Uncorroborated: 1
Unknown: Corroborated: 2 Uncorroborated:
327. **Jajce:** Total camps: 1
Run by: Muslims: Corroborated: Uncorroborated: 1

328. **Kakanj:** Total camps: 3
Run by: Muslims: Corroborated: 1 Uncorroborated: 1
Unknown: Corroborated: 2 Uncorroborated:
329. **Kalesija:** Total camps: 5
Run by: Serbs: Corroborated: 1 Uncorroborated: 2
Muslims: Corroborated: 1 Uncorroborated:
Unknown: Corroborated: Uncorroborated: 1
330. **Kalinovik:** Total camps: 5
Run by: Serbs: Corroborated: 2 Uncorroborated: 2
Unknown: Corroborated: Uncorroborated: 1
331. **Kiseljak:** Total camps: 7
Run by: Croats: Corroborated: 1 Uncorroborated: 1
Unknown: Corroborated: 4 Uncorroborated: 1
332. **Kladanj:** Total camps: 1
Run by: Croats/
Muslims: Corroborated: Uncorroborated: 1
333. **Ključ:** Total camps: 4
Run by: Serbs: Corroborated: 3 Uncorroborated: 1
334. **Konjic:** Total camps: 29
Run by: Muslims: Corroborated: 6 Uncorroborated: 5
Croats/
Muslims: Corroborated: 4 Uncorroborated: 12
Unknown: Corroborated: Uncorroborated: 2
335. **Kotor Varoš:** Total camps: 9
Run by: Serbs: Corroborated: 2 Uncorroborated: 7
336. **Krešsevo:** Total camps: 3
Run by: Unknown: Corroborated: 3 Uncorroborated:
337. **Kupres:** Total camps: 1
Run by: Unknown: Corroborated: Uncorroborated: 1
338. **Laktaši:** Total camps: 2
Run by: Serbs: Corroborated: Uncorroborated: 1
Unknown: Corroborated: Uncorroborated: 1
339. **Lištica:** Total camps: 1
Run by: Croats/
Muslims: Corroborated: 1 Uncorroborated:

340. **Livno:** Total camps: 10
Run by: Muslims: Corroborated: 1 Uncorroborated: 1
Croats: Corroborated: 3 Uncorroborated: 3
Unknown: Corroborated: 3 Uncorroborated: 3
341. **Ljubinje:** Total camps: 1
Run by: Serbs: Corroborated: 1 Uncorroborated:
342. **Ljubuški:** Total camps: 3
Run by: Muslims: Corroborated: 1 Uncorroborated: 1
Croats: Corroborated: 1 Uncorroborated: 1
343. **Lopare:** Total camps: 1
Run by: Serbs: Corroborated: 1 Uncorroborated:
344. **Lukavac:** Total camps: 1
Run by: Unknown: Corroborated: 1 Uncorroborated: 1
345. **Maglaj:** Total camps: 1
Run by: Croats: Corroborated: 1 Uncorroborated: 1
346. **Modriča:** Total camps: 3
Run by: Serbs: Corroborated: 1 Uncorroborated: 2
347. **Mostar:** Total Camps: 15
Run by: Serbs: Corroborated: 2 Uncorroborated:
Muslims: Corroborated: 2 Uncorroborated: 1
Croats: Corroborated: 5 Uncorroborated: 1
Unknown: Corroborated: 1 Uncorroborated: 3
348. **Mrkonjić Grad:** Total Camps: 4
Run by: Serbs: Corroborated: 1 Uncorroborated: 2
Unknown: Corroborated: 1 Uncorroborated: 1
349. **Nevesinje:** Total Camps: 2
Run by: Muslims: Corroborated: 1 Uncorroborated:
Unknown: Corroborated: 1 Uncorroborated: 1
350. **Odžak:** Total Camps: 3
Run by: Croats: Corroborated: 1 Uncorroborated: 2
Unknown: Corroborated: 1 Uncorroborated: 1
351. **Olovo:** Total camps: 1
Run by: Serbs: Corroborated: 1 Uncorroborated:

352. **Orašje:** Total Camps: 3
Run by: Muslims: Corroborated: 1 Uncorroborated: 1
Croats: Corroborated: 1 Uncorroborated: 1
353. **Posusje:** Total Camps: 1
Run by: Croats: Corroborated: 1 Uncorroborated: 1
354. **Prijedor:** Total camps: 36
Run by: Serbs: Corroborated: 28 Uncorroborated: 8
355. **Prnjavor:** Total camps: 1
Run by: Serbs: Corroborated: 1 Uncorroborated:
356. **Prozor:** Total Camps: 7
Run by: Croats: Corroborated: 3 Uncorroborated: 3
Unknown: Corroborated: 1 Uncorroborated:
357. **Rogatica:** Total Camps: 12
Run by: Serbs: Corroborated: 3 Uncorroborated: 8
Unknown: Corroborated: 1 Uncorroborated:
358. **Rudo:** Total Camps: 3
Run by: Serbs: Corroborated: 1 Uncorroborated:
Unknown: Corroborated: 1 Uncorroborated: 2
359. **Sanski Most:** Total Camps: 10
Run by: Serbs: Corroborated: 8 Uncorroborated: 2
360. **Sarajevo:** Total Camps: 91
Run by: Serbs: Corroborated: 7 Uncorroborated: 20
Muslims: Corroborated: 11 Uncorroborated: 18
Croats: Corroborated: 1 Uncorroborated: 1
Croats/
Muslims: Corroborated: 7 Uncorroborated: 7
Unknown: Corroborated: 11 Uncorroborated: 13
Private: Corroborated: 2 Uncorroborated: 2
361. **Šekovići:** Total Camps: 4
Run by: Serbs: Corroborated: 1 Uncorroborated: 1
Unknown: Corroborated: 3 Uncorroborated:
362. **Šipovo:** Total Camps: 2
Run by: Serbs: Corroborated: 1 Uncorroborated: 2
363. **Skender Vakuf:** Total Camps: 1
Run by: Serbs: Corroborated: 1 Uncorroborated:

364. **Sokolac:** Total Camps: 8
Run by: Serbs: Corroborated: 1 Uncorroborated: 3
Unknown: Corroborated: 1 Uncorroborated: 4
365. **Srebrenica:** Total Camps: 2
Run by: Serbs: Corroborated: 1 Uncorroborated:
Unknown: Corroborated: 1 Uncorroborated: 1
366. **Stolac:** Total Camps: 4
Run by: Unknown: Corroborated: 1 Uncorroborated: 3
367. **Tešanj:** Total Camps: 4
Run by: Serbs: Corroborated: 1 Uncorroborated:
Muslims: Corroborated: 1 Uncorroborated: 1
Unknown: Corroborated: 2 Uncorroborated:
368. **Teslić:** Total Camps: 7
Run by: Serbs: Corroborated: 2 Uncorroborated: 3
Unknown: Corroborated: 1 Uncorroborated: 2
369. **Titov Drvar:** Total Camps: 6
Run by: Serbs: Corroborated: 3 Uncorroborated: 2
Unknown: Corroborated: 1 Uncorroborated:
370. **Tomislavgrad:** Total Camps: 9
Run by: Croats: Corroborated: 3 Uncorroborated: 2
Unknown: Corroborated: 3 Uncorroborated: 1
371. **Travnik:** Total Camps: 3
Run by: Unknown: Corroborated: 1 Uncorroborated: 2
372. **Trebinje:** Total Camps: 2
Run by: Serbs: Corroborated: 1 Uncorroborated:
Unknown: Corroborated: 1 Uncorroborated: 1
373. **Tuzla:** Total Camps: 15
Run by: Muslims: Corroborated: 1 Uncorroborated: 3
Croats/
Muslims: Corroborated: 1 Uncorroborated: 1
Private: Corroborated: 1 Uncorroborated: 1
Unknown: Corroborated: 5 Uncorroborated: 5
374. **Ugljevik:** Total Camps: 2
Run by: Serbs: Corroborated: 1 Uncorroborated: 2

375. **Vareš:** Total Camps: 5
Run by: Serbs: Corroborated: 1 Uncorroborated:
Croats: Corroborated: 2 Uncorroborated:
Unknown: Corroborated: 2 Uncorroborated:
376. **Velika Kladuša:** Total Camps: 1
Run by: Muslims: Corroborated: 1 Uncorroborated:
377. **Višegrad:** Total Camps: 21
Run by: Serbs: Corroborated: 2 Uncorroborated: 17
Private: Corroborated: Uncorroborated: 2
378. **Visoko:** Total Camps: 7
Run by: Muslims: Corroborated: 2 Uncorroborated: 3
Unknown: Corroborated: 2 Uncorroborated:
379. **Vitez:** Total Camps: 8
Run by: Muslims: Corroborated: 1 Uncorroborated:
Croats: Corroborated: 2 Uncorroborated:
Unknown: Corroborated: 5 Uncorroborated:
380. **Vlasenica:** Total Camps: 12
Run by: Serbs: Corroborated: 4 Uncorroborated: 3
Muslims: Corroborated: Uncorroborated: 1
Unknown: Corroborated: 4 Uncorroborated:
381. **Zenica:** Total Camps: 16
Run by: Muslims: Corroborated: 2 Uncorroborated:
Croats/
Muslims: Corroborated: Uncorroborated: 1
Unknown: Corroborated: 5 Uncorroborated: 8
382. **Žepče:** Total Camps: 2
Run by: Croats: Corroborated: 2 Uncorroborated:
383. **Zvornik:** Total Camps: 28
Run by: Serbs: Corroborated: 23 Uncorroborated: 3
Unknown: Corroborated: 2 Uncorroborated:

D. Camps reported in Croatia

384. The reports reviewed alleged a total of 201 camps within Croatia. Among those camps, 77 (38.3 per cent) were alleged to have been controlled by Bosnian Serbs; 70 (34.8 per cent) by Croats; 1 (.5 per cent) by Bosnian Muslims; 1 (.5 per cent) by both Croats and Muslims; 1 (.5 per cent) by Slovenians; 51 (25.4 per cent) by unidentified forces.

385. As armed conflict erupted between Croatians and Serbs in Croatia, the detention of combatants and civilians reached a large scale. Ultimately, at least several thousand Croatians and Serbs had been imprisoned in Croatia from

the end of 1991 to the present.

386. Most of the places of detention in Croatia were maintained by Croatians or Serbs. There are, however, a significant number of reported detention facilities where it was unclear who maintained control.

1. Croat controlled camps

387. The reports indicate that Croatian forces captured and detained both Serb combatants and Serb civilians. As the conflict progressed, it appears that the Croatians began to capture and detain Serb civilians for the purpose of later exchanging them for Croats held prisoner.

388. Some cooperation appeared evident between the Croats of the Republic of Croatia and the Croats of the Republic of BiH. At one point, at least, Bosnian Croat forces were apparently able to transfer prisoners from the Bosanski Brod and Odžak areas of BiH to Slavonski Brod in Croatia. Some of those prisoners were later transferred back to places of detention in the territory of BiH. Others were apparently transferred to places of detention elsewhere in Croatia.

389. The Croats appear to have used numerous sites to detain and interrogate Serbs for short periods of time and maintained only a few places for long term detention.

390. It was reported that the Croatian camps were often divided into three blocks. The first block consisted of former JNA members who surrendered without a struggle. The second block consisted of elderly persons and the third block was reported to have consisted of military police, volunteers, and individuals identified by the Croats as "Četniks".

391. In Pakrac, Croats were alleged to have maintained two "death camps" for the elimination of captured Serbs. This was the only allegation of Croats operating a place of detention for the purpose of large-scale execution. However, there were numerous allegations of Croatian mistreatment of prisoners in other places of detention, as well as numerous allegations of killings.

392. The reported maltreatment inflicted upon prisoners in Croat-controlled detention facilities consisted mainly of indiscriminate beatings, some rapes, public humiliation, and forced appearance on television. Electric shock and forced same-sex sexual acts were also alleged as common methods of torture and abuse.

393. Those who were reported to have controlled and maintained the Croatian places of detention were the Croatian armed forces, local police forces and some paramilitary groups.

394. Camp conditions were generally poor. However, in at least one instance at Gospić Prison, it was reported that Croatian captors attempted to improve conditions when notified of an ICRC visit.

2. Serb controlled camps

395. There were also Serb controlled places of detention in Croatia which were reported to have consisted mainly of pre-existing facilities. However, the Serbs apparently found it necessary to erect a few camps in order to effectively detain their captives. The Serb camps in Croatia held both civilians and prisoners of war.

396. Prior to the war in BiH, Serb captors in Croatia transferred some prisoners to the Manjača camp in Banja Luka, Bosnia. Later, after fighting started in BiH, Bosnian Muslims and Bosnian Croats were reported to have been held at Serb camps in Croatia.

397. Those reportedly responsible for the operation and maintenance of Serb-controlled camps in Croatia were a mixture of JNA officers and soldiers, SAO Krajina police forces, Serb Territorial Defence units and various paramilitary forces.

398. Maltreatment of prisoners was commonly attributed to the Serb controlled camps in Croatia. Camp commanders appear to have been well aware of the abuse that took place and often allowed Serb civilians and paramilitaries access to the prisoners in order to abuse them. In at least one case, Bosnian Serbs reportedly travelled to Knin, Croatia to participate in the abuse of Bosnian Croats and Muslims held there.

399. There are a number of reports that the guards in Serb camps consumed drugs and alcohol and in an intoxicated state subjected prisoners to different types of maltreatment.

400. As with other detaining powers, the Serbs in Croatia were reported to have attempted at times to deceive visitors interested in the condition of camps. For example, places of detention and the prisoners themselves were cleaned up before a visit and prisoners who appeared to be in satisfactory condition were shown off, whereas those who showed physical signs of maltreatment were hidden.

401. There were also reports of prisoners coerced to appear on Belgrade television to describe their supposed offences against Serbs.

3. Reported camps by location

402. Of the reports of 201 camps alleged in Croatia, 100 were corroborated (i.e., reported by a neutral source or multiple neutral sources) and 101 were uncorroborated (i.e., reported either by multiple non-neutral sources, or not corroborated by a neutral source). The following is a numerical breakdown of the camps reported to have existed in Croatia:

403. **Beli Manastir:** Total camps: 6

Run by:	Serbs:	Corroborated:	Uncorroborated:
	Unknown:	Corroborated: 4	Uncorroborated: 1

404. **Benkovac:** Total camps: 5

Run by:	Serbs:	Corroborated:	Uncorroborated: 5
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405. **Bjelovar:** Total camps: 6

Run by:	Croats:	Corroborated: 3	Uncorroborated: 1
	Unknown:	Corroborated: 2	Uncorroborated:

406. **Daruvar:** Total camps: 8

Run by:	Serbs:	Corroborated:	Uncorroborated: 2
	Croats:	Corroborated:	Uncorroborated: 4
	Unknown:	Corroborated: 1	Uncorroborated: 1

407. **Djakovo:** Total camps: 2
Run by: Croats: Corroborated: 1 Uncorroborated:
Unknown: Corroborated: Uncorroborated: 1
408. **Drniš:** Total camps: 2
Run by: Serbs: Corroborated: 1 Uncorroborated:
Unknown: Corroborated: 1 Uncorroborated:
409. **Dubrovnik:** Total camps: 1
Run by: Unknown: Corroborated: 1 Uncorroborated:
410. **Dvor:** Total camps: 4
Run by: Serbs: Corroborated: Uncorroborated: 2
Unknown: Corroborated: Uncorroborated: 2
411. **Glina:** Total camps: 3
Run by: Serbs: Corroborated: 1 Uncorroborated:
Unknown: Corroborated: 2 Uncorroborated:
412. **Gospić:** Total camps: 5
Run by: Serbs: Corroborated: Uncorroborated: 1
Croats: Corroborated: 2 Uncorroborated: 2
413. **Gračac:** Total camps: 1
Run by: Serbs: Corroborated: Uncorroborated: 1
414. **Grubišno Polje:** Total camps: 1
Run by: Croats: Corroborated: Uncorroborated: 1
415. **Imotski:** Total camps: 1
Run by: Croats: Corroborated: 1 Uncorroborated:
416. **Ivanec:** Total camps: 1
Run by: Unknown: Corroborated: 1 Uncorroborated:
417. **Karlovac:** Total camps: 2
Run by: Croats: Corroborated: 2 Uncorroborated:
418. **Knin:** Total camps: 7
Run by: Serbs: Corroborated: 4 Uncorroborated: 3
419. **Korenica:** Total camps: 3
Run by: Serbs: Corroborated: 1 Uncorroborated: 1
Unknown: Corroborated: 1 Uncorroborated:

420. **Kostajnica:** Total camps: 2
Run by: Serbs: Corroborated: 1 Uncorroborated: 1
421. **Kutina:** Total camps: 1
Run by: Serbs: Corroborated: 1 Uncorroborated:
422. **Metković:** Total camps: 4
Run by: Croats: Corroborated: 1 Uncorroborated: 2
Unknown: Corroborated: 1 Uncorroborated:
423. **Našice:** Total camps: 1
Run by: Croats: Corroborated: Uncorroborated: 1
424. **Nova Gradiška:** Total camps: 4
Run by: Serbs: Corroborated: 1 Uncorroborated: 1
Croats: Corroborated: Uncorroborated: 1
Unknown: Corroborated: 1 Uncorroborated:
425. **Novska:** Total camps: 1
Run by: Croats: Corroborated: Uncorroborated: 1
426. **Ogulin:** Total camps: 3
Run by: Serbs: Corroborated: Uncorroborated: 2
Croats: Corroborated: Uncorroborated: 1
427. **Osijek:** Total camps: 14
Run by: Serbs: Corroborated: 2 Uncorroborated: 4
Croats: Corroborated: 2 Uncorroborated: 3
Unknown: Corroborated: 3 Uncorroborated:
428. **Otočac:** Total camps: 1
Run by: Unknown: Corroborated: 1 Uncorroborated:
429. **Pakrac:** Total camps: 7
Run by: Serbs: Corroborated: 1 Uncorroborated: 2
Croats: Corroborated: 1 Uncorroborated: 2
Slovenians: Corroborated: 1 Uncorroborated:
430. **Petrinja:** Total camps: 2
Run by: Serbs: Corroborated: 1 Uncorroborated:
Croats: Corroborated: Uncorroborated: 1
431. **Podravska Slatina:** Total camps: 2
Run by: Serbs: Corroborated: 1 Uncorroborated:
Croats: Corroborated: Uncorroborated: 1

432. **Pula:** Total camps: 1
Run by: Unknown: Corroborated: 1 Uncorroborated:

433. **Rijeka:** Total camps: 3
Run by: Croats: Corroborated: 2 Uncorroborated:
Unknown: Corroborated: 1 Uncorroborated:

434. **Šibenik:** Total camps: 7
Run by: Muslims: Corroborated: 1 Uncorroborated:
Croats: Corroborated: 2 Uncorroborated: 1
Unknown: Corroborated: 2 Uncorroborated: 1

435. **Sinj:** Total camps: 1
Run by: Unknown: Corroborated: 1 Uncorroborated:

436. **Sisak:** Total camps: 3
Run by: Croats: Corroborated: 3 Uncorroborated:

437. **Slavonska Požega:** Total camps: 5
Run by: Croats: Corroborated: 2 Uncorroborated: 2
Unknown: Corroborated: 1 Uncorroborated:

438. **Slavonski Brod:** Total camps: 7
Run by: Croats: Corroborated: 1 Uncorroborated: 2
Croats/
Muslims: Corroborated: Uncorroborated: 1
Unknown: Corroborated: 3 Uncorroborated:

439. **Slunj:** Total camps: 3
Run by: Serbs: Corroborated: Uncorroborated: 1
Croats: Corroborated: 1 Uncorroborated:
Unknown: Corroborated: 1 Uncorroborated:

440. **Split:** Total camps: 4
Run by: Croats: Corroborated: 1 Uncorroborated:
Unknown: Corroborated: 3 Uncorroborated:

441. **Vinkovci:** Total camps: 2
Run by: Croats: Corroborated: Uncorroborated: 1
Unknown: Corroborated: 1 Uncorroborated:

442. **Varaždin:** Total camps: 1
Run by: Unknown: Corroborated: 1 Uncorroborated:

443. **Vojnić:** Total camps: 3
Run by: Serbs: Corroborated: 1 Uncorroborated:
Unknown: Corroborated: 2 Uncorroborated:

444. **Vrbovec:** Total camps: 1
Run by: Croats: Corroborated: Uncorroborated: 1

445. **Vrginmost:** Total camps: 1
Run by: Croats: Corroborated: Uncorroborated: 1

446. **Vukovar:** Total camps: 44
Run by: Serbs: Corroborated: 7 Uncorroborated: 27
Croats: Corroborated: Uncorroborated: 9
Unknown: Corroborated: 1 Uncorroborated:

447. **Zadar:** Total camps: 7
Run by: Croats: Corroborated: 3 Uncorroborated: 1
Unknown: Corroborated: 3 Uncorroborated:

448. **Zagreb:** Total camps: 8
Run by: Croats: Corroborated: 2 Uncorroborated: 1
Unknown: Corroborated: 5 Uncorroborated:

E. Camps reported in FRY

449. The reports reviewed alleged a total of 71 camps within FRY. Among those camps, 56 (78.9 per cent) were alleged to have been controlled by Bosnian Serbs or forces of FRY; and 15 (21.1 per cent) by unidentified forces.

1. Serb/FRY controlled camps

450. A combination of JNA personnel, police forces and Serb paramilitaries, reportedly operated and maintained the camps in FRY.

451. A significant number of Croats, probably at least several thousand, were reported to have been captured by Serb forces in Croatia and transferred to what is now known as FRY. The majority of those imprisoned in various prisons and camps in FRY were apparently captured at the battle of Vukovar in approximately November 1991.

452. Those captured were a mix of soldiers and civilians. Apparently, the Serbs first regarded their Croat prisoners as insurgents and rebels and later, as the independence of Croatia was recognized, to a certain extent regarded their captives as prisoners of war. It was also reported that when the Republic of Croatia was internationally recognized, Croat prisoners in FRY were severely beaten as a result.

453. It was reported that Serb authorities tried and convicted a number of Croat prisoners for various offences. Those prisoners were often transferred to other detention facilities. Serbs also commonly transferred other prisoners between detention centres.

454. Treatment of prisoners at the FRY camps was commonly reported as very poor. Violent interrogation, and reports of beatings and sadistic treatment of prisoners were common. For example, it was reported that prisoners were forced to participate in various "games", the rules of which inevitably led to the abuse of the participants. It appeared that Serb authorities in FRY

transported local Vukovar Serbs to FRY in order to identify certain prisoners and participate in their maltreatment. Personal vendettas were allowed to occur. Drunk guards were also reported to have inflicted great harm upon those imprisoned. There were also reports of women who were held and exploited for sexual purposes.

455. Living conditions for the prisoners were also reported as very poor. Common complaints included a lack of food, insufficient access to toilet facilities, and an inadequate opportunity to bathe and change clothes. Facilities were often cold and damp, and inmates were often left without sufficient bedding. The wounded and sick often suffered without adequate medical care.

456. It appears that the majority of Croat prisoners in FRY were exchanged by late summer of 1992.

457. It was also reported that prisoners captured in BiH were transported to camps in FRY. A number of the Bosnian Muslims held in such camps were reportedly captured around Višegrad and Bosanski Šamac.

458. A number of Bosnian refugees in Montenegro, from Foča, were reportedly arrested by FRY police forces, held in various prisons, and later turned over to Serbs maintaining camps in Foča where they were then imprisoned. It was also reported that a significant number of Muslim prisoners held in Bileca, were transferred to a camp in Subotica.

459. Upon investigation by third party teams, certain alleged concentration camps for Muslims in FRY were found to be refugee centres where living conditions were poor.

2. Reported camps by location

460. Of the reports of the 71 camps alleged in FRY, 42 were corroborated (i.e., reported by a neutral source or multiple neutral sources), and 29 were uncorroborated (i.e., reported either by multiple non-neutral sources, or not corroborated by a neutral source). The following is a numerical breakdown of the camps reported to have existed in FRY:

461. **Kosovo:** Total camps: 1

Run by: Serbs/FRY: Corroborated: 1 Uncorroborated:

462. **Montenegro:** Total camps: 9

Run by: Serbs/FRY: Corroborated: 5 Uncorroborated: 1
Unknown: Corroborated: 1 Uncorroborated: 2

463. **Serbia:** Total camps: 27

Run by: Serbs/FRY: Corroborated: 13 Uncorroborated: 13
Unknown: Corroborated: 1 Uncorroborated:

464. **Vojvodina:** Total camps: 25

Run by: Serbs/FRY: Corroborated: 10 Uncorroborated: 13
Unknown: Corroborated: 2 Uncorroborated:

465. Unidentified Locations in FRY:

Total camps: 9

Run by: Unknown: Corroborated: 9 Uncorroborated:

D. Camps reported in Slovenia

466. The reports reviewed alleged a total of seven camps within Slovenia. Among those camps, three (42.9 per cent) were alleged to have been controlled by Slovenian forces and four (57.1 per cent) by unidentified forces.

467. As the various conflicts in the former Yugoslavia erupted and unfolded, detention of soldiers and civilians reportedly became commonplace. In June and July 1991, Slovenian forces reportedly captured and imprisoned a few hundred soldiers of the JNA and some civilian personnel of SFRY, including internal police, for a short period of time after Slovenia declared its independence on 25 June 1991.

468. The Slovenes reportedly held the prisoners in various places including mining facilities and a penitentiary. The captors allegedly subjected the prisoners to beatings, verbal humiliations, and threats. Since the prisoners' release and the subsequent conflicts in Croatia and BiH, there were no reports concerning detention in Slovenia.

469. Of the reports of the seven camps alleged in Slovenia, six were corroborated (i.e., reported by a neutral source or multiple neutral sources) and one was uncorroborated (i.e., reported either by multiple non-neutral sources, or not corroborated by a neutral source). The following is a numerical breakdown of the camps reported to have existed in Slovenia:

1. Reported camps in Slovenia

470. **Slovenia:** Total camps: 7

Run by: Slovenians: Corroborated: 2 Uncorroborated: 1
Unknown: Corroborated: 4 Uncorroborated:

ANNEX IX - RAPE AND SEXUAL ASSAULT

471. Annex IX, consisting of 124 pages, was prepared by staff members of IHRLI, under the direction of Chairman Bassiouni.

I. INTRODUCTION

472. The Commission investigated rape and sexual assault in three ways. The first method was through a study of the documentary evidence contained in the database at IHRLI. This study is discussed in paragraphs 28 through 294. The second method was through a field investigation. This investigation is discussed at Annex IXA, in paragraphs 1 through 190. The field investigators conducted 223 interviews in Croatia.¹¹⁸ The final method was through the analysis of investigations and interviews conducted by governments and submitted to the Commission, but not included in the database. For example, the government of Austria recently interviewed 18 refugees, several of whom were victims or witnesses of incidents of rape and sexual assault. Sweden conducted interviews of 35 refugees, most of whom were victims or witnesses of

rape and sexual assault.¹¹⁹ These investigations and their findings have been sent by the Commission to the office of the Prosecutor for the ICTFY. A great number of fact-finding missions have been carried out to try to assess the incidence and extent of the use of rape and sexual assault as a weapon of war in the conflicts in the former Yugoslavia, particularly in Bosnia and Herzegovina.¹²⁰

473. The question of the credibility of victims and witnesses and the reliability of the information provided has been foremost in the consideration of this analysis. Indeed, some of the information provided, as described below, is general, generic, or insufficient. But such information may none the less be credible because of some particular details it may contain and because of other corroborating facts. Furthermore, interviews, whether conducted by the Commission or by certain governments, of victims and witnesses in sufficient numbers confirm certain accounts. Such interviews also provide a first hand account and description of certain facts, which are also found in the documentation available in the database. Thus, it is the cumulative nature of the information which tends to corroborate the facts about incidents in the locations described, as well as patterns of behaviour. Consequently, it is this cumulative effect which gives the information credibility and reliability. This is also the basis which provides a sufficient numerical basis to develop a statistical analysis from which to derive the conclusions described below. Thus, for example, of the 1,100 cases examined, it is possible to identify with some degree of accuracy the patterns described in paragraphs 8 through 25. The macroanalysis aspect of this report is therefore well founded on the facts. Obviously, individual cases and their level of readiness for prosecution will vary and, without speculating on any ultimate prosecutorial outcome, it could easily be surmised that no less than 10 percent of these reports are very likely cases for prosecution. Finally, the analysis of allegations by geographical location has been written in a way to conceal the identities of victims, witnesses, and alleged perpetrators, for confidentiality and security reasons. The vagueness present should not be taken for a lack of information. Names have been provided when they are taken from widely published sources like the news media.

474. The relevance of the study is therefore threefold: 1) it identifies specific individual cases, patterns and policies; 2) it establishes foundations in fact for allegations of rape and sexual assault in this conflict, and more particularly their use as an instrument of war; and 3) it serves as a basis for the eventual prosecution by the ICTFY of rape and sexual assault cases, particularly with respect to the prosecution of commanders and other decision makers who may have been responsible for individual conduct and formulating policy. A most significant corollary of the study is that it has identified a number of cases ready for the final investigatory stages leading to prosecution.

A. Summary of statistical information from all sources

475. This is a study by IHRLI of allegations of systematic rape and other forms of sexual assault perpetrated in the former Yugoslavia. The information for the study comes from the sources stated in paragraph 1. The database contains tens of thousands of allegations of rape and sexual assault. Rape is defined for the purposes of the study as non-consensual sexual penetration, while sexual assault encompasses rape and other forced or coerced sexual acts.

It also includes sexual mutilations for purposes of this study. When duplicated information is eliminated and the most general allegations discarded,¹²¹ the following statistics are revealed:

(a) There are approximately 1,100 reported cases of rape and sexual assault;

(b) About 800 victims are named, or the submitting source appears to know the identity of the victim, but does not disclose it;¹²²

(c) About 1,800 victims are specifically referred to but are not named or identified sufficiently by the witness reporting the incident;¹²³

(d) Witness reports also refer to additional numbers of victims through approximations. These reports suggest there may be about 10,000 additional victims the reports could eventually lead to;

(e) About 550 of the reported cases refer to victims of rape and sexual assault but are unspecific and do not give any identifying information;¹²⁴

(f) About 700 alleged perpetrators are named, or the submitting sources appear to have the name of the person they call the perpetrator but chose not to disclose it;

(g) About 750 perpetrators are specifically identified, but the witnesses do not know the name to make the identification complete;

(h) The cases contain references to about 300 perpetrators only approximately, with no specifics as to name or the specific number present;

(i) About 900 cases refer generally to classes of perpetrators but do not approximate their numbers.¹²⁵

476. There are about 162 detention sites in the former Yugoslavia where people were detained and sexually assaulted:

(a) 88 of those are reportedly run by Serbs;

(b) 35 are run by unknown forces;

(c) 17 are allegedly run by Croats;

(d) 14 are allegedly run by Muslim and Croat forces together;

(e) 8 are reportedly run by Muslims.

477. This statistical information may not represent the true extent of what has occurred in the former Yugoslavia. This shortfall may be due to a variety of reasons:

(a) The chief reason is that victims are reluctant to report the assaults;

(b) Victims fear reprisals by their attackers, both for themselves and family members remaining in occupied areas;¹²⁶

(c) Some victims feel shame and embarrassment and fear ostracization by their communities--this is especially true in Muslim society, though many female victims have banded together for support, unlike most victims of rape and sexual assault in peacetime;¹²⁷

(d) A great deal of time has passed since the crimes were committed.¹²⁸ Now, victims and witnesses have relocated to over 20 different countries. With the passage of time and migration, there is an increasing reticence to report incidents of rape and sexual assault at an international

level. Victims and witnesses wish to get on with their lives and not to relive the shame and embarrassment of their experiences;

(e) Many do not have a place to report the assault or feel that reporting would be useless;

(f) Refugees have a certain level of skepticism about the international community. Support groups and therapists contribute to this skepticism due to their concern over the traumatic effect of reliving the trauma through constant questioning.

478. These concerns are evidenced in many of the reports used in this study. Submitting sources often withhold the names of victims, witnesses or perpetrators to protect them. Additionally, many of the witnesses who gave testimony stated that they were afraid to allow their identity to be revealed because of retaliation by the alleged perpetrators or rejection by their own community. Some of the victims report that the people who assaulted them said never to tell what had happened or they would hunt down the victims and kill them.

B. Methodology

479. To analyse the contents of the database, all of the allegations of rape and sexual assault were gathered. Summary sheets were created for each allegation. These worksheets separated out some of the vital information, such as the identity of the witness who reported the incident, the identity of the victims and perpetrators, the date and location of the incident, the source of the report, and the method of recording the information. The worksheets also contained a comprehensive summary of the incident of rape and sexual assault. These summary sheets were then used as analytical tools to compare the information in a standardized format. They were organized geographically, divided by the setting in which they allegedly occurred, and arranged chronologically within that subheading. The analysis which follows is also organized geographically by county in alphabetical order. This particular form was chosen because of the number of "warring factions", and the generally confusing nature of the conflict.

480. The setting was defined as either custodial or non-custodial, and those reports which did not specify the setting were assumed not to have occurred in custody.¹²⁹ This classification was used for several reasons, primarily because some level of organization and coordination is required to hold people in custody. The greater the number of rapes and sexual assaults in custody, the greater the likelihood of higher-level control over, or acquiescence to the practice. About 600 reported cases specify that they occurred in settings where the victims were held in custody.

C. Summary analysis

481. Rape and sexual assault have been reported to have been committed by all of the "warring factions". Additionally, many ethnic groups¹³⁰ were reportedly victims of rape and sexual assault: Bosnian Muslims, Bosnian Serbs, Bosnian Croats, Croatians, Croatian Serbs, Croatian Muslims, Albanians, Czechs and others. However, it is important to avoid moral equivalency in the analysis. The vast majority of victims are Bosnian Muslim and the great majority of alleged perpetrators are Bosnian Serb. Serbs reportedly run over 60 percent of the nearly 150 detention sites where men and women were allegedly raped and sexually assaulted. Finally, for purposes of prosecution, it is important to distinguish between "opportunistic" crimes and the use of

rape and sexual assault as a method of "ethnic cleansing". Rape and sexual assault should be examined in the context of the practice of "ethnic cleansing"; discussed in Annex IV, and the practices in concentration camps, discussed in Annexes V and VIII. Most of the reported cases occurred in Bosnia and Herzegovina (BiH),¹³¹ and none were reported to have occurred in Slovenia.

482. Several patterns of conduct are revealed in the reported cases, regardless of the ethnicity of the perpetrators or the victims. These patterns are:

(a) Individuals or small groups commit rape and sexual assault in conjunction with looting and intimidation of the target ethnic group before generalized fighting breaks out in an area;

(b) Individuals or groups commit rape and sexual assault in conjunction with fighting in an area, often raping women in public;

(c) Individuals or groups commit rapes and sexual assaults of detainees;¹³²

(d) Individuals or groups commit rape and sexual assault against women held for the purpose of being raped and sexually assaulted and for the purpose of harming the women;¹³³

(e) Detention sites are established solely for the rape and sexual abuse of women for the perpetrator's gratification.¹³⁴

483. The first pattern occurs before any widespread or generalized fighting breaks out in a region. This type of rape and sexual assault is accompanied by looting, intimidation, and beatings. Tensions in an area grow, and members of the ethnic group controlling the regional government begin to terrorize their neighbours by intimidation, looting and beatings. Two or more men reportedly break into a house, intimidate the residents, steal their property, beat them, and often rape and sexually assault female residents. Some of the reported rapes and sexual assaults are singular and some are multiple. In either case, there is often a gang atmosphere where all the abuses are part of the same event, and all the attackers participate in the event, even if they do not sexually assault the victims. A distinct pattern of rape and sexual assault within this general type is peculiar to one area of BiH and Croatia. Paramilitary groups roam the countryside, abducting primarily Bosnian Serb women from their homes. The women are taken to a specific location, raped and sexually assaulted repeatedly, and then abandoned. The size of the groups of men range from four to 15. The victims are usually assaulted by each of the men in the group.¹³⁵

484. The second pattern of rape and sexual assault occurs in conjunction with widespread or generalized fighting. When forces attack a town or village, the population is gathered and divided by sex and age. Some women are raped and sexually assaulted in their homes as the attacking forces secure the area. Others are selected after the roundup and are then raped and sexually assaulted publicly. The population of the village is then transported to camps.

485. The third pattern of rape and sexual assault occurs in sites of detention or other "collection centres" for refugees. After the population is rounded up in a town or village, men and women are separated. Men are executed or sent off to camps, and women are generally sent off to separate camps. In these custodial situations, soldiers, camp guards, paramilitaries, and even civilians are allowed to enter the camp, pick out women, take them

away, rape and sexually assault them, and then either kill them or return them to the site. There is a significant amount of gang-rape and sexual assault reported in this context, and beatings and torture accompany most of the reported rapes and sexual assaults. Survivors report that some women are taken out alone, and some are taken out in groups. The women who are not killed are eventually exchanged. Though this is the general pattern, there are also many allegations that women are raped and sexually assaulted in front of other detainees, or that other detainees are forced to rape and sexually assault each other. The sexual assault of men in these camps is generally public, and the men are not usually removed from the camp. In these camps, other forms of humanitarian law violations, such as torture, occur simultaneously. In camps with only male populations and in camps with mixed populations, men are also subjected to sexual assault. Examples of this type of camp include Serb-run Trnopolje in Prijedor,¹³⁶ Croatian-run Odžak camp in Odžak,¹³⁷ and the Muslim-run camp in Gorazde.¹³⁸

486. The fourth pattern of rape and sexual assault occurs in specific types of sites of detention. Survivors of some camps report that they believe that they were detained for the purpose of rape and sexual assault. In these sites, all of the women are raped and sexually assaulted, the raping is quite frequent, and it is often committed in front of other internees. In this context as well, beating and torture accompany rape and sexual assault. Often, the captors state that they are trying to impregnate the women, pregnant women are treated better than their non-pregnant counterparts, and pregnant women are detained until it is too late in the pregnancy to obtain an abortion.¹³⁹ Examples of this type of camp include the Serb-run Usara High School camp in Doboje,¹⁴⁰ Muslim-run Čelebići camp in Konjic,¹⁴¹ and Croatian-run Dretelj camp in Čapljina.¹⁴²

487. The last pattern of rape and sexual assault is detention for the purpose of providing sex. Women are collected from their homes and from camps and taken to hotels or similar facilities where they serve to provide sexual gratification for the armed forces.¹⁴³ The women kept in these sites are reportedly killed more often than they are exchanged, unlike the female population in most camps. Additionally, unlike camp detention, the motive for detention of these women seems not to be to cause some reaction in the women detained, but instead to provide sexual services to men. The Yugoslav Mission submitted a list of such sites run by Croats and Muslims in BiH and the women's group Trešnjevka submitted a list of such sites run by Serbs in BiH.

488. In both custodial and non-custodial settings, many victims report that the alleged perpetrators state that they were ordered to rape and sexually assault the victims, or that they were doing it so that the victims and their families would never want to return to the area. Also, every reported case occurred in conjunction with an effort to displace the civilian population of a targeted ethnic group from a given region. Reports of rape and sexual assault between members of the same ethnic group are few and have some ethnic component, such as sheltering members of the target ethnic group or marriage to a member of the targeted ethnic group. Very few reports fail to display some ethnic motivation.

489. Some characteristics of the rapes and sexual assaults include:

(a) Rapes and sexual assaults are conducted in ways that emphasize the shame and humiliation of the assault--such as forcing family members to rape each other, raping the victims in front of family members, including children, and raping persons in public places or in front of other internees;

(b) Large groups of perpetrators subject victims to multiple rapes and sexual assaults;

(c) Young women and virgins are targeted for rape and sexual assault, along with prominent members of the community and educated women;

(d) In custodial settings, perpetrators go through the detention centres with flashlights at night and choose victims randomly, returning them the next morning, thereby terrorizing the entire population of the camp;

(e) Perpetrators tell female victims that they will bear children of the perpetrator's ethnicity, that the perpetrators were ordered to rape and sexually assault them, or that, if the victims ever tell anyone or anyone discovers what has happened, the perpetrators will hunt them down and kill them;

(f) Victims are sexually assaulted with foreign objects like broken glass bottles, guns, and truncheons;

(g) Castrations are performed through crude means such as, forcing one internee to bite off another's testicles, and tying one end of a wire to the testicles and the other end to a motorcycle, then using the motorcycle to yank off the testicles;

(h) Perpetrators tell victims that they must become pregnant and hold them in custody until it is too late for the victims to get an abortion;

(i) Camp commanders often know about, and sometimes participate in, the rape and sexual assault of internees and former internees.

490. There also are many cases where female victims are protected by someone from the same ethnic group as their attackers. Men take women out of the camps to protect them from rape and sexual assault, tell other guards or soldiers that the women are "taken", or help them escape. Women hide other women or bring them contraceptives. There is insufficient information on the sexual assault of men to determine a similar pattern.

491. Men are also subject to sexual assault. They are forced to rape and sexually assault women, they are forced to perform fellatio on guards and on each other, they are forced to perform other sex acts on each other, and they suffer castrations, circumcisions, and other sexual mutilations.

492. Some of the reported rape and sexual assault cases are clearly the result of individual or small group conduct without evidence of command direction or an overall policy. However, many more cases seem to be part of an overall pattern. These patterns strongly suggest that a systematic rape and sexual assault policy exists, but this remains to be proved. It is clear that some level of organization and group activity is required to carry out many of the alleged rapes and sexual assaults. One factor, in particular, that leads to this conclusion is the large number of allegations of rape and sexual assault which occur in places of detention. Out of about 1,100 reported cases, about 600 occurred in places of detention. These custodial cases do not appear to be random and indicate a policy of at least tolerating rape and sexual assault or the deliberate failure of camp commanders and local authorities to exercise command and control over the personnel under their authority.

493. Other factors to consider in discerning a possible pattern include: similarities among practices in non-contiguous geographic areas; simultaneous commission of other humanitarian law violations; simultaneous military activity; simultaneous activity to displace civilian populations; common elements of the commission of rape and sexual assault, maximizing shame and

humiliation to not only the victim but also the victim's community; and the timing of the alleged rapes and sexual assaults.

494. The reported cases of rape and sexual assault contained in the database occurred between 1991 and 1993. The majority of the rapes and sexual assaults occurred during April to November 1992 and very few occurred before or after that. In the same time period, the number of media reports increased from a low of none in March of 1992 and of 13 in April 1992 to a high of 535 in January 1993 and 529 in February 1993. This correlation could reflect the lag in the ability of the media to cover the information, waning media interest in the subject, that media attention caused the decline, or that the purposes for which the alleged rape and sexual assault was carried out had been served by the publicity. The last two possible explanations would indicate that commanders could control the alleged perpetrators, leading to the conclusion that there was an overriding policy advocating the use of rape and sexual assault as a method of ethnic cleansing.

495. The numbers of alleged rapes and sexual assaults and the patterns present are different among the different countries. Most of the alleged assaults occurred in BiH in the latter two-thirds of 1992. All of the patterns described above were present. A smaller number of alleged rapes and sexual assaults occurred in Croatia, mostly in late 1991. There were only a few sites of detention, run by both Serbs and Croats, and most of the reported rape and sexual assault occurred when tensions were high in an area or in conjunction with the fighting. Nearly all the rapes and sexual assaults reported to have occurred in the FRY were committed while the victims were in custody. Most occurred in late 1991 in Begejci, Stajićevo, and Livade camps near Zrenjanin, Vojvodina.

D. Conclusions

496. Rape and other forms of sexual assault harm not only the body of the victim. The more significant harm is the feeling of total loss of control over the most intimate and personal decisions and bodily functions. This loss of control infringes on the victim's human dignity and is what makes rape and sexual assault such an effective means of "ethnic cleansing".¹⁴⁴

497. Some of the reported rape and sexual assault cases are clearly the result of individual or small group conduct, without evidence of command direction or an overall policy. However, many more cases seem to be part of an overall pattern. Factors to consider in discerning a pattern include: similarities among practices in non-contiguous geographic areas; simultaneous commission of other humanitarian law violations; simultaneous military activity; simultaneous activity to displace civilian populations; common elements of the commission of rape and sexual assault, maximizing shame and humiliation to not only the victim, but also the victim's community; and the timing of the alleged rapes and sexual assaults. The presence of these factors strongly suggest that a systematic rape and sexual assault policy exists, but this remains to be proved. It is clear that some level of organization and group activity is required to carry out many of the alleged rapes and sexual assaults. One factor in particular that leads to this conclusion is the large number of allegations of rape and sexual assault which occur in places of detention. Out of about 1,100 reported cases, about 600 occurred in places of detention. These custodial cases do not appear to be random and indicate a policy of at least tolerating rape and sexual assault or the deliberate failure of camp commanders and local authorities to exercise command and control over the personnel under their authority.

498. Some of the allegations of rape and sexual assault are clearly instances

of a policy of commission. In some cases, military commanders and camp commanders are reported to have ordered their subordinates to rape and sexually assault people who were not members of the subordinates' ethnic or religious group. Other cases point to a policy of omission, where military and camp commanders failed to prevent such conduct and failed to punish their subordinates for such criminal behaviour when it was discovered. There is evidence that rape and sexual assault have been used by all parties of the conflict to displace targeted ethnic groups, though not necessarily as part of an overall policy of "ethnic cleansing". However, the vast majority of victims are Bosnian Muslim and the great majority of alleged perpetrators are Bosnian Serb. Serbs reportedly run over 60 percent of the 162 detention sites where detainees are allegedly raped and sexually assaulted.¹⁴⁵ Finally, for purposes of prosecution, it is important to distinguish between "opportunistic" crimes and the use of rape and sexual assault as a method of "ethnic cleansing."¹⁴⁶

ANNEX IX.A - SEXUAL ASSAULT INVESTIGATION

499. Annex IX.A is a 62 page report of the sexual assault investigation conducted by the Commission in February and March of 1994, under the direction of Chairman Bassiouni.¹⁴⁷ The Annex contains two parts. Part one is the report of the interview coordinator which contains the following: 1.) a discussion of the methodology used to conduct the interviews and choose the victims and witnesses to be interviewed; 2.) comments regarding the substance; 3.) recommendations for further investigation; and 4.) the plan of action for the interview process. Part two is the report of the mental health team which discusses the activities and role of the experts as well as the psychological effects of giving testimony and the psychological and physical status of those interviewed.

ANNEX IX.B - PILOT RAPE STUDY

500. Annex IX.B is eight page report of the results of a pilot rape study conducted in Sarajevo, under the direction of Commissioner Fenrick. The investigation team consisted of two Canadian military police investigators and a Canadian military lawyer. Sarajevo was the chosen site because the State Commission for Gathering Facts on War Crimes in the Republic of BiH and the League for the Help of Victims of Genocide are located in Sarajevo. Both organizations previously indicated that they had collected extensive information regarding rape. The objective of the study was to assess the feasibility of prosecuting alleged perpetrators and their superiors in certain cases of rape.

ANNEX X - MASS GRAVES

501. Annex X, a 104 page report, was prepared by staff members of IHRLI, under the direction of Chairman Bassiouni.

I. INTRODUCTION

502. Because of the large scale of victimization in the Yugoslav conflict, many persons are buried in individual and mass graves. The mass graves report attempts to identify and provide relevant information concerning any and all alleged mass graves in the territory of the former Yugoslavia. This study is not designed to classify sites based on their prosecutorial potential, but to provide a factual description, and whenever possible, some analysis of the mass graves reported to be in existence as of 30 April 1994. It should be

noted that the reporting or existence of a mass grave does not necessarily imply that a war crime has been committed.

503. It is significant to note that further study of mass graves should be made for three reasons:

(a) A mass gravesite is a potential repository of evidence of mass killings of civilians and POWs. Such sites can yield forensic information which can provide evidence or insight into the circumstances surrounding the deaths of those buried there.

(b) The manner and method by which a mass grave is created may itself be a breach of the Geneva Conventions,¹⁴⁸ as well as a violation of the customary regulations of armed conflict.¹⁴⁹ The Geneva Conventions¹⁵⁰ require parties to a conflict to search for the dead and to prevent their bodies and remains from being despoiled.¹⁵¹ For every deceased person who falls into the hands of the adverse party, the adverse party must record, prepare, and forward all identification information, death certificates and personal effects to the appropriate parties.¹⁵² Parties to a conflict must also ensure that deceased persons are autopsied and buried in individual graves, as far apart as circumstances permit. Bodies should not be cremated except for hygiene reasons or for the religious reasons of the deceased.¹⁵³ Interment should be carried out in an honourable fashion, according to the religious rites of the deceased.¹⁵³ Victims should be grouped by nationality and their graves maintained and marked so that they can be easily found.¹⁵⁴

(c) The identification of mass graves can serve a reconciliatory purpose between the "warring factions", so that the families of those killed during the conflict can learn the whereabouts of their loved ones.

504. This report is divided into two sections. The first section is the summary analysis and the second section consists of factual descriptions of all reported gravesites and analysis by geographic location. The Summary Analysis, in Section II below, discusses the methodology of the report, defines relevant terms, and tracks the following information: total number of graves; number of graves in each geographic region; number of graves by ethnicity of victim and of perpetrator; number of graves containing a given range of bodies; number of graves where information suggests the bodies were victims of mass killings; number of graves near detention facilities, and so forth. In addition, this section will discuss patterns, trends, and commonalities which have manifested themselves in the various reports of mass grave sites.

505. The Analysis By Geographic Location, in Section II(B), describes gravesites by county and is organized alphabetically. The 1991 population and ethnic distribution information is provided for each county, as well as a brief summary of military activity in the region, if available. Many of the counties reported multiple mass graves. The section also contains the following:

(a) All identified gravesites in that county are then discussed in detail. A full description of the location of the grave is given, along with all known relevant events leading up to the creation of the gravesite. Ethnicities of victims and perpetrators are identified; however, names of victims have been redacted to protect their identities as well as those of their families. The names of some perpetrators reportedly involved in the events surrounding the mass grave are known, but not disclosed.

(b) Other information includes the number of bodies buried in the

grave, how the grave was created, and any investigations, visual sightings or forensic explorations of the grave and data gained therefrom.

II. ANALYSIS

A. Summary analysis

506. For the purposes of this report, "grave" is defined as any site which: 1) is intended as a place of permanent interment and 2) has physical characteristics which prevent the bodies from being moved by the natural elements. Accordingly, rivers do not fall within the definition of mass graves for this report, nor do groups of bodies left to decompose on forest floors. "Mass" is defined as any group of two or more persons sharing the common place of interment. "County" is defined as a region known as an "opština". An opština is larger than a municipality or town, and includes smaller villages and hamlets which surround the larger cities. "Ethnicity of perpetrator" is defined as the ethnicity or religious affiliation of the party responsible for the deaths that led to the creation of a mass grave. In many instances, the party responsible for the killing is not the party directly involved in creating the mass grave. This would occur in a situation where civilians were killed and their neighbours had no choice but to bury them in mass graves, due to time, sanitary, or safety considerations.

507. Reports of mass graves are entered into the IHRLI database. The database generates a separate screen for each reported mass grave and tracks all relevant information available about each site.

508. When a report of a mass grave is received by the database, it is cross-checked against any factual information already on hand to avoid duplication.

If the report contains data on a gravesite previously identified in the database, any new data is incorporated into the active file in the database. If the report concerns a new mass grave, a file is opened for that grave. The purpose of the files is to develop and organize information for analysis and track corroborative accounts of mass graves.

509. This report is based on over 10,000 pages of source information received and database incidents developed by IHRLI. This information is submitted by a variety of sources, including U.N. organizations, member states, governments of the warring factions, intergovernmental organizations, and non-governmental organizations.¹⁵⁵ The substance of the information received varies from general reports of patterns of activity in the former Yugoslavia to detailed witness accounts, which describe specific incidents at length.

510. Based on the available information, there are four general types of mass graves which exist in the territory of the former Yugoslavia. The first type is a gravesite where the bodies were victims of a mass killing but the method and manner of burial were proper.¹⁵⁶ The second type is a gravesite where the bodies were those of civilian casualties or soldiers killed in combat, and therefore not unlawful killings, but the method and manner of burial were improper. The third type includes gravesites where the bodies were victims of a mass killing and the method and manner of burial were improper. Finally, the fourth type includes gravesites where neither the circumstances surrounding the deaths of the victims nor the manner and method of burial were improper.

511. The number of mass graves reported to exist is as follows:

(a) 38 counties¹⁵⁷ in Bosnia and Herzegovina (BiH) and Croatia contain a total of 187¹⁵⁸ alleged mass grave sites, with 143 in BiH and 44 in

Croatia;

(b) Over half of the sites in Croatia (27) are located in the eastern region of the republic, comprising the counties of Vukovar, Osijek, and Vinkovci; and

(c) Over half the sites (79) in BiH are located in the north-western quarter of the republic, comprising the counties of Prijedor, Ključ, Kotor Varoš, Sanski Most, and others.

512. The number of bodies said to be contained in the graves are as follows:

- (a) 25 contain at least 10 bodies;
- (b) 16 contain at least 10-20 bodies;
- (c) 29 sites contain at least 20-50 bodies;
- (d) 22 contain at least 50-100 bodies;
- (e) 20 contain at least 100-500 bodies;
- (d) 13 contain at least 500 bodies;

(f) Reports on 62 of the gravesites did not specify the number of bodies buried at the site. For more accurate analysis, reports which contained allegations that "thousands" of individuals are buried at a certain site, without a more concrete number, were classified as "unspecified". Likewise, those reports which claimed that a given number of people were killed in a location, but did not refer to that number in discussing the subsequent burial, are classified as "unspecified"; and

(g) Many persons tend to report large numbers of persons buried in mass graves on the basis of numbers of missing persons, rather than numbers of those killed. This was the case in Sector West, in Pakračka Poljana, where 1,700 bodies were alleged to have been buried. In all, 19 bodies were found by the Commission, at which point the Krajina authorities suggested that 2,500 bodies were actually buried in Marino Selo, a few kilometres away.¹⁵⁹

513. The ethnicity of the victims buried in reported mass graves are as follows:

- (a) 65 are said to contain at least some Muslims;
- (b) 32 are said to contain at least some Croatsians;
- (c) 19 are said to contain at least some Serbs; and

(d) 81 sites did not have the ethnicity of the victims specified. It should be noted that many of the gravesites are said to contain victims from more than one ethnic group, usually Muslims and Croatsians. Where a mass grave is alleged to have victims of multiple ethnicities, the site is counted twice, once for each ethnicity reported.

514. The ethnicity of perpetrators responsible for killing persons buried in mass graves are as follows:

(a) Persons buried in 81 of the reported gravesites are alleged to have been killed by Serbs;

(b) Persons buried in 16 of the gravesites are alleged to have been killed by Croatians;

(c) Persons buried in five of the gravesites are alleged to have been killed by Muslims; and

(d) Of the reports, 87 of the reports did not identify a perpetrator. Where the ethnicity of the perpetrator was not clearly established from the data, sites are classified as having an unspecified perpetrator, despite one ethnic group's clear military control of the region.¹⁶⁰

515. Of the reported sites, 54 of the reported sites are at or near detention facilities. This comports with the data that suggests many of the victims buried in mass graves were prisoners who died or were killed at detention facilities run by an adversarial ethnic group.

516. Over half (99) of the alleged gravesites appear to contain victims of mass killings. In these instances, the source information clearly detailed the circumstances of the killing¹⁶¹ or provided witness testimony about the deaths of the victims.

517. There are several trends which appear throughout the report of mass graves in both BiH and Croatia, including Serb-inhabited areas of Croatia, such as Krajina and Eastern and Western Slavonia. The first is the coexistence of mass graves and detention facilities. Mass graves are frequently reported in areas where numerous identified detention facilities were located and where many individuals were reportedly killed. This coexistence suggests that mass graves were and are deliberately being used as a means of secretly disposing of the bodies of those persons unlawfully killed.¹⁶² Some of these persons may have been killed in detention, while others were killed in the course of "ethnic cleansing".¹⁶³ This is particularly true in the counties of Brčko, Foča, Pakrac, and Prijedor.

518. A second trend concerns the manner in which the graves are created. After a mass killing, the occupying troops or detention camp guards will often select a handful of civilians or prisoners to assist with loading dead bodies onto trucks to transport them to a burial site. Other prisoners are forced to actually dig the grave in which the dead are to be buried, usually with their bare hands or shovels. After the transport or excavation is completed, the prisoners or civilians are also killed and thrown into the grave with the dead bodies, presumably to eliminate any potential witnesses to the killings and subsequent burials. Lack of available witnesses also accounts for the poor quality of information about many of the gravesites.

519. A third trend appearing from the data concerns a blatant disregard for the rites of a proper burial. Most of the dead in mass graves are neither placed in coffins nor wrapped in any sort of protective material. In many cases, the victims are not identified by name, or registered as dead before burial.¹⁶⁴ These actions deny the dead a dignified burial and effectively prevent the families of those killed in the conflict from ever tracing their whereabouts.

520. A fourth trend suggested by the data concerns the burial site itself. There is a pattern whereby perpetrators dispose of bodies in pre-existing but non-traditional sites, which provide a ready-made place for body disposal without the use of mechanical diggers or excavators. Dead bodies are frequently thrown in mine-shafts, canals, quarries, landfills, caves and the like. In addition, these are the types of sites where bodies are said to be buried in large numbers as opposed to small numbers, possibly because it is easier to effectuate the burial of many people if the need for actual

excavation is eliminated.

521. A fifth pattern appearing from the data is the delay or denial of burial by the occupying forces. In many instances, dead bodies will be left on streets, lawns or forests for days or weeks, forcing the surviving civilian population to view the devastation. When villagers attempt to bury the bodies themselves, they are often prevented by the opposing faction or must risk their own lives to do so.

522. A sixth trend is the circumvention of interment altogether. Victims' bodies have been disposed of in a variety of ways which do not embrace actual interment in a grave, be it real or makeshift. The most common non-burial method of disposal is the dumping of bodies into rivers. The Danube, Sava, Sana, and Drina Rivers have all been reported to contain the bodies of killed persons. Some victims have allegedly had their stomachs slit and filled with sand so the bodies remain submerged once in the river. Also, many persons were reportedly burned in ovens or gathered into homes and set ablaze.

523. Many of the methods of burial or disposal of bodies are designed to instil fear and intimidate the civilian population still living in contested areas. This is particularly true in the case of bodies dumped in rivers, where the population downstream is forced to witness masses of bodies floating in the water. When bodies are buried, they are often placed in very shallow graves or merely covered with a layer of dirt, so that body parts often surface during inclement weather. Another example of a burial designed to provoke fear is in Blagaj, located in Prijedor county, where bodies were buried only from the waist down, so that passers-by were forced to view a line of decomposing persons.¹⁶⁵

524. Many of the attacks which led to the creation of mass graves in BiH occurred in late April, May and June of 1992. This is particularly true in the south-east quarter of BiH, which includes Foča, Gacko, Rogatica and Vlasenica; the north-east quarter of BiH, including Brčko and Zvornik; and the north-west quarter of BiH, which includes Prijedor, Sanski Most, and Kotor Varoš.

525. Mass graves in many regions appear to be the final phase in an "ethnic cleansing" process.¹⁶⁶ Mass graves are usually found in sectors where forces have followed a distinct pattern of expulsion: the county is attacked by artillery; infantry troops enter the villages and force villagers from their homes, during which time many are killed. Once the houses are emptied, they are looted and burned. Those villagers who are still alive are rounded up and the men are separated from the women, children and elderly. These villagers are either killed, deported or detained; in any event, they rarely return to the village from which they came. The bodies of those killed during the initial expulsion, subsequent detention, or expulsion after release are often deposited in mass graves in and around the area where they were killed or died from torture or other wise.¹⁶⁷

ANNEX X.A - MASS GRAVES: OVČARA NEAR VUKOVAR, UNPA SECTOR EAST

526. Annex X.A is report of the mass grave investigation conducted in Ovčara, near Vukovar in UNPA Sector East, Croatia. The 14 page report was prepared by Commissioner Fenrick, members of the Canadian War Crimes Investigation Team and the Royal Netherlands Army, and Physicians for Human Rights. The Annex contains two parts - the report of the Canadian War Crimes Investigation Team and the report of the forensic team. The Canadian team's report contains an account of the team's efforts to obtain the necessary permission from local Serbian authorities to conduct the investigation and all events leading up to

securing the area. The forensic team, Physicians for Human Rights, prepared a report containing an extensive explanation of the technical equipment and procedures that were employed and followed during a mass grave exhumation.

**ANNEX X.B - MASS GRAVES: PAKRAČKA
POLJANA, UNPA SECTOR WEST, CROATIA**

527. Annex X.B concerns the mass grave exhumation at Pakračka Poljana, UNPA Sector West, Croatia. The report was prepared by Commissioner Fenrick, members of the Canadian War Crimes Investigation Team and the Royal Netherlands Army, and Physicians for Human Rights. It is substantially similar to Annex X.A, but is lengthier and more detailed because the full mass grave exhumation actually took place in Pakračka Poljana. The 47 page report contains two parts. Part one consists of an interim report and an investigation report prepared by the WCIT. Part two is the forensic report of the Physicians for Human Rights team which contains a description of the methods employed to exhume the bodies and catalogue physical evidence as well as the findings on how the victims were killed.

ANNEX XI - DESTRUCTION OF CULTURAL PROPERTY

528. Annex XI is a 12 page study of the destruction of cultural property prepared by Commissioner M'Baye. The study does not attempt to cite every violation of the laws of war concerning the destruction of cultural property. Rather, Commissioner M'Baye focussed on two incidents: the battle of Dubrovnik which occurred in October to December 1991 and the destruction of the Mostar Bridge which occurred on 9 November 1993. The analysis of the incidents and the application of the laws of war are to serve as examples for the Office of the Prosecutor to follow in its investigation of the deliberate destruction of cultural property.

**ANNEX XI.A - THE BATTLE OF DUBROVNIK
AND THE LAW OF ARMED CONFLICT**

529. Annex XI.A is a 33 page study of the Battle of Dubrovnik and the law of armed conflict.¹⁶⁸ The Annex was prepared by members of the Canadian and Norwegian Armed Forces, under the direction of Commissioner Fenrick. A team of experts on the law of armed conflict and an art historian were sent to Dubrovnik to investigate the alleged damage to cultural property and civilians. The objective of the study was to prepare a study which focussed on injury to civilians and cultural property in order to 1.) determine whether and when indiscriminate or deliberate attacks on civilians or civilian objects had occurred; 2.) quantify the loss of civilian life, injuries, and damage to civilian property, especially cultural property; and 3.) impute responsibility for violations of the law of armed conflict. In the preparation of the study, the team relied on the following evidence: oral and written statements of eye-witnesses; hearsay statements; photographs and videotapes; unexploded ordnance; reports from other investigations conducted by national bodies, such as the civilian police, or other United Nations bodies, such as UNESCO; and a local criminal court judgment. In addition, the team sought out secondary sources of information to supplement its evidence.

**ANNEX XII - RADIOLOGICAL INVESTIGATION
(UNPA SECTOR WEST, CROATIA) OCTOBER/NOVEMBER 1993**

530. Annex XII, which was prepared by members of the Royal Netherlands Army under the direction of Commissioner Fenrick, concerns the radiological

investigation conducted in October 1993 in UNPA Sector West, Croatia. The seven report contains the findings of the two nuclear, biological and chemical experts sent to investigate allegations of nuclear waste dumping in the sector. The team took several soil samples throughout the area with negative results.

Notes

1/ At the time, the Commission's Secretariat consisted of: Vladimir Kotliar, Secretary; Bruna Molina-Abrams, Deputy Secretary; and Julio Baez, Assistant Secretary. The Commission's first Secretary was Jacqueline Dauchy.

2/ Interim Report of the Commission of Experts Established pursuant to Security Council Resolution 780 (1992), U.N. Doc. S/25274, at 21-23 (10 February 1993).

3/ Some missions were for reconnaissance purposes in order to decide whether an investigation should be conducted or in order to prepare for the actual investigation. For example, in May 1993, a team travelled to Dubrovnik to assess the situation and determine the facts related to the destruction of cultural property and attacks on civilians. The Commission conducted other missions to interview victims and witnesses or to gather information from NGOs or governments. For example, during a trip to Austria, the Commission obtained information on the order of battle and chain of command of the forces involved in the conflict.

4/ International humanitarian law does not specifically address violent sexual crimes against men. However, men are protected because to exclude them would amount to discrimination on the basis of sex. Additionally, children are protected by several international conventions. See, e.g., The Convention on the Rights of the Child, G.A. Res. 44/25 (20 November 1989), entered into force 2 September 1990.

5/ Slovenia declared its independence on 25 June 1991, followed by Croatia on 25 July 1991, and BiH on 6 March 1992. All three were admitted as members of the United Nations on 22 May 1992.

6/ Final Report of the United Nations Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), U.N. Doc. S/1994/674, at 30, ¶ 116 (27 May 1994).

7/ Id. at 30, ¶ 117.

8/ James Gow, "One Year of War in Bosnia Herzegovina", 2 Jane's Intelligence Review 1 (4 June 1993).

9/ See Annex IV for the "Policy of Ethnic Cleansing", Annex IV, Part 3 of "Ethnic Cleansing in Zvornik", and Annex V for "Priedor".

10/ See James Gow, "Slovenia Territorial Defence A Year on", Jane's Intelligence Review 305 et. seq. (July 1992).

11/ See Milan Vego, "The Croatian Army", Jane's Intelligence Review 203 et. seq. (May 1993); Milan Vego, "The Croatian Forces in Bosnia-Herzegovina", Jane's Intelligence Review 99 et. seq. (March 1993).

12/ See Milan Vego, "The Army of Bosnia and Herzegovina", Jane's Intelligence Review 63 et. seq. (February 1993).

13/ Final Report of the United Nations Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), U.N. Doc. S/1994/674, at 31 (27 May 1994).

14/ Milan Vego, "Federal Army Deployments in Bosnia and Herzegovina", Jane's Intelligence Review 445-46 (October 1992).

15/	<u>Geneva Conventions</u>	<u>Protocol I/ Protocol II</u>
Yugoslavia	(Ratification) 21 April 1950	11 June 1979
Slovenia	(Succession) 26 March 1992	26 March 1992
Croatia	(Succession) 11 May 1992	11 May 1992
BiH	(Succession) 31 December 1992	31 December 1992

16/ See M. Cherif Bassiouni, Crimes Against Humanity in International Criminal Law (1992).

17/ For a more detailed historical discussion of the conflict in the former Yugoslavia, see Annex IV, and for a more detailed discussion of the military structure, see Annex III.

18/ Some of the reports received by IHRLI do not contain sufficient information to categorize all identified groups within these four categories. Therefore, further investigation is needed to separate these groups by some organizational or other criteria as well as to determine the internal and external chains of command.

19/ For the purpose of this report, county is used to refer to a region known as an "opština". An opština is larger than a municipality or town, and includes smaller villages and hamlets which surround the larger cities.

20/ This is a well-established definition for "Paramilitary" organizations or groups. See The Random House Dictionary of the English Language, The Unabridged Edition (1967).

21/ For a more detailed discussion of the military history and command structure of the armies of the former Yugoslavia, see Annex III, Military Structure.

22/ This was later known as "People's Total Defence".

23/ This figure counts the White Eagles as one group, even though there may be several separate groups operating under this name. For a more detailed discussion, see the section on White Eagles below.

24/ These numbers are estimates based on a review of the reports submitted to the Commission of Experts and have not been verified. Those same characteristics that make the use of organizations desirable, i.e., lack of uniforms and lack of an identifiable chain of command, also make it difficult to accurately state the number of paramilitary troops.

25/ United Nations Commission on Human Rights, Report on the Question of the Use of Mercenaries as a Means of Violating Human Rights and Impeding the Exercise of the Right of People to Self-determination, submitted by Mr. Enrique Bernales Ballesteros, Special Rapporteur, Pursuant to Commission Resolution 1993/5, U.N. Doc. E/CN.4/1994/23, at 25 (12 January 1994).

26/ In addition to the 72 counties, there were reports of paramilitary activity in eight villages (four in BiH and four in Croatia) in undetermined counties. For purposes of statistical analysis, these villages will be counted as counties.

27/ Paramilitary activity was reported in 45 counties in BiH, 21 counties in Croatia, and six in FRY.

28/ There were reports that Serbian paramilitary groups were operating in 39 counties in BiH, 22 in Croatia, and six in FRY. Croatian paramilitaries were reported to be operating in 11 counties in BiH and six in Croatia. There were reports that the groups supporting BiH were operating in 11 counties throughout BiH.

29/ Ten of the 14 groups working in support of BiH, eight of the 13 groups supporting Croatia, and 41 of the 56 Serbian paramilitary forces were reported to have operated locally.

30/ Paramilitary units working in support of BiH were reported to be conducting joint operations in five counties, those supporting Croatia in six counties, and those supporting FRY or the self-declared Serbian republics in 36 counties.

31/ Arkan's troops were reported in 28 counties and Šešelj's troops were reported in 34.

32/ Allegedly 55 paramilitary groups killed civilians, 26 allegedly destroyed property, 25 looted, 14 tortured, and 10 forcibly evicted.

33/ Of the 72 counties where paramilitary activity was reported, rape and sexual assault were reported in 32, prison camps in 46, and mass graves in 24. See Annex IX, Rape and Sexual Assault; Annex X, Mass Graves; Annex VIII, Prison Camps.

34/ In fact, until August of 1992 the most notorious Croatian paramilitary, the HOS, and the regular Croatian Army often had conflicting military objectives.

35/ David C. Isby, "Yugoslavia 1991--Armed Forces in Conflict", Jane's Intelligence Review, September 1991, at 402.

36/ See UN Commission on Human Rights, Report on the Question of the Use of Mercenaries as a Means of Violating Human Rights and Impeding the Exercise of a Right of Peoples to Self-determination, submitted by Mr. Enrique Bernales Ballesteros, Special Rapporteur, pursuant to Commission resolution 1993/5, U.N. Doc. E/CN.4/1994/23 (12 January 1994).

37/ Fifth Periodic Report of the Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 32 of Commission resolution 1993/7 of 23 February 1993, E/CN.4/1994/47, at para. 13.

38/ The Other Balkan Wars: A 1913 Carnegie Endowment Inquiry in Retrospect 151 (1993) (originally published in 1914 as Report of the International Commission to Inquire into the Causes and Conduct of the Balkan

Wars).

39/ See Stan Markovitch, "Serbia", 33 RFE/RL Research Report 96 (April 1994) for a description of political events within Serbia during this period.

40/ The First Balkan War was largely an effort by Bulgaria, Greece, Montenegro, and Serbia to expel the Ottomans from the Balkans. The Second Balkan War broke out when Bulgaria attacked Serbia and Greece. Montenegrin, Ottoman and Rumanian troops joined the conflict to oppose Bulgaria. The two Balkan Wars ended Ottoman rule in the Balkans, except for a part of Thrace and Constantinople. Id. at 99.

41/ Staff of Senate Committee on Foreign Relations, 102d Cong., 2d Sess., The Ethnic Cleansing of Bosnia-Herzegovina 31 (Comm. Print 1992).

42/ The Other Balkan Wars: A 1913 Carnegie Endowment Inquiry in Retrospect 151 (1993) (originally published in 1914 as Report of the International Commission to Inquire into the Causes and Conduct of the Balkan Wars).

43/ Stan Markovitch, "Serbia", 33 RFE/RL Research Report 96 (April 1994).

44/ Id.

45/ James Gow, "One Year of War in Bosnia and Herzegovina", RFE/RL Research Report 11 (4 June 1994). Gow states that as early as mid-August 1991 ". . . the activities of the Yugoslav Army units stationed there [in BiH] were, in fact, aimed at linking most of the Republic with Serbia. According to Gow, the JNA expected a major influence on events in BiH from 1990 onward, including providing arms to the Serb population and encouraging local unrest.

46/ David C. Isby, "Yugoslavia 1991 - Armed Forces in Conflict," Jane's Intelligence Review, 402 (September 1991).

47/ As quoted by Roger Cohen in "Serbian General Who Calls the Shots: Determined and Calling the West's Bluff", New York Times, at 4 (17 April 1994).

48/ See Glenn E. Curtis, Yugoslavia, A Country Study 293, Table 5 (1992).

49/ The attack on Zvornik is one of two case studies on "ethnic cleansing". For the other study related to the Prijedor region, see Annex V.

50/ "Monster Town" in Vreme, No. 112, 15 November 1993, at 18.

51/ Kozarski Vjesnik, 9 April 1993.

52/ Siniša Vujaković's Interview of Simo Drljača, Kozarski Vjesnik, 9 April 1993 (the original is written in the Serbian language).

53/ Id.

54. See Appendix 3, The Structure and Location of the Forces Involved in the

Battle and Siege of Sarajevo (Order of Battle); Appendices 6-9.

55. The publication, "Breakdown in the Balkans, A Chronicle of Events, January, 1989 to May, 1993," a Carnegie Endowment Special Publication compiled by Samantha Powers, utilizes reports from the Economist, Facts on File, Foreign Affairs, the Foreign Broadcast Information Service, the International Herald Tribune, Keesing's Record of World Events, the Los Angeles Times, the New York Times, Radio Free Europe/Radio Free Liberty Daily Report, the US Department of State Dispatch, and the Washington Post. This chronology was updated by the IHRLI staff.

56. Linden Productions has provided IHRLI and the Commission of Experts with volunteer services in creating a computerized videotape database archive, allowing all video footage to be stored in a digital format on CD-ROM.

57. This analysis is contained in the Appendices.

58. See Appendix 1, Sarajevo Targets of Shelling with Accompanying Key.

59. See Appendix 4, List of Most Frequently Hit Targets With Dates of Shelling Recorded in the Chronology of the Battle and Siege of Sarajevo.

60. See Appendix 3, Table of Frequency of Shelling in Sarajevo Areas. This table provides a monthly breakdown of the shelling activity in each of the areas designated in the city and is based upon reports contained in the chronology.

61. See Appendix 6, Photographs Picturing Targets Shelled in Sarajevo. These photographs were submitted by the BiH War Crimes Commission and other sources. In addition to including photographs of shelled targets, this Appendix contains listings of reported shelling dates for the targets which frequently appear in the chronology. Background summary descriptions are also provided for some of the targets pictured.

62. A team of statisticians from the DePaul University Department of Mathematical Sciences, under the supervision of Dr. Effat Moussa, Director of Graduate Program Applied Mathematics, and graduate student Diane Horstman, helped analyse the statistical information in the chronology.

63. See Appendix 2, Table of Total Daily Shelling Activity Reported.

64. See Appendix 2, Daily Casualty Totals Reported: Number Killed. This table includes only those reports in the chronology which document the daily total number of persons killed. Numbers of reported killed in individual incidents are not included.

65. See Appendix 3, Table of Daily Casualty Totals Reported: Number of Wounded. This table includes only reports in the chronology which document the total number of persons wounded. Numbers of reported wounded from individual incidents are not included.

66. See Appendix 2, Graph of Reported Shelling Activity and Casualties by Day. This graph presents the information contained in Appendix 2, Total Daily Shelling Activity Reported, Appendix 2, Daily Casualty Totals Reported: Number Killed, and Appendix 3, Daily Casualty Totals Reported: Number Wounded. By

combining the daily shelling and casualty reports in a graph form, it is meant to present the most complete picture of the events in Sarajevo during the siege. See also, Appendix 2, Graph of Reported Shelling Activity and Casualties by Week. This graph is a weekly breakdown of Appendix 2, Reported Shelling Activity and Casualties by Day.

67. See Appendix 2, Graph of Sarajevo Shelling and Casualties: Relationship to Political Events. This graph contains the same information as Appendix 2, Reported Shelling Activity and Casualties by Day, but also charts significant political events contained in the chronology.

68. See Appendix 1 for maps of Sarajevo. The first map is a detailed city plan. The second and third maps illustrate the Sarajevo's topography and the areas surrounding the city.

69. Sarajevo was a cosmopolitan city sharing many characteristics with other major European cities. The surrounding areas are, however, generally inhabited by a rugged, mountain-rural population. There are, therefore, significant social differences between the city's defenders and the besiegers.

70. See Appendix 2, Weekly Casualties Source: BiH Institute for Public Health. The casualty reports contained in this table are based on Institute for Public Health Bulletins beginning on 26 June 1992 and ending on 27 September 1993. Any inconsistencies which appear in the data reported by the Institute for Public Health are noted. For example the Bulletins reviewed initially reported victims as "killed", but subsequently listed victims under a broader category: "killed, died of undernourishment, cold and missing." As a result, the table lists this category as "killed or missing" and the sudden increase in numbers from 2,349 to 7,468 on 9 November 1992, reflects the change in the Institute for Public Health's methodology. Similarly, on 16 August 1992, there is a sudden increase in the total number of wounded from 9,446 to 22,677. This increase is due to the fact that the Institute for Public Health then began reporting both severely and lightly wounded persons. The total of 22,677 represents the combined number of persons wounded and thereafter remains consistent. Further, on 9 November 1992, there is a decline in the number of heavily wounded from 13,605 to 12,000. This sudden decline remains unexplained.

71. It is not clear exactly what percentage of these casualties involve civilians and non-combatants. However, the following indicates that a high percentage of the city's victims have been civilians: the 2 August and 10 August 1992 Bulletins estimated that 70 per cent of the casualties were civilian; the 19 August 1992 Bulletin estimated that 75 per cent of the casualties were civilian; and the 27 September 1992 Bulletin estimated that 80 per cent of those killed and 75 per cent of the wounded were civilians. Information obtained by the Canadian War Crimes Investigative Team from Dr. Arif Smajkic of the Health Institute indicated that about 85 per cent of the casualties in Sarajevo itself were non-combatants. See Annex VI.A, Sarajevo Investigation.

72. See Appendix 2, Daily Casualty Totals Reported: Number Killed, for a table containing the daily reports appearing in the chronology where the total number of persons reported killed is documented.

73. See Appendix 2, Daily Casualty Totals Reported: Number Wounded for a table containing the daily reports appearing in the chronology where the total number of persons reported wounded is documented.

74.The city's residents have attempted to maintain relative normality in the lives of their children. Makeshift elementary schools have been established throughout the city in positions away from snipers and shellfire. These schools move from building to building, partly because the classrooms have been destroyed, but also because groups of children have become targets of shelling attacks. Despite these efforts, the schools are still attacked. For example, on 9 November 1993, a Sarajevo schoolhouse was hit by shellfire, killing at least three children and their teacher, and wounding dozens of others. More recently on 3 January 1994, two shells exploded near a crowd of children as they left a kindergarten, killing at least one and wounding several others.

75. See Appendix 6, which includes several photographs of the makeshift cemeteries which have appeared throughout the city.

76. Structural and property damage in this report refers to the infrastructure, as well as to publicly and privately owned property. For a specific treatment of the destruction of utilities, see Annex VI.

77. See materials submitted by the BiH Government, IHRLI Doc. No. 027259-60.

78. See Council of Europe, Third Information Report on War Damage to the Cultural Heritage in Croatia and Bosnia-Herzegovina, presented by the Committee on Culture and Education, 20 September 1993, Doc. 6904, IHRLI Doc. No. 39833.

79. See Appendices to Annex VI.

80. For a comprehensive breakdown of the forces around the city, see Appendix 8, The Structure and Location of the Forces Involved in the Battle and Siege of Sarajevo (Order of Battle).

81. Reports indicate that Hajrulahovic served as the 1st Corps commander through at least 9 May 1993.

82. See Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (12 August 1949), 75 UNT.S. 31; Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea (12 August 1949), 75 UNT.S. 85; Geneva Convention Relative to the Treatment of Prisoners of War (12 August 1949), 75 UNT.S. 155; Geneva Convention Relative to the Protection of Civilian Persons in Time of War (12 August 1949), 75 UNT.S. 287.

83. 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) (ICRC 1977); 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (ICRC 1977).

84. Convention Respecting the Laws and Customs of War on Land, signed at the Hague on 18 October 1907.

85. 1954 Hague Convention on Cultural Property in the Event of Armed Conflict, 14 May 1954, 249 United Nations Treaty Series 240 (1956).

86. UNPROFOR has reported that BiH forces have been scattered in different parts of the city and that they have set up mortars and artillery beside

hospitals and schools. The location of military forces and weapons too close to civilian or other protected targets may either justify return fire or provide a basis for "military necessity". However, clearly, this does not apply to intentional attacks upon civilian targets and intentional targeting of civilian targets and sniping against civilians. In addition, there may be questionable situations such as the area near the UN-controlled Sarajevo airport. This area constitutes a corridor between the inner-perimeter defenders and the outer-perimeter defenders. Although neither side is permitted in this enclave, it is, however, used on a regular basis by the defenders to bring supplies and munitions from the inner-perimeter to the outer-perimeter defenders.

87. See Appendix 2, Total Daily Shelling Activity Reported.

88. The chronology contains shelling counts provided in available UNPROFOR daily, weekly and monthly reports, as well as in media, wire reports and other sources. UNPROFOR did not officially begin counting shelling activity in Sarajevo until October 1992. Additionally, UNPROFOR reports contain daily shelling counts for only a fraction of the siege.

89. See Appendix 4, List of Most Frequently Hit Targets with Dates of Shelling Recorded in the IHRLI Chronology of the Battle and Siege of Sarajevo.

90. Because of the sniping and shelling in the city, journalists at Oslobodjenje are required to remain in the building to work in seven day shifts. According to reports, five of Oslobodjenje's staff have been killed and 20 wounded, including its editor Kemal Kurspahic. But despite near total destruction of its building, restricted electricity and a shortage of paper, the newspaper has been published ever day. For many of Sarajevo's residents, Oslobodjenje has been the only source of information since a lack of power and a shortage of batteries renders radios and televisions useless. See Askold Krushelnycky, "Voice of the People that Refused to be Killed by War," The European, 9-12 September 1993.

91. See Appendix 3, Table of Frequency of Shelling in Sarajevo Areas; and Appendix 4, List of Most Frequently Hit Targets With Dates of Shelling.

92. See Appendix 9.

93. See Commission on Human Rights, Fifth periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission of Human Rights, UN Doc. E/CN.4/1994/47, 17 November 1993.

94. It is interesting to note that before the siege, Bosnian Serb leader Radovan Karadžić served for many years as a clinical psychiatrist at the Koševo Hospital.

95. It has been observed that following infantry attacks by the defensive forces and other efforts to break the siege, the besieging forces have often retaliated with intensive shelling into the city centre causing extensive damage and a high number of casualties. UNPROFOR has observed that the besieging forces have inferior infantry to mount counter-attacks and therefore use mortar and tank fire to shell the city. This fire is usually directed towards civilian areas.

96. The chronology contains reports of sniping attacks by both BSA and BiH

forces.

97.The siege has proven particularly dangerous to the city's rescue workers. For example, the Sarajevo Fire Department reported that its casualty rate was 10 per cent higher than that of the BiH army.

98.It has been observed that the besieging forces have often increased their artillery attacks on the city prior to and during the international peace conferences. See Appendix 2, Sarajevo Shelling and Casualties: Relationship to Political Events, and the examples below. One explanation for this increased shelling activity is that the besieging forces are using the siege as a means to politically pressure the BiH government to agree to peace terms favourable to the Bosnian Serbs.

99.It has been observed that the besieging forces have on many occasions increased shell fire in reaction to statements made by local political leaders. It has also been observed that the besieging forces seem to calculate events and the risks that they can take in relation to threats by third-party governments and organizations. In this regard, when threats by third-party governments or organizations are not perceived as immediate, the besieging forces increase or continue their shelling of the city. For example, Sarajevo was hit with a siege-high 3,777 shells on 22 July 1993 after the US ruled out direct intervention to prevent the shelling of the city. The opposite behaviour was observed in August 1993, when President Clinton warned that the US would consider bombing Serbian forces if the shelling of Sarajevo continued. When this threat appeared immediate, the attacks on Sarajevo diminished and Serbian troops were withdrawn from the surrounding mountains to the south-west. Likewise, in reaction to NATO's ultimatum on 9 February 1994 which gave Bosnian Serb forces 10 days to withdraw their heavy weaponry or face airstrikes, the besieging forces substantially complied and curtailed their shelling of the city. This behaviour by the besieging forces suggests that there is a centralized command and control of the besieging forces and that when there is pressure for the shelling to stop, it does.

100.See also II below (Chronology); Appendix 2, Sarajevo Shelling and Casualties: Relationship to Political Events.

101.This shell count does not appear in the statistical data since there is no report on the total number of shells fired for the day.

102.See Commission on Human Rights, Situation of Human Rights in the Territory of the Former Yugoslavia, Third periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, UN Doc. E/CN.4/1994/6, 26 August 1993.

103. It has been estimated by the United Nations that the average adult in the city has lost approximately 25 pounds.

104. Berlin had received more than two million tons of food and coal on 277,000 flights, while Sarajevo had received 63,000 tons of aid on 5,800 flights.

105.Most recently on 4 May 1994, a German plane carrying UN relief supplies and Germany's new ambassador to BiH was hit by three bullets at the Sarajevo

airport. Soon afterward, an Ilyushin-76 plane, flying for the American Soros foundation was hit once by small arms fire. The airlift was suspended thereafter. See Associated Press, "Aid Flights to Sarajevo Suspended, German Ambassador's Plane Hit by Gunfire," Chicago Tribune, 5 May 1994.

106. See Appendices 3 and 4.

107. The reports reviewed demonstrate that on occasions, even a single shot fired in the direction of a relief aircraft has suspended the humanitarian airlift. The forces therefore know that any shelling or combat between them in the airport area will inevitably suspend the airlift.

108. One consequence of cutting down these trees is that the city has become more vulnerable in that snipers and gunners have a better view of their targets.

109. A UN investigation of the market shelling was inconclusive. A five-member investigative team found that the market blast was caused by a single high-explosive bomb from a conventional, factory made 120 millimetre mortar. The precise location of the weapon that fired the round could not be established. See UN Background Paper, "Sarajevo Market Explosion of 5 February 1994, A Background Summary of UNPROFOR's Investigative Report," 16 February 1994, IHRLI Doc. No. 63707.

110. According to UNPROFOR reports, a total of 296 heavy BSA weapons were either turned in or were being monitored. A total of 46 BiH weapons were accounted for. See UNPROFOR list of weapons collected in the Sarajevo area, IHRLI Doc. No. 63775.

111. There are, however, reports as recent as 4 May 1994, that while the two month truce has generally held in the city, UNPROFOR has noted a recent increase in violations of the NATO ultimatum. A UN spokesman, Major Dacre Holloway, said that at least two or three explosions heard in the city on 4 May, were probably tank cannons. Holloway also said that a BSA tank was spotted earlier in the day in Krupac, just south of BSA-held Lukavica. Both suburbs are inside the arms exclusion zone. See Associated Press, "Aid Flights to Sarajevo Suspended, German Ambassador's Plane Hit by Gunfire," Chicago Tribune, 5 May 1994.

112. The team did not choose the incident prior to arriving in Sarajevo. Certain criteria, such as the number of casualties and sources of information, were used to determine which incident to investigate.

113. They visited Sarajevo from 24 June to 8 July 1993 during which time they met with Bosnian officials and military personnel and visited several buildings and areas that were shelled during the siege.

114. Annex VII was prepared under the direction of Commissioner Fenrick. Major J.C. Holland, Canadian Armed Forces, was the principal legal analyst.

115. The Medak Pocket was under Serb control at the time of the attack. The Pocket is a small territory which is partially in Croatia.

116. See also Annex IX for a specific analysis on rape and sexual assault in the camps.

117. For information on mass graves, see Annex X.

118. These interviews reflect the best efforts of the Commission with the limited time and resources available. When the Commission's mandate ended, it was receiving an average of 15 witness calls per day. Because the mandate ended, these people were unable to give statements. Further, the field investigation itself is not complete. The Commission would have worked in Bosnia and Herzegovina and the Federal Republic of Yugoslavia had there been time and resources. Additionally, the investigation would have covered those countries with concentrations of refugees. In fact, the government of Turkey had invited the Commission to interview refugees there. There are about 18,000 refugees in Turkey. Thus, this report does not have the full picture and can not purport to describe the full extent of sexual violence in the former Yugoslavia. For more information on the Commission's field investigation, see Annex IX.A.

119. The cases from Sweden and Austria were not entered into the database nor were they considered as part of the database study based on concerns for confidentiality.

120. Investigations have been conducted by innumerable journalists, non-governmental organizations such as Amnesty International, Equality Now, Helsinki Watch, the World Council of Churches, and intergovernmental organizations such as the European Community. Danish Mission, "Annex I: European Community Investigative Mission into the Treatment of Muslim Women in the Former Yugoslavia", Submission to the United Nations Security Council, U.N. Doc. S/25240 (3 February 1993). Within the United Nations a mission was carried out in January 1993 by medical experts working under the mandate of the Commission on Human Rights' Special Rapporteur on the Human Rights situation in the former Yugoslavia. Tadeusz Mazowiecki, Special Rapporteur to the Commission on Human Rights, Report of the Team of Experts on Their Mission to Investigate Allegations of Rape in the Territory of the Former Yugoslavia U.N. Doc. E/CN.4/1993/50 (10 February 1993). See also Secretary General, Report on Rape and the Abuse of Women in the Territory of the Former Yugoslavia, U.N. Doc. E/CN.4/1994/5 (30 June 1993).

Several groups have also submitted recommendations for assisting the victims of rape and sexual assault and ensuring accountability for perpetrators. See e.g., "The Center for Reproductive Law and Policy", Meeting the Health Needs of Women Survivors of the Balkan Conflict (1993); "International Human Rights Law Group", No Justice, No Peace: Accountability for Rape and Gender-Based Violence in the Former Yugoslavia (June 1993).

121. Examples of this type of allegation are, "20,000 women have been raped". These allegations are so general that they provide no useful information for analysis. This particular allegation comes from the European Community Delegation, headed by Dame Anne Warburton, and including Madame Simone Veil among others. This mission investigated only Muslim allegations of rape and sexual assault. The investigators spoke to few direct witnesses or victims, but concluded that the most reasoned estimate of the number of Bosnian Muslim victims of rape was 20,000. The investigators gave no reasons for their arrival at this figure and offered no evidence for its accuracy. Danish Mission, "Annex I: European Community Investigative Mission into the Treatment of Muslim Women in the Former Yugoslavia", Submission to the United Nations Security Council, U.N. Doc. S/25240 (3 February 1993).

Within the United Nations a mission was carried out in January 1993 by medical experts working under the mandate of the Commission on Human Rights' Special Rapporteur on the Human Rights situation in the former Yugoslavia.

The team of experts discovered 119 documented cases of pregnancy resulting from rape. They stated that medical studies suggest that one in every 100 incidents of rape results in pregnancy. Thus, the 119 cases were likely to represent about 12,000 cases of rape. This number is not exact, however, given the number of victims who reported that they experienced multiple rapes, and was put forward only as a guide to the general scale of the problem. Tadeusz Mazowiecki, Special Rapporteur to the Commission on Human Rights, Report of the Team of Experts on Their Mission to Investigate Allegations of Rape in the Territory of the Former Yugoslavia U.N. Doc. E/CN.4/1993/50 (10 February 1993).

122.Many victims are referred to using a code number created by the submitting source, initials, or a pseudonym.

123.Some of these victims are referred to either by first name, description, or some other way such as, "there were six other women in the room".

124.These reports identified generically that women were raped in a particular location. Though such allegations are very general, they provide enough information that they corroborate other accounts. Thus they were worthy of being included in the study.

125.These reports referred to the class of perpetrators by military affiliation, ethnic affiliation, or as "they". Some of the reports did not mention the perpetrators at all but stated "x was raped" in a certain location on a certain date.

126.Many fear that expatriate fighters, members of Special Forces and mercenaries may reach them in states where the victims have taken refuge. For a detailed discussion of military formations, see Annex III. For a detailed analysis of paramilitary formations, see Annex III.A.

127.Additionally, many women have received support from victim's organizations, women's organizations, and "Home Clubs". In fact, for really the first time, there is a sort of women's solidarity movement, worldwide, but especially in the former Yugoslavia and states housing refugees. This solidarity movement brings a great deal of support for victims of rape and sexual assault.

128.Most rapes and sexual assault allegedly occurred in the Federal Republic of Yugoslavia (FRY) and Croatia in the later part of 1991. In BiH, most alleged rapes and sexual assaults occurred in the middle to late part of 1992.

129.Though some level of custody of the victim is required to commit rape and sexual assault, the definition of custody used by the study was more technical. Much like the American definition of kidnapping, custody for the purposes of the study required some control over the victim for a period of time and to an extent greater than that involved in committing the offence. Therefore, a victim who was kidnapped, taken to a site, raped and sexually assaulted for a period of hours and then released or abandoned was not raped and sexually assaulted in a custodial setting. If the victim was taken from a detention centre, or kept for a period of days or longer, the rape and sexual assault would have occurred in a custodial setting.

130.In the context of this conflict, the different ethnic groups have

different religions, therefore ethnicity in this case has a religious component. Thus, the term "ethnic cleansing" means the attempt to remove an ethnic or religious group from a given area.

131. There are alternative spellings for BiH. Submitting sources use both spellings, so, in citations, the country is spelled as the submitter spelled it. To avoid the inconsistency in the text, BiH is used.

132. With this pattern there is evidence that the key motivation for the alleged perpetrators is access to the victims, rather than a direct order to commit the rapes and sexual assaults. That is not to say that the pattern is inconsistent with such an order, rather, the evidence suggests access was the key.

133. There is little evidence that men were held for the purpose of sexual assault.

134. These are often called "bordellos", and there is no evidence that men were held for the same purposes. These differ from the previous category because they seem to be organized for the purposes of supplying sexual gratification for men, rather than for the purpose of punishing the detainees.

135. See generally, Yugoslav Mission, Memorandum on War Crimes and Crimes of Genocide Committed Against the Serbian People in the area of the Former Commune of Odžak by Ustashi-Fundamentalist Paramilitary Formations and Members of the National Guard of the Republic of Croatia, U.N. Docs. A/48/299, S/26261 (6 August 1993), IHRLI Doc. Nos. 36439-366

136. See paragraphs 172-189 on Prijedor for more information. See also Annex V on the Prijedor area.

137. See paragraphs 47-60 on Bosanski Brod and Odžak for more information.

138. See paragraphs 128-129 on Goražde for more information.

139. For a discussion of forced impregnation as a war crime separate from rape, see Anne Tierney Goldstein, The Center For Reproductive Law and Policy, Recognizing Forced Impregnation as a War Crime Under International Law (1993). These pregnancy-oriented components were not always present. Sometimes other factors that heightened the humiliation were present. An example of this is the camp at Veljko Vlahović in Rogatica, where girls were repeatedly raped and sexually assaulted in front of each other, forced to drink alcohol, sit on mines, jump out of windows, etc. See paragraphs 190-199 on Rogatica for more information.

140. See paragraphs 90-100 on Doboј for more information.

141. See paragraphs 144-147 on Konjic for more information.

142. See paragraphs 155-167 on Mostar and Čapljina for more information.

143. Civilians also frequented these sites and used and abused the women held there.

144. These feelings were described by many of the victims whose accounts were included in this study.

145.The next greatest percentage of alleged perpetrators is "unknown". See paragraph 3 for the ethnic breakdown of detention sites.

146.Rape and sexual assault should be examined in the context of the practice of ethnic cleansing discussed in Annex IV and the practices in concentration camps discussed in Annexes V and VIII.

147.Annex IX.A was prepared under the direction of the Chairman. Karen Kenny, Consultant to the Commission of Experts and Interviews Coordinator for the Investigation, was the principal legal analyst. Dr. Stephanie Cavanaugh, Consultant to the Commission, was the principal medical analyst.

148.As simple breaches, burials in violation of these provisions carry only disciplinary penalties.

149.Chapter II, Article 19 of the Annex to the Hague Convention of 1907 provides that "the same rules shall be observed regarding death certificates as well as for the burial of prisoners of war, due regard being paid to their grade and rank".

150.See also Protocols I and II for clarification of these provisions. Protocol I applies to international armed conflicts and Protocol II applies to non-international armed conflicts.

151.This duty is explained in Article 15, First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (1949), and Article 18, Second Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (1949). Both articles provide substantially similar information.

152.Article 16, Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (1949); Article 19, Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (1949); Article 120, Geneva Convention Relative to the Treatment of Prisoners of War (1949), Article 129, Geneva Convention Relative to the Protection of Civilian Persons In Time of War (1949).

153.If cremation takes place, the circumstances of the cremation and the reasons for doing so must be detailed on the decedent's death certificate.

154.Article 17, Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (1949); Article 20, Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (1949); Article 120, Geneva Convention Relative to the Treatment of Prisoners of War (1949); Article 130, Geneva Convention Relative to the Protection of Civilian Persons In Time of War (1949).

155.Non-governmental organizations which have cooperated with the Commission are listed in Annex I.B, List of Missions Undertaken by the Commission.

156.An example of this type of grave would be where a group of civilians was executed by machine-gun fire, and their fellow villagers conducted a proper burial in the local cemetery according to the appropriate religious rites.

157.The following counties contain at least one reported mass gravesite and are addressed in the report: Bijeljina, Bosanski Brod, Bosanska Dubica,

Bosanski Novi, Bosanski Petrovac, Brčko, Doboj, Foca, Gacko, Gospić, Ključ, Konjic, Kotor Varoš, Kupres, Modriča, Mostar, Nova Gradiška, Odžak, Ogulin, Osijek, Pakrac, Petrinja, Podravska Slatina, Prijedor, Rogatica, Sanski Most, Sarajevo, Slavonska Požega, Sokolac, Srebrenica, Titova Korenica, Tomislavgrad, Travnik, Vinkovci, Vlasenica, Vukovar, Zenica and Zvornik. Mass graves have also been reported to exist in the county of Bratunac, which was the subject of a previous report and is not covered here.

158.This number will fluctuate as additional information is received by IHRLI.

159.For a discussion of the mass grave investigation at Pakracka Poljana, see Annex X.B, Mass Graves - Pakračka Poljana, UNPA Sector West, Croatia.

160.For example, in the Brčko county, many of those buried in mass graves were prisoners of the Serb-run Luka camp. Most of the graves, however, only specified that the people were Luka prisoners, not that the identified perpetrators were Serbs.

161.For example, if a report noted that 20 civilians were lined up against a wall and killed by automatic weapons fire, the victims would be classified as victims of a mass killing.

162.An example of a grave which was deliberately concealed is Ovčara, an agricultural complex a few kilometres south of Vukovar. The gravesite at Ovčara is in a field near a dumpster, where the burial grounds are difficult to discover. For a discussion of the site explorations at Ovčara, see Annex X.A, Mass Graves - Ovčara Near Vukovar, UNPA Sector East.

163.For a more detailed discussion of the policy of "ethnic cleansing", see Annex IV, The Policy of Ethnic Cleansing, and, more specifically, Annex V, The Prijedor Report.

164.Some of the gravesites in Vukovar county may be an exception to this trend. Croatian civilians, as well as JNA forces, were reported to have registered many victims of the fighting in Vukovar. JNA forces were also said to have dug up bodies previously interred and taken them to for proper autopsy and burial. See the section on Vukovar for a more detailed discussion of these procedures.

165.For a more detailed discussion of the gravesites in Blagaj, see below.

166.See Annex IV, The Policy of Ethnic Cleansing, and Annex V, The Prijedor Report.

167.Id.; see also Annex VIII, Prison Camps.

168.In 1979, the United Nations Educational, Scientific, and Cultural Organizations (UNESCO) placed Dubrovnik on the World Heritage List. In 1991, the JNA attacked the town and caused an extensive amount of damage to historical, cultural and religious property. The damage was allegedly out of proportion to what was reasonably expected, given the number and location of valid military objectives within the district. Therefore, the Battle of Dubrovnik was chosen for a study of the laws of war as applied to destruction of cultural property. Annex XI.A was prepared under the direction of Commissioner Fenrick by Lieutenant-Colonel Dominic McAlea, Canadian Armed

Forces, Colin Kaiser, Consultant to the Commission of Experts, Major Terje Lund, Norwegian Armed Forces, and Major Oyvind Hoel, Norwegian Armed Forces.