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FINAL REPORT OF THE UNITED NATIONS COMMISSION OF EXPERTS
ESTABLISHED PURSUANT TO
SECURITY COUNCIL RESOLUTION 780 (1992)

ANNEX IX.A
SEXUAL ASSAULT INVESTIGATION

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Part One

REPORT OF PHASE I

I. INTRODUCTION

A. Overview of the project

1. The Commission of Experts is authorised by Security Council resolution 780 (1992) to examine and analyse information which it "may obtain through its own investigations or efforts."

2. The (first) Interim Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992) indicated that the Commission intended to engage in selective in-depth investigations in a number of areas. Among these was sexual assault. 1/

3. The Commission's project to gather information regarding sexual assault was carried out in February and March 1994. The aim was to gather information regarding allegations of sexual assault, torture and mass killings (particularly in a detention camp context). The information gathered relates to the war in Croatia as well as to Bosnia and Herzegovina (BiH).

4. Planning for the interviews started in October 1993. A small Advance Team arrived in Croatia on 30 January to prepare for the interviews during February. The lawyer interviewers and the mental health specialists arrived in Zagreb on 26 February. After three days of briefings in Zagreb, interviews were conducted from 2 March to 24 March and follow-up work completed in the area by 9 April.

5. Interviews with 223 people were carried out, on behalf of the Commission of Experts in Croatia, among its refugee and displaced person communities from 2 to 24 March 1994, during phase I of the project. 2/ One hundred forty-six of these victim-witnesses were from BiH, while 77 were from Croatia. Among the victim-witnesses from BiH, there were 100 Muslims, 43 Croats and one Serb. Among the victim-witnesses with allegations concerning the war in Croatia, 26 were women and all were Croats.

6. A significant number of these interviews can provide the basis for possible prosecutions.

7. Among the 79 women in the group from BiH, 19 had been raped in their own homes and 13 raped in the context of detention. A group of 17 men and women had been eye-witnesses to rape or sexual assault. Several of these people have been assessed as key witnesses, because they have not only seen or experienced a great deal, but also have the emotional strength and clarity of presentation to play a pivotal role in a prosecution case.

8. The project has gathered significant information concerning alleged war crimes taking place in Croatia. This is particularly the case regarding rapes in detention and sexual assault of men, including castration in detention. In addition, seven survivors of the Lovas mine-field massacre were interviewed as was a survivor of the Dalj massacre.

9. The records of the interviews will assist the Prosecutor of the International Criminal Tribunal by indicating cases which are likely to found prosecutions for grave breaches of the Geneva Conventions or Crimes Against Humanity. The interviews are indications to the Prosecutor of the International Criminal Tribunal of what the witnesses are able to attest.

10. The great majority of victims and witnesses interviewed were willing to be contacted in the future by the Prosecutor and would consider testifying before the Tribunal.

11. The interviews have highlighted areas where further investigation is needed.

12. Eleven teams of lawyers (from Finland, USA, Canada, Bangladesh and Ireland) carried out the interviews and eight mental health specialists worked to support the process. Fourteen interpreters were recruited locally after a rigorous selection procedure.

13. The project was carried out almost exclusively by female lawyers, mental health specialists and interpreters and involved approximately 40 people.

14. Victim-witnesses were approached through a number of contact persons, including local and international NGOs, Home Clubs, individuals, local mental health specialists and the Government of Croatia.

15. The Commission of Experts sought to conduct interviews in Serb-held territories in Croatia and Bosnia and Herzegovina, but was unable to gain access.

16. The Commission sought to interview victims in the Federal Republic of Yugoslavia (FRY) and contacted that Government several times in January and February 1994, but was unable to obtain authorisation to have Commission teams conduct interviews there. After a meeting between the Federal Minister of Justice and the Chairman of the Commission, it was agreed that the Government would conduct its own interviews based on a model provided by the Commission of Experts.

17. These 223 interviews reflect the best efforts of the Commission given 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 incomplete. 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 investigation does not reveal the full picture and cannot purport to describe the full extent of sexual violence in the former Yugoslavia.

18. The present report is intended to accompany and introduce the records of the 223 interviews carried out on the Commission's behalf by the teams of interviewers in Croatia and Slovenia during March 1994.

B. The team

19. The Interviews Coordinator worked with the following key persons in implementing the project: Dr. Stephanie Cavanaugh, Coordinator of Mental Health personnel; Ms. Maja Draženović, Chief Interpreter; Dr. Sabina Negetović, NGO liaison officer; Mr. Thomas Osorio, Field officer; Ms. Nancy Paterson; and Ms. Elenor Richter-Lyonett, NGO Coordinator.

20. Particularly, warm appreciation is here expressed to Ms. Draženović and Mr. Osorio who worked with the Interviews Coordinator in the field for the entire period of the project (February to early April 1994). Their unfailing

professionalism, stamina and good humour made the project possible. Ms. Draženović's selection and recruitment of excellent interpreters for the teams of interviewers was crucial to the success of the project. Interpreters were selected--not only for their language skills, but for their maturity, capacity to empathise with victim-witnesses, and with concern for security of information.

21. The lawyers and mental health personnel gave up a month of their time to work as volunteers for the Commission and their dedication and commitment were evident. A complete list of those participating in the project is included in section F of this Annex.

22. A particular word of personal appreciation goes to Ms. Nancy Paterson, Coordinator of the legal team, and to the other lawyers who put in long hours of report writing after long days of interviewing. The professionalism of the team made them a pleasure to work with.

23. The work of Mrs. Bruna Molina-Abram, Deputy Secretary to the Commission, and Mr. Julio Baez, Assistant Secretary to the Commission, was greatly appreciated because, as with all field missions, the flexibility and support of the Secretariat were crucial.

II. METHODOLOGY

24. A number of fact-finding missions have been carried out in an attempt to assess the incidence and extent of the use of rape as a weapon of war in the conflicts in the former Yugoslavia, particularly in Bosnia and Herzegovina. 3/ These missions were primarily carried out for the purpose of publishing reports and increasing public pressure for an end to rape. The Commission of Expert's project goes further. This was the first time that the United Nations has conducted on-site investigations into rape as a war crime with a view to gathering information which may found prosecutions of the individuals responsible.

25. One of the aims of this report is to record the experience of the project for the benefit of future investigations.

26. The Chairman of the Commission of Experts decided that the project would take the form of a series of interviews, and selected the legal, mental health, and other personnel involved. The Interviews Coordinator was retained by the Commission from January to April 1994 and charged with the identification, location and selection of victim-witnesses for interview. Working within the parameters of what had been decided, procedures and approaches were created by the Interviews Coordinator to fulfil her role and implement the project. These procedures, and lessons that may be learnt from their application, are presented in this section.

27. The difficulties involved in investigations of war crimes in the former Yugoslavia, and particularly concerning rape, are notorious and should not be underestimated.

28. The United Nations Commission on Human Rights' Special Rapporteur Mazowiecki, who has a team of staff permanently placed in the area, has noted:

"A persistent problem besetting attempts to chart the extent of the incidence of rape and other forms of sexual abuse remains the exceptional difficulty in obtaining reports of or investigating allegations. Hindrances include the continuing war conditions, the distress of victims and their fear of retaliation

by or on behalf of the perpetrators, the dispersal of victims among other displaced people and, not least, the refusal of Bosnian Serb authorities to permit investigations in territories under their control. Also, reports of incidents of rape often only come to the attention of investigators many months after the incident has occurred." 4/

29. A number of other problems may be added to this list:

(a) the question of how to approach rape victims in a sensitive manner;

(b) how to combat "mission fatigue" among potential interviewees. Interviews have been conducted for a variety of reasons and by a variety of actors (resettlement officers, NGOs, fact-finders, journalists) and many people are jaded;

(c) how to ensure that the highly politicised nature of the subject among NGOs, individuals and governments does not impinge upon the independence and integrity of the investigation;

(d) how to counter the frustration and cynicism with which some people regard the United Nations in general and the International Criminal Tribunal in particular; and

(e) how to convince people that a project such as this is worth supporting with a little of their time (perhaps to contact potential witnesses or be interviewed themselves) when their people are still hungry and dying in Bosnia and Herzegovina and their relatives are in danger ("What are you going to do about what is happening now?").

With these problems in mind the following approach was adopted.

A. Briefings for the team

30. The Chairman of the Commission met with some of the team of lawyers and mental health specialists in Chicago on 29 January 1996 to give them an overview of the mission and to discuss their concerns. Prior to the team's arrival in Zagreb, the lawyers received copies of the reports of the main fact-finding missions, which had earlier been carried out by NGOs or inter-governmental organisations (including the United Nations) regarding rape in the former Yugoslavia. Also included were materials on the effects of Post-Traumatic Stress Disorder.

31. On their arrival in Zagreb, briefings for lawyers, mental health specialists and interpreters were held on 27 and 28 February and 1 March. Briefings covered the history of the conflicts in the former Yugoslavia and included a briefing on the military course of the conflicts by UNPROFOR Military Observers (UNMOs). Drs. Richard Rahe, Inger Agger and Soren Buus Jensen briefed the teams (including the interpreters) regarding the effect of post-traumatic stress on victims, and there was detailed discussion of interviewing techniques focusing on sensitivity to the mental health of the victim-witness. For the orientation of the teams, an introductory visit to refugee collective centres was arranged through a local women's group called Biser. The centres had been visited by a field social worker of the women's organisation.

32. Documents distributed at the briefings in Zagreb included background information on UNPROFOR and UNHCR and the Commission's list of known detention

camps.

33. The International Criminal Tribunal's publication of 11 February indicating its rules of procedure and evidence was distributed, as was a copy of the Commission of Experts mandate in Security Council Resolution 780 (1992). For the conduct of interviews, a check-list prepared by Ms. Nancy Paterson, Coordinator for the legal team, was discussed and circulated. In the discussion it was particularly emphasised that each lawyer must ensure that the interviewee understands the mandate of the project; that the information gathered will be forwarded to the Tribunal; and that the fact that they chose to speak with the Commission did not imply that they would agree in the future to testify before the International Criminal Tribunal. Lawyers were asked instead to obtain an indication from the witness as to whether in principle they would be willing to have the Prosecutor contact them in the future.

34. The interview process was conducted from 2 to 24 March. In an attempt to reach a diverse cross-section of victim-witnesses who were likely to have been victimised in different parts of BiH or Croatia, interviews were conducted in many different parts of Croatia. Teams travelled to Varaždin, Zadar, Osijek, Grubišno Polje, Kutina, Split, Slavonski Brod, Gašinci, Rijeka, Vinkovci, Novi Grad, Novska, Ivanićgrad and a core of at least three interviewing teams remained in Zagreb. In addition, two teams of interviewers worked in Maribor and Ljubljana in Slovenia.

B. Investigating rape in the context in which it occurs

35. While the project mandate was to gather information regarding allegations of rape, torture and mass killings, the lead focus was on rape and every person who wished to speak to an interviewer regarding rape was interviewed.

36. With that in mind, the project's approach was deliberately broad and aimed at protecting the safety and privacy of the victim-witnesses. To achieve that goal the project sought:

(a) to ensure that no interviewee had to identify themselves as a rape victim by deciding to speak;

(b) to ensure that both men and women who were victims of sexual assault would have the opportunity to give information;

(c) to reach those who either witnessed sexual assault or had leads; and, in particular,

(d) to place allegations of rape in the context of the torture and mass killings which frequently accompany them.

37. An illustration of this approach, with those details which would help identify witness-victims omitted, is the information gathered concerning one detention camp. Fifteen people were interviewed whose major allegations related to this camp. Some witnesses were men and all of the female victims had been raped. A number of the victim-witnesses had information regarding other war crimes--a number of the men had significant information regarding sexual assault. One man gave corroborative information about rapes in both this camp and another; one witnessed a woman die after being in a coma for a week as a result of repeated sadistic rapes; another saw prisoners forced to perform fellatio (in another prison). Among the information provided concerning other violations of international humanitarian law, 10 of those

interviewed from this camp had witnessed deaths by torture and seven of the group had survived or witnessed mass executions (either in that camp or in others).

38. By interviewing men and women it was possible to place rape in the context of the camp setting and obtain corroborative information from men. Similarly, while the women were primarily victims of rape, they had witnessed many of the atrocities against men and were able to re-enforce their statements. While a detailed analysis has yet to be done, by obtaining a wide variety of views of the camp from a wide variety of sources, it may be easier to assess whether the rapes were an officially sanctioned form of torture than if exclusively female victims were interviewed.

39. Analysing the links between camps is important for tracing superior responsibility beyond the immediate camp manager. This strengthens the investigation of rape cases and other crimes committed in, or in connection with, the camps by investigating their role in "ethnic cleansing." With this in mind, ex-detainees from camps where no women were held have been interviewed as part of this project. To give the example of the major detention camps of the Prijedor area: Keraterm, Trnopolje, Omarska and Manjača must be seen as links in a chain. Some people were detained in all four camps. An interesting line of inquiry might examine whether each of the camps in the chain had different functions vis-a-vis the other camps. It may be possible to show that these camps and the treatment meted out to prisoners in them formed a coherent whole, raising possibilities of superior responsibility, at least by omission.

40. This discussion is further developed in Part III below, Recommendations for Further Investigation.

C. The indirect approach to victim-witnesses

41. There are many and varied factors affecting the decision of victim-witnesses to speak. Many people prefer not to be interviewed. Safety is a major concern (see Section H) regarding security procedures, below). For example, many refugees and displaced persons have relatives still in conflict areas. In addition, some Muslims from Bosnia and Herzegovina who found refuge in Croatia, have felt vulnerable since the outbreak of the conflict between Muslims and Croats in central Bosnia and Herzegovina. Also, some people wish to concentrate on the future and put their experiences behind them; others cannot cope with the emotional distress of "re-living" the experience by the telling and there is an element of "mission fatigue" from repeated interviews by fact-finding missions and journalists. In addition, shame is an important factor in the decision of a rape victim to speak or not to speak. More than one rape victim first revealed their experiences to the Commission's interviewer, while their own families were not aware of their suffering.

42. Appreciation of the above-mentioned factors underlay the entire project. Therefore, the decision of each individual to speak, or not to speak, was fully respected.

43. In practical terms, this meant that an indirect approach was used when inviting victim-witnesses to speak. At all times, even when a direct route to the interviewee was known (e.g. their telephone number), an indirect approach was used. The contact person who suggested the name of the potential interviewee (usually a friend, supportive NGO etc.) was asked to contact the individual to see if they would like to speak to the Commission. Individuals were always given the decision-making power and never put under pressure to speak. Thus, the risk of upsetting, shocking or disturbing people inherent in

a direct approach was avoided.

44. In order to implement the indirect approach, a broad range of contacts were established with individuals, NGOs and government agencies. This process, begun by telephone and fax from Geneva in January 1994 and intensified through meetings organised by the Advance Team in the area from 30 January onwards, continued throughout the interview process in March and as more leads opened up, even to the day of the departure of the Interviews Coordinator on 9 April. The number and range of potential sources of information should not be underestimated.

45. The mandates of the Commission in general, and of this project in particular, were explained to these contact persons. They were invited to inform potential victim-witnesses with whom they were in contact of the opportunity to provide information to the Commission. This dissemination of the invitation to contact the Commission, 5/ either directly or through the contact person, was achieved in various ways but especially through group and individual meetings with relevant contacts. These contacts included local mental health specialists, women's groups and their field workers, and Home Clubs. Those contacted include almost all the 186 individuals and organisations on the list prepared by the Interviews Coordinator in section D of this dossier.

46. The indirect approach was thus intended to respect the privacy of each individual. It also aided in the witness selection process (see d) below).

47. The advantages of the indirect approach are outlined above. It served the purposes of the project for those reasons but it was also necessary for a negative reason. A large-scale interviewing process, which used interviewers who were not (at least on arrival) familiar with field work of this kind, or sufficiently familiar with the context of the former Yugoslavia, meant that interviews had to be arranged for them. For those teams working in places with high concentrations of refugees and displaced persons outside Zagreb, the contacts were arranged in advance, 6/ but the witness selection was often done on the spot by the lawyer. Some of the lawyers had the judgement to select witnesses likely to provide good information and to treat others with sensitivity. Others found themselves "railroaded" into interviews of several hours with a person who provided mainly hearsay information, or who just wanted to chat. 7/ Although, of course, it is better to accept the "chat" than to insult the person, it is even more preferable in a project with very limited time to select experienced lawyers who can prevent themselves from being "railroaded" with sensitivity.

48. An interview process structured in this way may be useful for a preliminary gathering of information such as this, but further investigation requires teams with sufficient experience so that they can develop and follow their own leads.

49. Overall, the indirect approach was adequate for present purposes but is not recommended for in-depth investigation (see below, Part III Recommendations for further investigation).

D. Selection of witnesses

50. The Interviews Coordinator was charged with the identification, location and selection of witnesses.

51. A great deal of time was spent by the project team, in advance of the interviews, to explain the Commission's mandate and the project in particular.

This allowed people the time to consider whether this was an opportunity not to be missed to contribute information and seek justice for victims of war crimes. Gratifyingly, a large number of people were prepared to do so.

52. As outlined above, the indirect approach to witnesses and working with contact persons such as government agencies, NGOs and Home Clubs was also of assistance in ensuring that some pre-selection of witnesses was possible. Working with intermediaries familiar with the present circumstances of the victim-witness and who could provide at least the most basic information, such as where the person originates from or where they were detained, meant that interviewees could be scheduled who were the most likely to have good quality information regarding rape, mass killings or torture.

53. The selection of witnesses involves delicate and difficult judgement-calls, particularly where a large number of potential interviewees are identified. For example, once a contact person informs the Commission of the identity and location of a witness and of their willingness to be interviewed, it is a very delicate matter to explain a "refusal" to interview that person. Great care was taken to explain to all contact persons, that not all potential interviewees could be reached given the project's limited time and resources. Witnesses were never promised an interview which did not materialize, and NGOs etc., were encouraged to continue their valuable work and to send information directly to the Tribunal.

54. All victims of, or witnesses to, rape or sexual assault who wished to be interviewed were interviewed without exception. These interviewees went through no selection process at all. Where the contact person was an NGO specialising in supporting female victims of rape, it was usual for the interview to be scheduled without prior indication from the contact person as to the information likely to be provided. Sometimes only the general location of the event was known, either for security reasons or because the contact person did not have details.

55. In reflection of this focus, at the request of some women's groups, several lawyers were made available for as long as requested, to carry out interviews which would be confirmed very late the night before the interview or, not infrequently, on the morning proposed. As the Coordinator of the interview schedule, I am particularly grateful for the flexibility and patience which the lawyers and interpreters showed in facilitating victim-witnesses in ways such as this.

56. During the entire interviewing process, the schedule remained as open as possible, with lawyers not booked up too far in advance, to allow for the slotting-in of potentially key witnesses who might choose to speak.

57. Interviewees were also selected if they were likely to be able to provide corroboration (at least in part) of rape allegations. This was particularly the case where rape allegations were made regarding a detention camp where men were also detained (see the example of Omarska given above at b), regarding the investigation of rape in the context in which it occurs.

58. In cases other than rape, interviews were scheduled where mass killings or mass torture were alleged (the latter invariably in the context of detention). A great deal of effort was invested by the Interviews Coordinator in trying to assess the quality of the information provided by the contact person, in order to assess the kind of information likely to be given in an interview in advance of scheduling. This selection process was almost completely dependent on the indications given by the contact person in advance of the interview. Many contact persons had a tendency to exaggerate the importance of the information possessed by a witness and most were non-lawyers

who had great difficulty distinguishing between hearsay and first-hand information.

59. In summary, the selection process adopted for this project is an effective method of selecting witnesses if two conditions are simultaneously fulfilled:

(a) If the person selecting the witnesses is sufficiently familiar with the pattern of war crimes in Croatia and Bosnia and Herzegovina to know what kind of information to expect when a contact person suggests a witness from Dretelj camp, Zasavica village or who survived the Dalj massacre; 8/ and

(b) If the information provided by the contact person is in fact accurate. The "Preliminary Information from Contact Person/Interviewee" form was developed to record information known in advance of the interview concerning, in particular, the allegation the witness would make and what was known of their mental health before the interview. The form was also useful after the interview for comparing the information given by the contact person and the information the witness was in fact able to provide. Briefly, one of the disadvantages of relying on contact persons as the basis for selecting witnesses is that, in their enthusiasm, the contact person may exaggerate the extent of the witness' first-hand knowledge, or simply not understand the distinction between this type of information and hearsay.

60. These two conditions were not always simultaneously fulfilled and unfortunately, this is reflected in the high number of interviewees who provided primarily hearsay information. However, it should not be assumed that these interviews were not useful since frequently they provided valuable leads or eye-witnesses.

E. The trauma of victim-witnesses

61. Sixteen people from Bosnia and Herzegovina and seven people from Croatia who were interviewed were noted by the interviewer as showing obvious signs of distress. Despite this, some insisted that they wished to speak with the Commission and to testify before the International Criminal Tribunal if given the opportunity.

62. However, the number of victim-witnesses suffering post-traumatic stress was certainly higher than noted in the lawyers' reports. Appearances can be deceptive, and it is a common reaction among the various organisations and individuals interviewing victims of war crimes to express amazement at the "strength" of the interviewee. The "strength" may be an illusion, as was tragically confirmed by the suicide of a man who had chosen to speak with the Commission and to consider testifying before the Tribunal (see Part II, c) of this report regarding Kula Butmir camp, Sarajevo). 9/

63. In view of the danger of PTSD and its impact on witnesses the Plan of Action envisaged that the mental health team would have the following role:

(a) to liaise with their local mental health counterparts to assess what psycho-social support is available for any interviewee who wishes it (particularly those in private accommodation); to ensure that the possibility of stable and continuing support is made available to the interviewee after the project team is gone;

(b) to be available to the victim-witness before, during or after the interview at the request of the witness.

64. Although it was not possible to carry out the plan exactly as envisaged, 10/ the mental health team did play a positive role and, in some instances, their presence was important in cases where the witness was traumatised. The mental health team was particularly valuable in Split through their teamwork with the lawyers, helping in the identifications of witnesses and in making contact with their local colleagues who could provide follow-up services.

65. If future missions decide it is appropriate to have a mental health component, it may be worth considering tapping into local resources more than was the case for this project. They may be expected to have more direct knowledge of the traumas likely to be encountered. In addition, there are a number of non-local mental health specialists who have been working in Croatia and Bosnia and Herzegovina for some time who might be invited to contribute their experience to future teams.

F. Previous statements of a witness

66. In a number of cases it was learned that a witness had made prior statements. In some cases, such previous statements were made available to the Commission and are included in the dossiers, but they were not always received by the lawyer prior to the interview. Thus, clarifications of inconsistencies with previous statements were not always obtained in the interview. These statements were generally provided by the Medical Centre for Human Rights and the Croatian Information Centre (HIC). Sometimes, only the English translation of the Croatian original is given. It has been found that these translations are not always of the highest quality. In addition, an element of exaggeration may be found to have crept into the statement which was not present in the original, perhaps due to the audience targeted to read the English translation. Some witnesses indicated that they were not given the opportunity to read over or correct their statement given to the HIC.

67. Many victims of war crimes have had their stories published in the local or international press. These may or may not be accurate reflections of what the person experienced.

68. In these types of cases, the Commission's interview record may in fact be a prior consistent summary of the information the witness possesses.

69. However, although not provided to the Commission, several other contact persons have taken prior statements from at least some of the interviewees. This is the case with Trešnjevka Women's Group and with the associates of Catharine MacKinnon (a USA lawyer working with some of the local women's groups).

70. The interview records presented herewith are part of an information gathering exercise and are not intended as definitive statements by the interviewee. This will be readily apparent from the files. The record of the interview is a summary presented by the interviewer of their understanding of the translated information provided. These were not confirmed or corrected by the witnesses. Interviews were not recorded on audio or videotape, although it was considered in the planning stages of the mission. However, based on lengthy discussions with the legal team which has experience with these issues, on the concern expressed by the Acting Prosecutor of the International Tribunal and on the fact that some contact persons would have requested copies, it was decided that interviews would be neither video 11/ nor audio taped.

71. On 11 February 1994 the President of the Tribunal published a

preliminary indication of its rules of procedure and evidence. 12/ This was fortuitously published in advance of the commencement of the interviews process and allowed the procedure of the project to take them fully into account.

72. In light of the above, the interview records are not intended as definitive statements.

G. Problems with interviewing people who have already given statements available to the Commission

73. It is the view of the Investigation Coordinator that people who had already given statements which had become available to the Commission should not be interviewed again. However, there was no workable method of ascertaining, prior to the commitment to interview:

- (a) whether or not a statement had been made;
- (b) nor of checking whether it had already been received by the Commission; and if so,
- (c) whether it was sufficiently detailed to be useful in the process of gathering information for prosecutions; and if not
- (d) whether a copy of the statement would be made available by the witness (if they possessed one) or by the contact person.

74. Where interviewees have already given statements to another body, it is possible that some of these statements have already been made available to the Commission of Experts. It has not been possible to determine the extent of this in reality given that the earlier statement may have been given anonymously--as have some of the present interviews. In any event, a note of caution is sounded to those seeing corroboration where there is more than one statement--it may be from the same person.

75. For future investigations, while it is important not to duplicate effort, and it is extremely important to be aware of what information is already available, it is also important to be aware of the limits of what has been done. Large amounts of documentation and other material have been produced concerning violations of international humanitarian law in the former Yugoslavia, by innumerable sources. In order to use the information effectively, a reasoned assessment of the information available concerning any particular case should be made by lawyers working with the International Tribunal based, inter alia, on knowledge of the source's methods in gathering the information.

H. Security procedures

76. In the context of ongoing conflicts, it is hardly surprising that the most widespread concern among contact persons and interviewees is for the safety of victim-witnesses and their families who may remain in conflict areas.

77. The security of victim-witnesses and their families was a fundamental concern of this project. Interviews were carried out in as flexible a manner as possible to meet the wishes of the victim-witness. This included conducting interviews at secret locations in cases where the interviewee felt it necessary to do so.

78. While 20 interviewees from Bosnia and Herzegovina expressed concern for their safety and that of their relatives (many of whom are still in areas of conflict), as did eight interviewees from Croatia, it is likely that many other interviewees implicitly share this concern. Their agreement to testify before the Tribunal will be conditional upon these concerns being met.

79. The only security measure possible, at this stage of preliminary information gathering, was the option of anonymity and tight data protection. Many witnesses chose this course, but by no means all did. For this reason interview notes etc., were kept on the person of the lawyer who carried out the interview or in the safe at the Commission's Zagreb office until the typed-up interview records were definitively handed over to the Interviews Coordinator by the lawyer. It goes without saying that hotel rooms are not safe places for sensitive documentation.

80. On receipt of the completed files all indications of the identity of the interviewee were deleted. Not all interviewees specified that they wished to remain anonymous, but the consequences of information falling into the wrong hands are such that all efforts to protect victims and witnesses must be taken. In some cases the interviewee preferred to use his/her name. One victim of rape, a key witness, has long since decided that a public stance is her best means of protection from reprisal. Another interviewee provided the Commission with a copy of the records of the Belgrade Military Court which convicted him of war crimes. He agreed to its remaining in his file although it is impossible to use it without identifying him.

81. By contrast, for some witnesses it was a condition of the interview that there be anonymity from the outset.

82. The need to ensure, as far as possible, that these victim-witnesses may be contacted again should the Prosecutor wish to do so had to be reconciled with this need for anonymity to protect witnesses. In all cases where people wished to be re-contacted, a third party has been agreed to be the contact person for that witness. They agree to stay in touch with each other for the coming years so that the Prosecutor could, once again, find the witness (if the witness still agrees to be found). At the beginning of April the contact persons were informed by letter of the relevant codes of the Commission's interviews for future reference.

83. In addition, a master list has been prepared which relates the identifying information for interviewees to the code which we have allocated to their file. This list is presented under separate cover, should be carefully protected and should never be located with the files themselves.

84. While the security system that was used for this project served our purposes, those planning future missions should give thought to more permanent arrangements for the protection of documentation.

I. Conclusions

85. In sum, the broad approach to allegations, placing rape in the context in which it occurs, was a particularly successful approach and is recommended for future use. The indirect approach to victim-witnesses is helpful in protecting the privacy of victims and for the selection of witnesses, but only if two conditions are fulfilled. The indirect approach is necessary when a large-scale interview process is involved, but as an interviews-based approach, is not recommended. The indirect approach should be used on a case-by-case basis where contacting a potential source of information is particularly sensitive.

86. Overall, while imperfect, the methods adopted appear to have met the needs of the Commission's project--as evidenced by the fact that a large number of interviews were carried out and a number of key witnesses were identified for the consideration of the Prosecutor of the International Tribunal.

III. GENERAL COMMENTS REGARDING THE SUBSTANCE

87. The interviews are presented in 16 binders, clustered according to the area related to the allegations. Detailed analysis remains to be done regarding the interviews carried out. Reference should be made to the final report of the Commission of Experts which presents some of the illustrations of the five general patterns of rape (or sexual assault) drawn from the analysis of hundreds of rape (or sexual assault) allegations contained in the Commission's database.

88. The broad approach to investigating rape, torture and mass killings is discussed above (I B). The information gathered in this series of interviews should be integrated into the area of the Commission's work to which it is most closely related. For example, a great deal of information regarding detention camps and mass executions (particularly the Dalj and Lovas massacres) has been gathered. Information relating to Prijedor should form part of a coherent whole by integrating the information which was gathered here into the Prijedor Project.

89. This section contains some general remarks regarding the substance of the interviews conducted. Reference is made below to "key" witnesses. By this term is meant that the interviewer and the Interviews Coordinator have assessed that this witness has not only seen or experienced a great deal, but that the witness also has the emotional strength and clarity of presentation to play a pivotal role in a prosecution case.

90. Of the 223 interviews conducted, 143 related to alleged war crimes in BiH. Of these, 79 interviewees were women and 66 were men. Approximately 100 were Muslim; 37 were Croats; one was a Serb.

91. Among the 79 women in the group from Bosnia and Herzegovina, 19 had been raped in their own homes and 13 raped in the context of detention. A group of 17 men and women had been eye-witnesses to rape of sexual assault. Several of these people have been assessed as key witnesses.

A. Western Bosnia and Herzegovina

92. All allegations in this section are made against Serb forces.

1. Keraterm/Omarska/Manjača/Trnopolje

93. As outlined above in the discussion of methodology, no prior selection of places of allegation was conveyed to contact persons.

94. However, given that interviews were conducted in Croatia and the flow of refugees from Western BiH went mainly to Croatia or transited through Croatia, a considerable number of interviewees are from western Bosnia and Herzegovina, and particularly north-western areas. This information should complement the detailed study of the Prijedor area being conducted by Commissioner Greve.

95. Thirty-eight ex-detainees from the major detention camps of the Prijedor

area were interviewed. Many of the interviewees had been detained in more than one or all of these camps. For the purposes of analysis, the main place of allegation (most serious or most detailed allegations, or longest period of detention) is used. Thus the breakdown according to the main camp of allegation is: 15 witnesses from Omarska; three from Manjača; seven from Keraterm; and 13 from Trnopolje.

96. A number of victim-witnesses from Omarska were interviewed and all of the female victims had been raped. Most of the witnesses had seen deaths by torture and seven are witnesses to, or survivors of, mass executions.

97. One of the victim-witnesses from Manjača and two others from Keraterm saw guards forcing prisoners to perform fellatio on each other (two brothers were the victims in one case) or on the guard. Four of those interviewed appear to be survivors of the "Room 3" massacre. The lawyers who carried out the interviews have assessed four of the witnesses from Keraterm as key witnesses.

98. Among the victim-witnesses from Trnopolje camp, one was a victim of rape. Four other women saw women being taken out of the room for rape. One witness saw a woman shot in the room for resisting being taken out.

99. Some of the men from this series of camps were also transferred to the Old Hospital in Knin (usually for exchange) and they corroborate information given by interviewees who had Knin as the main place of allegation. This is particularly the case regarding civilians being allowed to enter the prison to beat detainees. Others were transferred to Batković where they corroborate reports of very high casualties forced to work on the front lines (usually digging trenches). In one case, three men survived out of a work-group of 40.

2. Kotor Varoš

100. Nineteen women from Kotor Varoš were interviewed. Six were raped, most often gang-raped by guards, in the saw mill there. The victims from the saw mill were interviewed through three different contact persons: a local women's group; a non-local, non-governmental individual; and a local psychiatrist. There appears to be excellent cross-corroboration between the stories, and some of the women were almost certainly at the mill at the same time, although there is some confusion with dates.

101. One victim-witness was 8 months pregnant at the time of the rapes. The first rapist said he wanted to try a Muslim woman while the second told her she should be honoured by what the Serbs had done to her.

102. Another soldier said he would make Četnik babies in Muslim and Croat women. This victim became pregnant and had an abortion as a result of the two rapes.

103. In a third case, the soldier who raped her told the witness he had been ordered to do so. The witness was assessed as highly credible, but may not wish to testify.

104. Seven other women interviewed saw up to 50 to 60 women and young girls chosen by flashlight and taken out at night. The women and young girls were taken there from the surrounding areas and their detention in large numbers (one estimate is 500) was generally very short--sometimes one night. Then the women and children detained would be sent to Travnik on convoys of buses. Few of these women can identify perpetrators. However, this is an example of how sources of information other than the victim-witness may be applied to the

question of who was responsible for the organized traffic of women through the saw mill and by bus to Travnik via Vlašić, etc.

105. One woman was detained by her neighbour near her village for six months. She was raped almost daily by three or four soldiers. She was told she would give birth to a Četnik boy who would kill Muslims. The soldiers repeatedly said their President had ordered them to do this.

106. Four of the women from Kotor Varoš had been raped in their own homes. In two other interviews, the interviewer suspected that the witness had herself been raped although she preferred not to speak of her own experience. One of the women, a Croat, raped in her home, gave evidence against the rapist in court and was told he had received a prison sentence.

107. Seven of the women interviewed had seen others taken out for rape in the saw mill or had met victims immediately after they were raped elsewhere.

3. Banja Luka/Kozarac

108. Thirty-four people (17 women and 17 men) from the Banja Luka and Kozarac areas were interviewed. Five of the women interviewed had been raped or sexually assaulted in their own homes, including a young girl who was raped while one of her relatives was cut so badly that he later died from his wounds. Two others witnessed sexual assaults outside the detention context. Three other persons were particularly well-placed and described in some detail the general atmosphere and events in the area. One man had been slashed with a knife all over his body by masked men in his own home. The atmosphere of terror in Banja Luka until the present time is vividly evoked.

B. Eastern Bosnia and Herzegovina

109. All allegations in this section are made against Serb forces.

110. Twenty-six witnesses were interviewed from areas such as Zvornik, Doboj, Modriča, Goražde, Bosanski Šamac, Foča and Brčko. Fifteen of these are women. One of the men may be an important witness to mass killing and torture (including deaths by torture) at Partizan Stadium, Foča. One of the guards played Russian roulette with the witness and two others, who were shot before the witness' turn.

111. One woman was detained in a private house with a number of other women for six months (lack of detail is for the protection of the victim-witness). This was a rape camp run by Serb forces. Most of the women were not Muslim. All the women would be raped when soldiers returned from the front line every 15 days. The witness was told that the women had to do this because the women in another camp (which the witness names and which has been documented by other information gatherers) were exhausted. This witness gives excellent leads for further investigation but is very traumatised herself.

112. Another woman was repeatedly raped by soldiers in a private house in Bijeljina over two days; two women were raped in private homes in Doboj. The cases in Doboj, and the women raped in private homes in Kotor Varoš, illustrate the difficulties involved in trying to prosecute for rape outside the detention camp context. The victims can usually give very little identifying information about perpetrators. The event is so shocking that the victim has no time to reflect on anything, such as physical descriptions. One woman witnessed the rape and murder of her mother in their home.

113. Another victim-witness is able to identify the six soldiers who raped her in her own home because they were all her neighbours.

114. From the area of Modriča there are references in three interviews to the village of Zasavica, which may have been used as a detention centre for women. Information is mainly hearsay regarding allegations of sexual assault there. A third interviewee, a potentially important witness, gave a list of 26 men who are alleged to run that detention camp.

C. Other areas of BiH

115. A key witness was detained with his family in Kula Butmir, Sarajevo. He was forced to watch while groups of guards raped and sadistically tortured his wife and two daughters (aged eight and 13 years old). This occurred daily until on the fourth day the younger daughter's throat was cut in front of him. The witness was chained at the legs and guards beat him to force him to watch, breaking both his legs. On the sixth day his elder daughter's throat was cut. His wife survived until the 13 day, when her throat was cut. The man committed suicide by hanging himself on 7 April 1994.

116. One victim-witness saw an elderly woman and others raped in front of a group of 100 detained villagers on Ozren mountain, in the area of Derventa. The witness was herself threatened with rape and she saw a number of men from the group having their throats cut. Another victim-witness from Ključ names the two soldiers who raped her in their own home.

1. Croat Perpetrators

117. The following allegations are made against Croat forces. All the victims of Croat forces who were interviewed are Muslim, with one exception. A Serb woman who was interviewed was raped by a Croat soldier in her home near Capljina in October 1993.

118. Two other women were taken from their house and raped by two Muslim and two Croat soldiers in a cafe. One of the witnesses became pregnant and had an abortion.

119. A young Muslim woman was taken from her home to a house full of HVO soldiers where she was raped five or six times. The first rapist said he was doing this because she is Muslim.

120. One woman was detained and taken 1km from the prison to be raped by four guards while others looked on and encouraged them.

121. A boy was interviewed by one of the lawyers who has specialised in prosecuting child abuse cases. The boy was detained for a total of four months, including three months at the Heliodrome in Mostar. At an earlier place of detention, the boy was himself beaten and saw others die after beatings. The boy was forced to bite the ear off a man who died the next day, and was used as forced labour on the front lines. This information is strongly corroborated and amplified by a key witness who was detained in the same two camps at around the same times. Six other interviews were also conducted with ex-detainees from the Heliodrome in Mostar.

2. Muslim Perpetrators

122. The following allegations are made against Muslim forces.

123. In Bihać, a Muslim woman was raped by a soldier from the Fifth Corps as she tried to cross the front line to reach Mr. Abdić's forces.

124. Two ex-HVO Croat soldiers were interviewed. One was detained at Musala Konjic where 300 prisoners were detained. The witness (and others) were forced to perform fellatio on the guards or on each other. Prisoners' pubic hair was set on fire. This may be a key witness.

D. Croatia

125. The following allegations are made against Serb forces.

1. Knin area

126. Fifteen Croat witnesses were interviewed from the Knin area. All 12 of the men had been detained at the Old Hospital there. One witness, who was detained in five different places over a period of 14 months, told of suffering electric shocks to the scrotum at the Old Hospital and of seeing a father and son who shared his cell forced by guards to perform oral and anal sex with each other.

127. Two other witnesses overheard other prisoners being forced to perform fellatio on each other. One witness was ordered to do this but managed to refuse.

128. Another witness suffered a mock execution, an elaborate hoax which built up over three days, another suffered a mock throat cutting. Most of the witnesses corroborate the allegation that civilians from outside the prison were allowed inside to beat prisoners. One witness describes it as "like a zoo" and small children and women would come in and be encouraged to beat the prisoners while the guards held guns on them.

129. Of the three women who were interviewed from the Knin area, two are in their sixties. Two of the women were raped in their own homes and the third woman suffered an attempted rape (in her own home) and survived being shot in the head during the attack. The perpetrators all cursed "Ustašis" during the attacks.

2. Sremska Mitrovica/Stajićevo/Begejci 13/

130. With the Old Hospital in Knin, these three camps were apparently the main ones for Croats captured around the Vukovar area. They were linked in much the same way as the four main camps in the Prijedor area, and some prisoners were detained in more than one of them. Other links in the chain of camps where some of the victim-witnesses were transferred, were prisons in Belgrade and Niš in Serbia. The common refrain throughout all the camps is of continued severe beatings.

131. One woman who was detained in a camp was forced to perform fellatio on a guard all night, every night. Other women were there but the witness was apparently the only one tortured in this way. One man was kicked in the testicles 40 times a day to "prevent him from making another Ustaša". Prisoners were forced to beat each other and the witness saw an 80-year old man and four others die from beatings. Another witness has studied the camp since his release and may be regarded as an expert on that particular camp.

132. An officer in the Croatian army who surrendered his unit on the fall of

Vukovar saw the execution of a large number of his men after surrender. He knows the location of the mass grave and should recognise the perpetrators. He was detained and beaten "almost to death." He was also given electric shocks to the genitals and is now impotent. In a second camp he saw the rape of six women. Another interviewee tells of witnessing the rape of a woman by five guards in the same place of detention. The women were also sexually abused by female guards.

133. Another witness was detained in Stajićevo, an open warehouse, in minus 10 to 13 degrees. He saw seven or eight prisoners beaten to death days before the visit of the International Committee of the Red Cross.

134. Eight men were interviewed whose main place of allegation was one of the detention camps. Their periods of detention were commonly around six months. One of these witnesses had seen a man castrated. In one case the contact person had informed the interviewer that the man was sexually assaulted, but the witness denied this in the interview. General conditions included very regular beatings and torture such as mock executions or being forced to eat a bowl of salt.

135. One of the victim-witnesses who was detained in a certain camp (detail omitted for protection of witness) was a religious leader who was beaten in front of other detainees and who saw men beaten to death with a special implement (nails sticking out of a board). Other prisoners were forced to lick the blood off another's body. Prisoners were apparently beaten according to a list.

3. Vukovar area

136. Ten people were interviewed from the Vukovar area (excluding those relating to the massacres in the section below).

137. One woman was gang raped by eight men in her own home, in front of her sister and her daughter. One of the soldiers was forced at gunpoint to rape her because "she was an Ustaša." The witness reported the rape to the authorities who said they could do nothing because of her ethnicity. Seven of the perpetrators were apparently questioned at the prison but released after three days. A 67 year old woman from Vukovar survived being raped in her own home on two successive nights and being shot in the head by the perpetrator.

138. Another woman was detained with several thousand others at Velepomet. She was beaten unconscious and her seven year old daughter taken away (still missing). While at Sajmište brickyard (during half an hour), she saw three executions and a pit with about 1,800 bodies in it. She also witnessed the public gang rape of a woman who was an army sniper. Another witness tells of overhearing a castration while in detention.

139. One man tells of seeing Arkan in his village ordering soldiers to beat the prisoners in the genitals.

140. One woman's home was taken over by neighbours and used as a detention centre for interrogations over several months. She was raped almost daily and beaten for several months; two other women were raped there too. She saw several killings and torture. With preparation, this could be a very important witness.

4. Other areas of Croatia

141. While in detention, a witness relates how men were forced to perform oral sex on each other. One incident involved prisoners lined up naked while Serb women from outside undressed in front of them. If any prisoner had an erection, his penis was cut off. The witness saw a named Serb woman thus castrate a prisoner.

E. Mass executions

142. Among the mass killings information received, there are allegations of a massacre in November 1991 (detail omitted for protection of witnesses) where soldiers divided their victims into groups and chose a method of execution for each group: the witness saw a woman being de-capitated, nine people executed with a chainsaw, seven by machine-gun, and six by slitting their throats.

143. Seven people were interviewed from Lovaš. A group of 60 men were forced to hold hands and cross a minefield. Ten men were killed by mines and a further 10 were shot in the back. The men give many leads for other (and possibly better) witnesses.

F. Factors in assessing the interviews 14/

144. From the 143 interviewees with allegations relating to Bosnia and Herzegovina, 13 were assessed as offering only hearsay in the interview; 48 were assessed as having very limited information. This is about one third of those interviewed. However, this process of sorting out the chaff from the wheat is inevitable and the project yielded a number of key witnesses who may be considered by the Prosecutor of the Tribunal.

145. Very few of the 223 interviewees were regarded by their interviewer as incredible. The vast majority of victim-witnesses were highly credible. However, the following factors might be considered useful in assessing interview records:

(a) Even assuming the best intentions in the world, most refugees have nothing to do all day but re-live and re-tell their experiences (although some are too traumatised for this). This is so common that children have been traumatised by the conversations of the adults around them. It may be expected that these conversations involve comparisons of suffering with the danger of embroidery in the telling. "Mission fatigue" and over-interviewing of victims carry their own dangers of distortion. This is particularly so as the majority of recorded rapes seem to have been carried out in summer and autumn of 1992, about 13 months ago.

(b) The witness selection process (above) encourages NGOs and governments, etc. to help identify potential victims and to encourage them to give testimony. Again, even assuming the best intentions in the world, the encouragement to testify could take the form of: "You may be able to help them prove that it was systematic" and lead over-keen witnesses to add elements to prove "policy" that were not in fact the witness' real experience; or to add elements of someone else's experience to their own. Rumour, misinformation and propaganda are rife and readily believed.

(c) The question of rape, systematic or otherwise, is a highly charged political issue. Some of the organisations working with victims are not independent of their governments or have a political agenda which colours their view of the truth.

(d) In addition to political reasons, there are other powerful incentives for distortion or exaggeration. Groups working with victims are justifiably outraged at their suffering. Furthermore, NGOs working with victims have one thing in common, whether in the former Yugoslavia or in third asylum states: shortage of funds. It is simply in the interests of these groups to maintain public outrage and pressure for those they are trying to help. The Interviews Coordinator was told by a rape victim that she had added other names to a list of women who were raped with her in order that they could also get funding through international NGOs. These women had also suffered enormously and she understandably wished to help them.

(e) Interviews were conducted by an Interviews Coordinator and a team of lawyers who did not have the opportunity of a detailed briefing from the Prosecutor regarding his intended approach as well as his and, (if it is known) the judges' views on the interpretation of the Statute of the Tribunal, particularly regarding the elements which have to be proven to constitute a Crime against Humanity or a grave breach of the Geneva Conventions. The interviews were almost certainly less effective without this kind of detailed guidance.

(f) Complex legal issues are raised by the situation of several of the witnesses who were themselves tried and convicted by military courts for war crimes during the war in Croatia. Court documents were provided by one man and are included in the file. Some of these convictions were apparently based on confessions extracted under torture in detention. Before serving their sentences, these prisoners were exchanged. Some of the men involved would make very good witnesses but clarification of how these convictions would impact their potential as witnesses, if at all, would appear to be necessary.

(g) Interviews were conducted by highly qualified professionals but their lack of long-term familiarity with the patterns of violations of international humanitarian law in the former Yugoslavia meant that requisite detail was not always obtained in the interview.

146. Given the circumstances outlined above, the interviews carried out in this project should be built upon in further investigations.

147. For future investigations, the Prosecutor has some control over some of these factors and can minimise their damaging effects by his decisions, particularly b), e) and f) above. Some of the recommendations below may assist.

G. Conclusions which may be drawn

148. The information being gathered by states hosting refugees (other than Slovenia and Croatia) must be evaluated together with these interview records, as must all other information already received by the Commission.

149. The interviews have highlighted areas where further investigation is needed for the identified potential prosecution cases.

IV. RECOMMENDATIONS FOR FURTHER INVESTIGATION

A. Ratione materiae

150. A detailed analysis of camps and the relationships between them as well as an in-depth investigation of priority cases in eastern Bosnia and Herzegovina should be considered, for the reasons set out in the following

paragraphs.

151. An enormous quantity of information has been gathered regarding violations of humanitarian law in the former Yugoslavia, but it is of very uneven probative value.

152. In view of the urgent need to move towards evidence of high probative value, the International Criminal Tribunal may wish to concentrate its (limited) resources on priority cases for investigation in different areas of Bosnia and Herzegovina. 15/ In view of the problems of evidence which arise regarding those raped outside a detention context, it is suggested that priority be placed on investigating allegations of rape in detentions. Unless a great deal of investigative resources are invested it is unlikely that rapes outside the detention camp context will, of themselves, reach the threshold of grave breaches of the Geneva Conventions or Crimes against Humanity, as required to bring the cases within the jurisdiction of the International Tribunal. The links between these cases in different regions may then be examined to assess whether there has been a policy to commit rape or other crimes or a policy of omission which goes beyond the local level. 16/

153. It is regarded as important to analyse the links between camps for tracing superior responsibility beyond the immediate camp manager. This strengthens the investigation of rape cases and other crimes committed in, or in connection with, the camps by investigating their role in "ethnic cleansing." With this in mind, ex-detainees from camps where no women were held have been interviewed as part of this project. For example, the major detention camps of the Prijedor area: Keraterm, Trnopolje, Omarska and Manjača must be seen as links in a chain. Some people were detained in all four camps. In addition, prisoners from these camps have been transferred to Knin and later to places in eastern BiH, such as Bijeljina and Batković, where many spent a year or more in detention. There are many such chains of camps which also formed clear patterns during the war in Croatia. This was the case with places of detention such as Velepromet (Vukovar), Sremska Mitrovica, Stajićevo, Begejci and sometimes Belgrade military prison.

154. An interesting line of inquiry might examine whether each of the camps in the chain had different functions vis-a-vis the other camps. It may be possible to show that these camps and the treatment meted out to prisoners in them formed a coherent whole, raising possibilities of superior responsibility, at least by omission.

155. This aspect of the organisation of "ethnic cleansing" would undoubtedly reward further analysis by those seeking to trace command responsibility.

156. As will be seen from a glance at the Summary Sheets in sections H and I of this dossier, transfers of prisoners were frequent and often large-scale, involving perhaps hundreds of prisoners and convoys of buses. In general terms, it seems that prisoners were transferred when a camp became too overcrowded or when new arrivals of prisoners were expected. A study of the camps as links in a chain could also trace how prisoners are alleged to have been executed or transferred in advance of an ICRC visit or were hidden from such visitors. This may, or may not, reveal knowledge possessed by superiors of atrocities occurring in camps. 17/

157. Many detention camps in Bosnia and Herzegovina were "local" camps. They were or are local in the sense that people from the immediate surroundings were rounded up and detained there, and because those running the camp were generally from these same localities. Victim-witnesses are not just able to identify perpetrators from photographs, but they are also able to provide full names and personal biographies of the perpetrators. In some cases, video and

photograph material, as well as books and articles, exist concerning detention camps.

158. Relatively high quality information has been gathered about the North West of Bosnia and Herzegovina. The present investigation has contributed to this through the 38 interviews conducted with ex-detainees from the four main camps in the Prijedor area, as well as other interviews with people from other parts of the north-west. The main reason for the high quality of information available is the direction of the flow of refugees from this area. People fleeing North West Bosnia and Herzegovina generally transited through Croatia or remain there now. On arrival they were met by a large number of fact-finders and journalists who interviewed them and documented their stories. In particular, ex-detainees were speedily re-settled through Karlovac transit camp in Croatia to third states by the UNHCR. In these host states there have been various initiatives to document their stories, for example, the interviews which Medecins Sans Frontieres carried out with the ex-detainees and their families from the Kozarac area who had been resettled in France (involving hundreds of people).

159. By contrast, information regarding detention camps in eastern Bosnia and Herzegovina is relatively poor, in both quality and quantity. The pattern of the conflicts in the east meant that large numbers of people were displaced towards central Bosnia and Herzegovina (Tuzla pocket, Zenica) and the enclaves (now particularly Srebrenica and Goražde). In these areas, displaced people continue to live in emergency mode, with supplies of food still precarious and with intense fighting occasionally flaring (as is presently the case in Goražde).

160. Others forced to leave their homes in eastern Bosnia and Herzegovina travelled through Serbia or Montenegro and found their way to perhaps Hungary, the Czech Republic or Slovakia.

161. Neither of these two broad flows of displaced people or refugees from east Bosnia and Herzegovina were met by the battery of international journalists and fact-finders that greeted refugees from north-west BiH in Croatia. In the Government-held areas of BiH, the State institutions (including war crimes commissions) and some providers of psycho-social support have been working under extremely difficult conditions to document the experiences of rape victims. They often lack the most basic tools for their work, such as paper, computer diskettes, electricity, fuel for cars in order to travel to victims, etc.

162. Even though the information regarding the east is relatively poor, it must be used as a basis from which to start and future missions should be familiar with what has been done. Priorities for additional investigation are identifiable.

163. The section below, ratione loci, presents a rough guide to where people from areas with a high concentration of rape allegations can now be found.

B. Ratione loci

164. The following are some broad indications of where displaced persons from eastern BiH can be found. There are large concentrations of victim-witnesses in some of the places who have never been interviewed:

165. In Tuzla there are people from Bratunac, Cerska, Konjević Polje, Zvornik, Bijeljina, Bosanski Šamac, Janja. Many from Foča, Višegrad and Čajniče and Eastern Herzegovina (Ljubinja, Gacko, Trebinje, Bileća, Nevesinje)

went through Sandžak and onward to Turkey (mainly Istanbul, Ismir and Bursa). Goražde hosts many displaced people from the Drina area, particularly Foča, Višegrad, Čajniče, Ustikolina, Ustiprača. Orašje received many people from Bosanski Šamac. In Gonji Rahić there is a very large population of persons displaced from the town of Brčko and the Posavina corridor area, just across the front line. There are indications that the number of rape victims still in the area of Gornji Rahić and surrounds is in the hundreds.

166. For mainly western Bosnia and Herzegovina, an important source of displaced persons is the Bihać pocket (in Bihać and Cazin), where there are many people from Prijedor, Kozarac, Sanica, Ključ, Bosanski Novi, Sanski Most, Bosanska Krupa. These people tended to leave via Travnik or Bosanska Gradiška and a large number of people from these areas are now in Germany, Austria (Graz) and in the Gapčikovo camp on the Danube, on the border between Hungary and Slovakia. More Prijedor and Kozarac refugees who had remained in Croatia have now left for Norway and Sweden.

167. Of all these locations, the only two which present security problems at the time of writing (12 April 1994) are Goražde and some parts of the Bihać pocket.

C. Ratione personae

168. The lawyers involved in phase I of the Commission's project were highly-qualified professionals for whom everyone involved had a great deal of respect and who were a real pleasure to work with. However, their familiarity with the allegations of war crimes from particular areas was limited, a familiarity which can only come with time. The result is, as is apparent on the face of a number of interview records, that potentially important details were not obtained in the interview because the lawyer did not realise the significance of what she was hearing.

169. Investigators for future missions should preferably be deeply familiar with the missions carried out on the subject previously--the actors involved, the politico-military context in which the rapes occurred--as well as the politico-military context in which the investigation is being carried out. It would be most beneficial if the lawyers involved in the preparation of a case were themselves active in the investigation process. This would greatly enhance a prosecutor's ability to argue points of detail.

170. The number and range of potential sources of information should not be underestimated. The list of contacts included in this dossier should be of use to the Prosecutor but it is by no means complete. 18/ In order to use that list effectively, the user must be familiar with the reality behind the names and telephone numbers. It cannot be emphasised enough that the investigators must know who to ask for what information, whether it is a sensitive question and whether the answer is likely to be reliable.

171. Relevant international actors include the UN Centre for Human Rights, ECMM, ICRC and UNPROFOR. However, the most detailed knowledge is, not surprisingly, to be found with local contacts. In these cases the personality and advance preparation of the investigator are crucial. Local contacts like to know a person before they will open up with what may be sensitive information. An afternoon drinking Loza (a strong local spirit) and coffee is a method commonly used for this. An informal and personal approach to Home Clubs, for example, will open more doors than a more official style. As mentioned elsewhere in this report, many refugees in Croatia feel vulnerable and for some, authority remains a source of fear.

172. In the experience of the Interviews Coordinator, the most important element in this confidence building is being able to converse easily on the minutiae of the conflict in the area where the new contact comes from. This is also true when the problems in carrying out investigations in the former Yugoslavia (mentioned in the opening paragraphs to Part I on methodology, above) are recalled. The cynicism mentioned there could be very easily increased, as ignorance on the part of an investigator would not inspire confidence either in themselves or in the International Criminal Tribunal.

173. Investigative work for the International Tribunal will involve personal risk to investigators from the parties opposed to the work of the Tribunal. This is particularly the case for those who will work in Croatia or Bosnia and Herzegovina, whether before or after peace settlements. A certain amount of risk is inherent in the nature of the work, but it is greatly increased if personnel inexperienced in the complex peculiarities of the former Yugoslavia are used for field work. This point was very simply put 19/ by the Chief of the UNPROFOR Military Observers: "If you say the wrong thing, in the wrong place, at the wrong time--you're dead."

D. Ratione temporis

174. Future investigations should be carried out by teams of lawyers and interpreters on a long-term, low-key basis, with an emphasis on work in Bosnia and Herzegovina and key asylum states.

175. Several months should be available for following up on leads which would be created and cultivated by the teams wherever necessary. Flexibility regarding travel arrangements would be essential.

176. In seeking to prove responsibility of superiors by omission, it is suggested that an important element in investigations should be the length of the period over which violations continued to occur. For camps in Bosnia and Herzegovina, a close study of the ICRC's access to camps would probably yield interesting results. This information is among that which the ICRC is willing to publish. A study could look at: the dates of commencement of registration of detainees in a particular camp, the frequency of following visits, obstacles put in the way, the procedure used by the organization to negotiate access, who had the power of decision in any particular case, and how they exercised this power. Power implies responsibility.

E. Implementing these recommendations

177. The approach of a large-scale interview process does not have the inherent flexibility necessary to carry out an investigation on a vertical, case-focused basis necessary for founding prosecutions. 20/

178. Small investigation teams consisting of a lawyer and an interpreter should specialise in investigating specific areas where the focus cases occurred. These teams should remain small, highly mobile and have the flexibility to pursue leads wherever they may be or whatever form they may take. This will involve extensive low-key work building relations of trust with victims and contact persons in Bosnia and Herzegovina and elsewhere. The merits of gathering information through simply talking to people on the ground should not be underestimated. In the context of rape, the best information is often received on the basis of personal endorsement of the interviewer by an intermediary (usually a person or organisation providing psycho-social support) close to the victim.

179. The discussion in Part I above regarding selection of witnesses might suggest the conclusion that better ways should be found to assess, in advance, the information likely to be provided in an interview. However, in practice, this will rarely be possible. The investigation should therefore not be approached from the perspective of the interview, but of meeting and talking with contact persons. The question of an interview should not even be raised until it emerges from informal conversation that the person involved possesses the kind of first-hand information needed for the investigation.

180. Close co-operation between the investigators and the Witnesses and Victims Unit 21/ of the International Tribunal would be essential to allay the fears of, and provide support to, would-be witnesses.

F. Presence in the area

181. A number of people in Croatia, BiH and FRY are working for peace with justice and support the work of the International Criminal Tribunal. Many of the contact persons who assisted the Commission's project were not lawyers but took statements from victims and witnesses. Their work in gathering information for possible prosecutions of war criminals should be built upon.

182. In practical terms, consideration should be given to the establishment of offices in the former Yugoslavia with a staff of one or two persons. These offices would, inter alia, be charged with making contact with such people and, where appropriate, guiding their efforts to assist the Tribunal in information gathering. This may involve disseminating basic guidelines for the taking of statements from victims of, and witnesses to, war crimes. These guidelines would also be helpful to host-states carrying out interviews for resettlement, embassies screening resettlement applicants, as well as for intergovernmental and non-governmental organisations.

V. CONCLUDING REMARKS

183. The interviews should be seen as a beginning. It takes time for people to be convinced that the process of prosecuting war criminals is really taking shape and for people to consider coming forward to provide information. It also takes time and commitment to create the atmosphere of trust necessary to enable them to do so. The project team invested a great deal of time and energy in this. As the interview process was coming to an end after only three weeks, it became clear that the project was snow-balling. More and more people were hearing about the interviews, seeing that it was a reality and that it was working well. More and more people approached the teams in Rijeka, Split, Osijek and Zagreb to contribute to the process.

184. However, the time limit on the project meant that not all those who decided to speak could be interviewed. A very positive beginning has been made which the International Criminal Tribunal may build on.

185. The process of raising awareness of the possibility of giving information for prosecutions of individual war criminals has begun and has reached a wide audience through the government, NGO, refugee and displaced person's communities. The message was clearly received and understood in view of the number of people approaching the team in the final stage of the interviews. This alone may be expected to benefit the prosecution process enormously.

186. One of the most important aspects of the project has been creating an atmosphere of trust and respect for the victim-witness. Many interviewees

conveyed to the teams that they felt they and their suffering had been acknowledged by having it recorded by the United Nations, regardless of whether they are called to testify.

187. Every individual and organisation which was contacted by the project team received a letter thanking them for their support and encouraging them to continue the work of gathering information by addressing themselves directly to the Tribunal. The address, telephone and fax number at the Hague was drawn to their attention. Those wishing to speak must not feel that they have missed the only opportunity they will have to make themselves heard.

188. The project has encouraged witnesses to consider the Tribunal as a real possibility. This is no small achievement considering that a great deal of doubt has been cast on the effective functioning of the Tribunal.

189. The majority of victims and witnesses interviewed were willing to be contacted later by the Prosecutor and would consider testifying before the Tribunal. A significant number of the interviews conducted should provide the basis for possible prosecutions.

190. The interviews have also highlighted areas where further investigation is needed. Some of the project's local contact persons say that they now understand the importance of direct information, as opposed to hearsay. This has been a learning process for all involved.

191. Despite the scale of the suffering, many people still have the capacity to trust and to hope that something may really be done to bring perpetrators to justice. This is a sign of hope for the future and for reconciliation. The hope represented by these 223 interviews involves a responsibility to build on their information and to ensure that the Tribunal is successful in bringing justice to victims of war crimes.

Appendix I

PLAN OF ACTION

I. EXECUTIVE SUMMARY

192. The Commission of Experts was established by the Security Council in October 1992 to obtain and analyse information on violations of International Humanitarian Law in the former Yugoslavia. The following is a brief summary of the Plan of Action, as approved by the Commission of Experts at its Ninth Session during its meeting of 15 December 1993.

193. Through this Plan of Action, the Commission intends to gather evidence and to report its findings through the Secretary-General to the Security Council in accordance with its mandate. The primary goal is to produce specific evidence for the report of the Commission which may also be used for prosecutions and to identify possible patterns and policies.

194. The investigation will encompass violations of international humanitarian law against the person including extrajudicial executions, torture and other violations of international humanitarian law particularly in detention camps. Special emphasis will be given to allegations of sexual assault.

195. A more precise focus will be on the region of Prijedor-Banja Luka, Foča, Brčko, Doboj [the "Prijedor component"]. This Plan will be developed later.

196. Phase I of the investigation will take place from January to March 1994 in the former Yugoslavia. During that period, teams of interviewers will travel from their base in Zagreb to wherever witnesses and victims may wish to testify. It is fundamental to the work of the Commission that it welcomes testimony from any person, whether man or woman and regardless of their ethnic origin. Interviews in Phase I will be conducted in Croatia (including the UNPAs), Slovenia, and FRY (Serbia and Montenegro). For reasons of security of witnesses, interviews will not be carried out in BiH at this stage.

197. It is envisaged that Phase II will involve interviews in asylum countries (other than those of the former Yugoslavia) later in 1994. The Commission is in contact with 15 such host states in the hope that their refugee communities may also have the opportunity to give their testimony to the Commission. It may be that some elements of Phase II will be conducted in parallel to Phase I, if states request that interview teams be sent earlier (such as is the case with Turkey). Interviewers for Phase II will be selected from those involved in Phase I (and others) to visit asylum states, according to the specific approach to be adopted with each host state.

198. The interviews in Phase I will be conducted by lawyers experienced in violent crimes and particularly in violent sexual offences. All those involved in the interview process, including interpreters (who will be specially selected), will be suitably qualified and impartial women under contract with the Commission.

199. Throughout the investigation, the interest of the victims and witnesses is paramount. Particular attention will be paid to their physical and psychological well-being as well as to their personal security and the confidentiality of any information they may provide. Interviews will only be conducted with the consent of the witness-victim.

200. A highly qualified group of mental health specialists (including psychiatrists and psychologists) with experience of post-traumatic stress will be contracted by the Commission. This group of experts, consisting mainly of women, will be available to the victim-witnesses as they wish before, after, and possibly during, the interview. Once interviewees have been identified, selected and located, the mental health volunteers will liaise with local mental health professionals to ensure that post-interview counselling will be made available to each interviewee. These volunteers will also assist in briefing the interviewers and will develop a protocol to apply to all interviews in Phases I and II. The mental health professionals will research and prepare a report on possible patterns of mental health problems involving, where appropriate, statistical analysis of the widespread nature of the phenomenon. Their role will be completed in Phase I.

201. The preparatory work for Phase I will be carried out by the Interviews Coordinator (a lawyer with field experience to be retained by the Commission) who will remain with the Commission for the three month period of the entire project and report on the investigation to the Commission and the NGOs Coordinator. They will carry out intensive planning of the schedule of interviews from Geneva throughout January 1994, followed by 10 days of in-region planning (from 30 January). They will be accompanied in the field by two Commission staff persons; one Chief Interpreter; one Assistant for Serb-language areas; and one mental health professional. This period will be followed by 20 days of interviews with witnesses/victims (from 10 February) carried out by 10 teams of interviewers. The report of the investigation will be finalised by the Interviews Coordinator in Geneva by the end of March.

202. For the selection and pre-briefing of interviewers, a meeting is tentatively scheduled in North America approximately two weeks before the arrival of the interviewers in Zagreb. In addition, intensive briefings for interviewers and interpreters will take place in Zagreb for three days prior to the interviewing.

II. INTRODUCTION

203. The Interim Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992) (UN Doc S/25274-[10 February 1992], at Annex I) [First Interim Report], indicated that the Commission intended to engage in selective in-depth investigations in a number of areas (first Interim Report, at paragraphs 65 and 66). Among these was sexual assault.

204. The Commission reiterated the importance of this objective in the Interim Report of the Commission of Experts Pursuant to Security Council Resolution 780 (1992) (UN Doc S/26545 [6 October 1992], at Annex) [Second Interim Report], and signalled its intention to undertake specific investigations and to conduct victim and witness interviews (see Second Interim Report, at paragraphs 9 to 11).

205. The Commission determined that the investigations would be conducted in the former Yugoslavia, as well as in other states where refugees from the hostilities are located [asylum states]. Pursuant to the latter, contacts with representatives of the Governments of the asylum states, and of a number of intergovernmental organizations [IGOs] and non-governmental organizations [NGOs] operating in the asylum states and elsewhere have been made.

206. On 6 October 1993, the Commission sent a letter to the Governments of a number of asylum states, thanking those Governments for their ongoing co-operation with the Commission and informing them that it intended to dispatch a team in the near future to those states. The aim of such a team would be to

carry out interviews to gather evidence of alleged violations of international humanitarian law in general, and of sexual assault, in particular. Finally, the Commission requested such Governments as have already conducted interviews to forward the results of the same, as deemed appropriate, to the Commission.

207. Consultations were held in late November 1993, at Geneva, between and among certain members of the Commission and representatives of various IGOs and NGOs, as well as with experts from the legal and mental health professions. These consultations fostered an open exchange of information and ideas on issues concerning allegations of sexual assault and of other violations of international humanitarian law in the context of the ongoing work of the Commission.

208. During 24 to 26 November, the Commission also conducted consultations with representatives of Governments, the United Nations Centre for Human Rights, a number of European-based NGOs, and several North American experts in the legal and mental health profession.

209. As a result of the foregoing, the Commission has developed a plan of action for the conduct of an in-depth investigation into allegations of sexual assault and of other violations of international humanitarian law in connection with the hostilities in the former Yugoslavia [Plan of Action].

210. At the Commission's Eight Session, held at Geneva, 27 October 1993, the Plan of Action was discussed by the Chair of the Commission, and Commissioners Greve and Cleiren. These discussions were developed at Geneva between 23 and 25 November 1993 and, once again, when the Chair and Commissioner Greve met in Geneva on 25 and 26 November 1993.

211. As regards meetings with Government representatives, Commissioner Greve travelled to Stockholm on 24 November and was given information valuable for the present investigations by Swedish Government officials. While in Geneva, she also held consultations with representatives of the Permanent Mission of Germany to the United Nations. On 26 November, the Commission Chair and Commissioner Cleiren met with the Foreign Minister of the Netherlands, Mr. Kooijmans, inter alia, to discuss funding for the Plan of Action.

A. Purpose of the investigations carried out pursuant to the plan of action

212. In fulfillment of the Commission's mandate pursuant to Security Council Resolution 780, the purposes of the investigation into alleged violations of international humanitarian law in general, and of allegations of sexual assault, in particular are:

(a) In general, to report to the Security Council, through the Secretary-General, regarding evidence which may be used by the International War Crimes Tribunal for the prosecution of persons responsible for violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991.

(b) In regard to sexual assault allegations, to report, through the Secretary-General, to the Security Council on specific cases as well as on patterns and policies pertaining to this category of violation of international humanitarian law as well as to establish an historic record of the extent of this type of victimization and of the manner in which it has been conducted.

B. Guiding concerns underlying the plan of action

213. As a result of the meetings and discussions referred to in the Introduction, it was decided that the investigations should be conducted in the following manner.

(a) Using a broad approach to allegations: The Plan of Action will seek to elicit and to record for the Commission not only information relating to allegations of sexual assault but also allegations of other violations of international humanitarian law which is discovered in the course of the Plan of Action. In this context, particular regard will be paid to detention centres located in the former Yugoslavia.

(b) The interest of the victims and witnesses is paramount, from the perspective of their physical and psychological well-being as well as of their personal security. In particular interviews will only be conducted with the consent of the witness-victim and interviews will only be conducted where psychological assistance and support is available locally to the victim-witness for continuing post-interview support. The Plan of Action will be carried out in close co-operation with the Multiplier Factors referred to below, to ensure that this concern is realised.

C. Funding of the plan of action

214. The Plan of Action described herein is to be funded by the Voluntary Trust Fund established by the Secretary-General on 24 May 1993 to assist the Commission in its work, and which refers specifically to elements of this Plan of Action, as well as to related investigations. The draft budget for Phase I of the Plan of Action appears as Annex A (covering a period of forty-five days from 15 January 1993). Costings for Phase II will be presented later.

D. Methodology

215. Phases I and II of the Plan of Action will be carried out under the direction of the Chair of the Commission of Experts. The Prijedor component will be carried out under the direction of Commissioner Greve. This paper is mainly concerned with Phase I of the project. A detailed plan of Phase II will be presented at a later date, and will to some extent be determined by the findings of Phase I. It is envisaged that the Plan of Action (both phases) will be carried out over a total of 90 days.

216. It should here be emphasised that some preparatory work for Phase II of the Plan of Action will need to be carried out during Phase I. For this reason there will be some overlap between the two phases.

1. Phase I interviews in the former Yugoslavia

217. Phase I of the Plan of Action will comprise 10 days of preparatory work by the Advance Team of the Core Group in Zagreb, followed by 20 days of interviews by 10 lawyer-interpreter teams, in different areas of the former Yugoslavia. In the course of Phase I the broad approach to humanitarian violations (described at b above) will be followed. In preparation for Phase II, information will be sought regarding humanitarian law violations of any kind which occurred, or occur, in detention camps in the Prijedor-Banja Luka, Foča, Brčko, Doboj areas. This project may be developed in detail in Phase II and is referred to below.

2. Phase II interviews in asylum states and the Prijedor component

218. After Phase I is completed, Phase II will comprise interviews carried out in asylum states (other than in the former Yugoslavia). Particular attention will have been paid to general as well as sexual assault, allegations concerning the Prijedor-Banja Luka, Foča, Brčko and Doboj areas in Phase I. If, at the end of Phase I, it is found that certain allegations relating to those areas would benefit from in-depth investigation, this would be carried out in Phase II, in parallel to the interviews carried out in asylum states following the Phase I model. The scope of the Prijedor component of Phase II will thus encompass allegations of torture, arbitrary execution, as well as the sexual assault of detainees.

219. The report of the Phase I findings of the Interviewers will be drawn up by the Core Group and will serve, among other things, to assist the Core Group in its preparation of interview schedules for Phase II interviews in the asylum states and for its Prijedor component. Following a series of interviews in those states, a report of Phase II will present the findings reached. It is expected that the final report of the Core Group, consolidating information of evidential value uncovered in the former Yugoslavia and in the asylum states, will be presented to the Commission by mid-June 1994.

220. The Commission will carry out the Plan of Action through two clusters of individuals: (i) the Core Group, and (ii) the Interviewers.

3. The core group

221. The Core Group will comprise:

- (a) the Chair of the Commission of Experts and Commissioners Greve and Cleiren;
- (b) B. Molina-Abram (Deputy Secretary), J.A. Baez (Assistant Secretary) and Messrs. Bergsmo and Kempenaars (Assistants to the Commission);
- (c) Dr. S. Cavanaugh (Mental Health professional);
- (d) Karen Kenny (Interviews Coordinator);
- (e) Elenor Richter-Lyonette, (NGOs Coordinator);
- (f) Maja Draženović (Chief Interpreter); and
- (g) Thomas Osorio (Assistant to Interviews Coordinator and to the Chief Interpreter (for Serb-language areas)).

222. In the absence of the Chairman and the Commissioners from the mission area, the Deputy Secretary or the Assistant Secretary of the Commission will have overall supervision and responsibility for the investigation.

223. The general role of the Core Group is to plan the investigations, coordinate the working relationship between the Commission and the multiplier factors (as well as among the latter) and to organize the plan of work of the Interviewers (more detail regarding the Core Group's functions is provided below).

224. An Advance Team consisting of two members of the Commission's Secretariat, the Chief Interpreter, the Interviews Coordinator, the Assistant

for Serb-language areas and the mental health consultant will arrive in Zagreb on 30 January in advance of the Interviewers, inter alia, to finalise the interview schedule for all of the former Yugoslavia. This will build on the local contacts and preparations already undertaken by the Interviews Coordinator and the NGOs Coordinator in Geneva during January 1994.

225. Prior to the taking of evidence of victims-witnesses, the Core Group plans to do the following (see Annex C below):

(a) develop a standardized format of evidence-recording, in addition to the sworn testimony of the witness, which will be transcribed in narrative form. This may take the form of a check-list to be used by all Interviewers. For example, it must be ensured that the victim-witness who has given evidence can be located in the event that such evidence is required for use by the Chief Prosecutor of the International War Crimes Tribunal. This check-list may be communicated to local facilitators involved in laying the groundwork for the arrival of the Interviewers;

(b) develop a standard method of transcribing testimony from audio tapes in Serb or Croat for confirmation, swearing and signing by the witness;

(c) develop procedures designed to ensure the confidentiality of information received by the Commission from a victim-witness, as well as information which would tend to disclose their identity. These procedures will include rigorous selection procedures for all Interviewers, interpreters and secretaries involved, as well as procedures to ensure that the chain-of-custody of the evidence can be reliably traced, and that any attempts to tamper with the evidence can be detected;

(d) organise the training of the Interviewer teams (including interpreters) in the course of three days in Zagreb inter alia in the use of key-words and expressions likely to be encountered in the interview process (which may allude indirectly to aspects of incidents undergone by the witnesses); sensitization to the victim-witnesses and the situation prevailing in the major refugee camps and in other communities/settlements; on the geography of the regions to be visited in the context of the investigations. The briefings will be carried out under the guidance of the legal and mental health professionals of the Core Group. In addition, a summary of information pertinent to the investigation and available to the Commission through its data base will be made available to the Core Group and the Interviewers. In this context, the Commission may request the Liaison Officer of the United Nations Protection Force [UNPROFOR] to the International Conference on the Former Yugoslavia [ICFY] [LO/UNPROFOR], situated in Geneva, to up-date the Core Group regarding the current situation and emerging trends in the territory of the former Yugoslavia prior to departure for Zagreb.

(e) develop procedures for the coordination and sharing of information with ICFY, UNPROFOR and the Special Rapporteur on the situation of human rights in the former Yugoslavia;

(f) co-ordinate the planning and execution of on-site missions with UNPROFOR, where the area of their mission is concerned;

(g) develop procedures, probably in collaboration with the International War Crimes Tribunal, for the transmission of evidence to national prosecutors, should such a request is made.

4. The multiplier factors

225. The Commission will benefit from coordination with multiplier factors, namely, (i) Government refugee agencies and other social agencies, (ii) IGOs and NGOs, (iii) other national, intergovernmental and non-governmental support groups. These multiplier factors are located in the territory of the former Yugoslavia and in the asylum states.

226. It is hoped that the multiplier factors will assist the Commission in:

- (a) identifying witnesses and victims;
- (b) providing information concerning persons who may be willing to offer evidence to the Commission; and
- (c) providing psychological insight into the nature and condition of the victims, so as to assist the Interviewers in their approach.

5. The mental health professionals

227. The entire investigation will be victim-oriented. During Phase I only, seven volunteer mental health professionals, co-ordinated by the mental health expert member of the Core Group, will build upon pre-existing networks (at present, largely in Croatia), train local mental health professionals in both the procedural and substantive aspects of the mandate of the Commission, in general, and of the tasks of the Interviewers in particular. In many instances, contact networks comprise local and international NGOs. Local professionals may, subject always to the consent of the potential witness, inform the Commission of the willingness of such persons to give testimony to the Commission. The mental health members of the Core Group will be responsible for serving as a liaison between the Commission and the local network contact in order to prepare for the forthcoming arrival of the Commission mission.

228. Furthermore, although they will not attend interviews, the mental health experts will provide support for the interviewers as appropriate. In particular, the mental health experts will assist in briefing the interviewers and will develop a protocol to apply to all interviews in Phases I and II. When Phase I interviews commence, the mental health professionals will research and prepare a report on possible patterns of mental health problems involving, where appropriate, statistical analysis of the widespread nature of the phenomenon. Their role will be complete with Phase I.

6. The interviews

229. The persons carrying out the investigation interviews in the former Yugoslavia will be experts drawn from the legal profession [Interviewers]. They will be given immediate guidance and assistance by the Core Group of persons based in Geneva, as well as by the Advance Party of the Core Group to be based in Zagreb during Phase I. Volunteer interviewers will be requested to serve for a minimum period of 30 days.

230. The Interviewers will operate with the assistance of a specially selected interpreter. All those involved in the interview process will be women (unless the victim-witness otherwise requests). The working language of both the Core Group and of the Interviewers will be English. Four secretaries will be needed locally and hired on an hourly basis for transcribing testimony from audio-tapes after the day's interviews, prior to their being approved,

sworn and signed by the witness and the Interviewers.

231. The Interviewers will be selected by the Commission on the basis of a review and analysis of curricula vitae received from various countries by the Commission, as well as on the basis of a briefing meetings which will take place in North America two weeks in advance of their arrival in Zagreb. It is expected that some Interviewers will be contributed to the Commission, at no cost to it, by the governments of various states while the others will volunteer their services (see Annex A).

232. Interpreters and secretaries will be subject to rigorous selection criteria emphasising the need for absolute professionalism, confidentiality and compassion, in addition to first-class English and Serb or Croat interpretation skills or clerical skills, as appropriate. These locally-available persons will be identified, contacted, screened and selected by the Chief Interpreter who will be in the Core Group's Advance Party.

Appendix II

PARTICIPANTS

I. COMMISSION MEMBERS AND COMMISSION STAFF

- A. Professor M. Cherif Bassiouni (USA-Egypt)
Chairman, Commission of Experts
- B. Professor Christine Cleiren (Netherlands)
Member, Commission of Experts
- C. Ms. Bruna Molina-Abrams
Deputy Secretary, Commission of Experts
- D. Mr. Julio Baez
Assistant Secretary, Commission of Experts

II. CORE GROUP CONSULTANTS

- A. Dr. Stephanie Cavanaugh (M.D.) (USA)
- B. Ms. Maja Draženović (Croatia)
- C. Ms. Karen Kenny (Ireland)
- D. Mr. Thomas E. Osorio (USA)
- E. Dr. Richard Rahe (M.D.) (USA)

III. LEGAL TEAM

- A. Ms. Lena Andersson (Finland)
- B. Ms. Susan Axelrod (USA)
- C. Ms. Francine Borsanyi (Canada)
- D. Ms. Linda S. Crawford (Canada)
- E. Ms. Sharon Janelle Crooks (Canada-Ireland)
- F. Ms. Kenna Dalrymple (Canada)
- G. Ms. Feryal Gharahi (USA-Iran)
- H. Ms. Sara Hossain (Bangladesh)
- I. Ms. Nancy L. Paterson (USA)
- J. Ms. Tanja Petrovar (Slovenia)
- K. Ms. Laura D. Silver (Canada)
- L. Ms. Merja Pentikäinen (Finland)

IV. MENTAL HEALTH AND MEDICAL TEAM

- A. Dr. Abigail Benton Sivan (M.D.) (USA)
- B. Dr. Stephanie Cavanaugh (M.D.) (USA)
- C. Dr. Wanda Fremont (Ph.D) (USA)
- D. Dr. Alice Geis MS, RN, CS (USA)
- E. Dr. Stephanie Gregory (M.D.) (USA)
- F. Dr. Daniel W. Hardy (M.D., J.D.) (USA)
- G. Dr. Richard Rahe (M.D.) (USA)

Part Two

REPORT OF THE MENTAL HEALTH EXPERTS

Summary

233. The goals of the mental health team were threefold: 1) to prevent re-traumatization of witnesses interviewed, 2) to provide acute medical/psychological care, and 3) to recommend and arrange for medical, psychiatric, and psychosocial care within the local health care structure. These goals were met in most respects. None of the witnesses were re-traumatized as a result of the interview process, although several said they regretted testifying because they feared for their safety and that of their families. In the majority of the cases testimony was a positive healing process for witnesses. The mental health professionals were present in 85 of the two hundred testimonies obtained by the lawyers. In these 85 cases a great deal of information regarding the witnesses' psychological and medical status was obtained during testimony. Following the legal testimony, the physical and psychological well-being of the witness was further assessed. Discussion of etiology of physical and psychological symptoms, brief psychotherapy, and recommendations for treatment were made following many testimonies witnesses. Follow-up medical, psychiatric, and psychosocial care, when recommended, required a great deal of ingenuity and creativity, particularly for those with refugee status. In most cases, however, the mental health teams were successful in obtaining the care needed in the local health care system. If a mental health professional was not present during the interview, and assessment or intervention was felt to be necessary by the lawyer, the mental health worker would be made aware of this need.

234. Finally, although not directly related to the Commission's work, the mental health team was able to obtain a large amount of medications which were distributed to refugee centres in Croatia and medical care facilities in Sarajevo and Tuzla in Bosnia.

235. Forty-five men and 37 women were interviewed. Forty-five were Catholic, 29 Muslim, two Orthodox, and one undetermined. The trauma these witnesses had experienced as a result of torture and/or rape was significant. Sixty-five percent had a post-traumatic stress disorder (PTSD) or symptoms of PTSD. Seventeen percent had an anxiety or depressive disorder, and 16 per cent experienced normal bereavement. Half of the interviewees had sustained moderate to severe physical injuries. Refugees had generally received inadequate psychiatric and medical care following the trauma. The care for displaced Croatians ranged from adequate to good. Most witnesses were functioning at a higher social, occupational, and personal level than would be expected given the degree of trauma they had experienced. Emotional blunting was also less than would be expected given the amount of trauma sustained. Grief over losses experienced during the war and concerns for the present and future were paramount. Witnesses used a positive attitude and positive activity to maintain their high level of functioning. This included a strong sense of responsibility to family, children, and community and a high level of resourcefulness in dealing with problems. In short, the courage of these witnesses and the other victims of the conflict in the former Yugoslavia is a testimony to the strength of the human spirit under adversity.

I. INTRODUCTION

236. The first section of this report addresses the selection, activities, and role of the mental health team. Other areas covered in this section

include comments on issues relating to the health care system in Croatia, witness selection, volunteer lawyers, and translators.

237. The second section describes the psychological effects of testimony as well as the psychological and physical effects of trauma on the witnesses.

II. SELECTION OF THE MENTAL HEALTH TEAM

238. In December 1993, Professor Bassiouni requested that Rush Medical College organize a mental health team to assist the legal team in obtaining testimonies from sexual assault victims as a result of the conflict in the former Yugoslavia. Since it was unclear at this juncture what skills would be needed, it was decided to put together a balanced team including four psychiatrists, one internist, one gynecologist, one psychologist and one nurse. Seven were female and one was male. None, by design, were personal friends nor had any administrative relationship with others on the team. Six were from Rush Medical College, one from Michael Reese Hospital in Chicago and one from the University of Syracuse in New York. All had experience in treating sexual assault victims and two had additional experience in treating sexual assault in children. Four had experience in treating Post Traumatic Stress Disorder in the United States, and three had provided medical/psychiatric care in war conditions or to survivors of such conflicts outside the United States. One was a lawyer as well as a psychiatrist and three had special expertise in forensic psychiatry. Each was selected for his or her ability to tolerate ambiguity and work as a team member under complex and difficult conditions. Additionally, Richard Rahe, a retired admiral and Professor of Psychiatry at the University of Nevada, who has had extensive experience leading teams of lawyers and doctors in debriefing torture victims, was selected to be our consultant. Prior to our leaving for the former Yugoslavia, the mental health team had several planning sessions, which helped develop a sense of camaraderie and cohesiveness which was important to the success of the mission in the former Yugoslavia.

III. ACTIVITIES OF THE MENTAL HEALTH TEAM

239. Preliminary work. Dr. Stephanie Cavanaugh went with the core team to Zagreb, Croatia from 29 January 1994 through 11 February 1994. Her job was to establish liaisons with the local mental health workers, non-governmental organizations (NGOs), local physicians, national experts in rape and torture, and physicians from the Croatian government. She also had numerous informal discussions with displaced persons and refugees. Following this, she made recommendations regarding: 1) the role of the mental health team; 2) the content of the mental health briefing which was to include: a) visits to refugee camps, b) a discussion of Post Traumatic Stress Disorder by Richard Rahe, M.D., c) techniques to make testimony a healing process, given by Inger Agger, Ph.D. and Soren Buus-Jensen, M.D., and 3) a system to refer witnesses within the local health care system.

240. Interview Phase. All but one member of the mental health team arrived in Zagreb on 26 February. The first three days were devoted to formal orientation and training sessions, and informally to making the acquaintances of the lawyers and interpreters with whom the team would be working in the next few weeks. The particular contribution of the mental health team to this initial period in Zagreb was Dr. Cavanaugh's securing the services of Inger Agger, Ph.D., Soren Jensen, M.D. and Richard Rahe, M.D. for lectures, training sessions, and role playing exercises to prepare the multi-disciplinary teams for the tasks ahead--the detailed documentation through interviews of critically sensitive information, without re-traumatizing the witnesses by the

process. Additionally, these international experts on the assessment and treatment of torture victims endeavoured to sensitize our teams to the importance of recognizing and minimizing the almost inevitable tertiary trauma to ourselves, as a result of intense interaction with the primary victims during the interviews.

241. Thereafter, team assignments were made and our work began in earnest. Mental health team members spent from two to four weeks in the former Yugoslavia. The average length of time spent was 18 days and the average number of interviews was 10.25 per team member.

IV. THE ROLE OF THE MENTAL HEALTH TEAM

242. Unfortunately, the ambiguity of the role of the mental health team throughout the mission, on the part of the leadership of the Commission caused unnecessary stress on the relationship between the mental health workers and the lawyers.

243. The role of the mental health team members was never clearly defined. As a result, individual teams devised their own strategies. Although many of the lawyers were positive to mental health input and had worked with mental health professionals in the past, the ambiguity about our role made it difficult for the lawyers to decide how best to utilize us. This was further compounded by the fact that there was a smaller number of mental health workers than lawyers. Only three of the mental health team were able to stay for one month, because of a change in the start date of the mission.

244. The two teams in Split, each consisting of a lawyer, mental health worker and translator who worked together for one month, were the most successful. Each lawyer and mental health team member interviewed the witness together and developed an interview process which resulted in useful legal information and also allowed for appropriate medical and psychiatric intervention on the part of the mental health worker. This model has been used extensively in other parts of the world to debrief victims of torture.

245. The mental health team participated in 85 testimonies. All of the two hundred witnesses were asked if they wished the mental health specialist (who was described as "an expert in the medical and psychological sequelae of trauma") to be present during testimony. None of the witnesses refused and most expressed appreciation for the presence of the mental health professional. If a mental health worker was not involved in an interview with the victim, the lawyers, in many cases, asked for assistance later. When the mental health professionals were included in the interview, they were able to help the lawyer obtain accurate information and provide support for the witness. Also, in many instances, they were able to provide acute medical, psychosocial, and psychiatric care and recommend ongoing care within the structure of the local health care system.

246. In other teams, a number of models for the interview process were used depending upon the relationship between the lawyers and the mental health professionals. During the legal testimony a great deal of information regarding the witnesses' psychological and medical status was obtained, even if the mental health professional was totally passive. The witness was then asked if he or she wished time with the mental health professional, during which the witness' psychological and physical status were further assessed. Education regarding the etiology of physical and psychological symptoms resulting from the trauma was helpful for witnesses. In some cases, brief psychotherapy or family therapy was possible and greatly appreciated by the witnesses. Helena Nakić, M.D., our liaison with the Croatian government, had

given approval for physicians to provide acute psychiatric or medical care. In several cases, medication was prescribed and dispensed by the mental health workers for acute problems.

247. Although the medical system in the former Yugoslavia was quite sophisticated prior to the war, it has since been over-loaded and has had to function with inadequate supplies and medical personnel. As a result, obtaining follow-up medical care for the witnesses was often a challenge. Although the Croatian medical system is over-loaded, registered displaced Croatian citizens are entitled to the health benefits of non-displaced Croatian citizens. Helena Nakić, M.D., provided displaced Croatians who testified in Zagreb access to medical and psychiatric care at the University of Zagreb. Further, the mental health specialists arranging medical and psychiatric care for displaced Croatian citizens outside Zagreb rarely had to rely on sources other than the Croatian medical system for this care.

248. Providing follow-up care for refugees was a more difficult matter. For those living in registered refugee centres, there was often one physician who cared for 400 to 1,000 people, many of whom are quite ill because of war injuries or poorly treated chronic illness. Unfortunately, refugee physicians are not licensed and cannot provide treatment for refugees. Additionally, necessary medications are in short supply. Refugees without access to camp physicians must pay for their medical care or receive it through non-governmental organizations. Ongoing medical, psychosocial, and psychiatric care for refugee witnesses were pieced together through NGOs, with which the mental health worker had linked in each interview site. Mediciens du Monde, Mediciens sans Frontieres, Biser, Caritas, and other NGOs assisted in providing this health care.

249. It was hoped that the local mental health workers contacted by the core group during their preliminary work in Zagreb would take the place of the mental health team after the majority had left. Unfortunately, the local mental health workers were overwhelmed with their everyday responsibilities. They did, however, provide extremely valuable consultation and support. The presence of Sabina Negovetić, M.D., a member of the core team who speaks Croatian and is extremely knowledgeable about the health care system in the former Yugoslavia, would have been most valuable in increasing the efficiency and quality of the medical and psychiatric care for witnesses.

250. Additionally, the mental health team brought medications to Zagreb, a small amount of which was distributed to refugee camps in Zagreb. The majority was taken to Sarajevo in Bosnia. Rush Medical Centre sent another large shipment of medications which was later distributed to Tuzla in Bosnia.

251. Although it was not originally intended that the mental health team secure witnesses for interview, the contacts of the mental health team with the community produced a number of witnesses for testimony.

V. SELECTION OF WITNESSES

252. During the core team's visit to Croatia many NGOs, home clubs, and mental health workers were confident that a number of witnesses would come forward. Additionally, during visits to refugee centres many stated a desire to testify. During the first two weeks of the interview process very few of these witnesses came forward. There are several possible explanations for why this occurred. The environment in which these interviews were conducted was highly complex. Witnesses were fearful for their safety and that of their families. Witnesses may have been concerned that their refugee status in Croatia or hopes for relocation would be jeopardized by testimony. There were

negative feelings among witnesses toward the United Nations and concerns as to whether data would be kept totally confidential. Most of those interviewed in the first two weeks in Zagreb and Split had previously given sworn testimony to the Croatian government. As a result, some potential witnesses may have been concerned about the interference of the Croatian government in the interviewing process. Since Sabina Negovetić, M.D. and Eleanor Richter-Lyonette had the majority of the contact with the NGOs during the core visit it is unclear if their absence was a factor. Certainly, the flow of witnesses would have increased if they had been present during the interview phase of this mission. Finally, many involved in the conflict in the former Yugoslavia and those in Europe were not anxious for the work of the Commission to continue.

253. In spite of this, as the lawyers, mental health workers, and translators began to develop relationships with the social/medical/psychiatric system in which they were interviewing, many witnesses began to come forward. Unfortunately, the length of time it took to get the interview process established in each separate site resulted in a great deal of wasted time. Also, many witnesses came forward when the interview teams were ready to leave. Finally, it is unfortunate that the second phase of the investigation, interviews with witnesses located in other European countries, could not be completed.

254. It is a tribute to the courage of the witnesses that 200 people were willing to come forward under these circumstances.

VI. THE PSYCHOLOGICAL EFFECTS OF TESTIMONY

255. No witness interviewed with a mental health professional was re-traumatized, although several said they regretted testifying because of fear for their own safety and for that of their families. On the other hand, after the initial testimonies many witnesses recruited other witnesses. In the majority of cases, the process by which a lawyer, mental health professional and interpreter listened for two to 10 hours to the witnesses' testimony was healing and positive for those testifying.

256. There are several reasons for this positive outcome. First, as in psychotherapy, the empathy and concern shown by the lawyer, mental health specialist, and translator for the witness was in itself healing. Some descriptions of the suffering endured were so horrible that either the lawyer, mental health worker, or translator, would at times become tearful, a powerful message that the witness was not alone in his or her horror and pain. For those who had not testified previously, telling the whole story in detail for the first time was a relief. It allowed the witness to remove the horror of the experience from within and to distance and objectify it, as those bearing witness carefully recorded it. The fact that volunteer lawyers and mental health professionals had come from other countries specifically to take their testimony and provide psychological and medical assistance made it obvious to them that the world cared about the war crimes they had experienced or witnessed. Finally, many witnesses stated that the most positive aspect of testimony was the hope that the perpetrators of these war crimes might be prosecuted and that what they had endured was not acceptable to the world. This helped heal the feeling of helplessness and guilt that some of the witnesses experienced because of their lack of control over their own torture or rape, or the torture, rape, or slaughter of family members, friends, and other prisoners. The hope for justice gave them a sense that something positive might be accomplished.

VII. PSYCHOLOGICAL AND PHYSICAL STATUS OF THE WITNESSES

257. Table I shows the demographics of the 82 witnesses who testified. Most had a good premorbid adjustment with a negative psychiatric history. The types of trauma sustained by the witnesses, summarized in Table II, were for the most part quite significant. The psychiatric diagnoses, as assessed by the mental health workers, are set forth in Table III. Most witnesses were functioning at a higher social, occupational, and personal level than would be expected, given the nature of the emotional and physical trauma they had endured. Due to the fact that most witnesses preserved appropriate affect when discussing traumatic events, the emotional blunting commonly seen was much less frequent than would be anticipated given the extent of the trauma. Altruism, humor, intellectualization, isolation and attention to the problems of the present situation--all high level psychological defences--were commonly used. Witnesses used a positive attitude and positive activity to maintain their high level of functioning. This included a strong sense of responsibility to family, children, and community. Additionally, most attempted to "carry-on" regardless of their circumstances and maintained a high level of resourcefulness in dealing with problems. Support from family members was high.

258. Those who had been physically injured appeared to have a more difficult time psychologically. Those witnesses who had a high level of family or social support following the trauma did better psychologically and those witnesses with early psychosocial or psychiatric intervention recovered more rapidly.

259. Witnesses were frequently most affected by the unpredictable nature of the trauma. Observing others being tortured, raped, or slaughtered, with little control over the situation, was most difficult. Survivor guilt was common, and the torture, rape, or slaughter of a family member was the most traumatic. Intrusive thoughts and bad dreams from the trauma were more likely to be those of the secondary trauma they had witnessed than of the primary trauma they had experienced. Torture, rape, humiliation, or slaughter by those known by the witnesses was the most difficult for witnesses to integrate.

260. Most witnesses had attempted to put the trauma behind them, in spite of intrusive thoughts, bad dreams, and fear of certain environmental cues associated with the trauma. Grief from loss of home, previous life, death of loved ones, separation from family and friends, and inability to engage in gainful employment was common. Missing a family member was more disruptive psychologically than grief for dead relatives. A protracted time in a refugee centre without hope for relocation was a significant stressor. Many refugees saw no realistic hope for improvement of their situation without relocation. Displaced people were also concerned about their future, but were usually better off in terms of monetary resources, family, community, and medical care.

261. Half of the witnesses had sustained moderate to severe injuries as a result of the trauma. Displaced persons in Croatia had received adequate to good medical and psychiatric care following the trauma, although ongoing care was often a problem. Refugees for the most part had inadequate care after the trauma and at the time of testimony. In most cases, the mental health professional was able to obtain ongoing medical and psychiatric care for those that testified.

Tables

1. Demographic Data of Witnesses Interviewed

<u>AGE</u>	<u>FEMALE</u>	<u>AGE</u>	<u>MALE</u>
Less than 20	1		
20-29	9		
30-39	7		
40-49	10		
50-59	7		
60-69	3		
Less than 20	2		
20-29	3		
30-39	6		
40-49	12		
50-59	8		
60-69	14		

<u>ETHNICITY</u>	
Croatian (Roman Catholic)	17
Muslim	19
Serbian (Serbian Orthodox)	1

<u>ETHNICITY</u>	
Croatian (Roman Catholic)	30
Muslim	13
Serbian (Serbian Orthodox)	1
Undetermined	1

2. Trauma Experienced by Witnesses Interviewed*

FEMALE	MALE
Raped once; held for 15 days; husband missing and presumed dead. (2)	Beaten severely and repeatedly during 13 months of imprisonment; loss of home and village. (1)
Imprisoned briefly three times; gang raped once; rifle stuck in vagina. (2)	Beaten repeatedly during 7 months of imprisonment; village destroyed. (1)
Forced to leave village. (2)	Beaten severely and repeatedly during 14 months of imprisonment; civilians encouraged to beat prisoners. (1)
Village destroyed; husband beaten and killed; daughter killed. (2)	Beaten repeatedly during 13 months of imprisonment; knew of one prisoner who died from beating; house and most of village destroyed. (1)
All men in village executed including her father; brother-in-law's body dismembered; forcibly removed from village. (2)	Beaten severely and repeatedly during one month of imprisonment; kicked in genitals. (1)
Forcibly removed from home to camp for 10 days where women were taken by guards in the night and presumably raped or otherwise abused. (2)	Beaten severely and repeatedly during six months of imprisonment; prison roommate killed by guard; heard women prisoners screaming; knew they were being raped; no Croatians or Muslims left in village. (1)
Lived in fields for four months while village under attack; was pregnant; was raped once by attacker who pointed gun at her abdomen. (2)	Severely beaten on one occasion but not imprisoned; many friends in village killed; forced to deed home "to the Krajina." (1)
Taken from village with other women; observed mass graves with decapitated bodies and much blood; some women taken by guards at night and presumably raped over approximately two week period. (2)	Threatened with death at arrest; friends killed; lived under house arrest for seven months. (1)
Imprisoned (length undetermined); raped multiple times. (1)	Multiple beatings during 13 months of imprisonment. (1)
Imprisoned and tortured (length undetermined); witnessed torture of others. (1)	Moved from place to place for one month with family. (3)
Husband missing, presumed dead; saw him bleeding. (1)	Suffered torture and witnessed killings, tortures and mutilations for two days. (2)

* Parenthetical number indicates ethnicity of victim. (1) Croatian; (2) Muslim; and (3) Serbian

Raped; shot in head during attempted execution. (1)	Imprisoned (length undetermined); witnessed rapes and beatings; forced to sign over property. (2)
Husband dead; witnessed mass executions. (1)	Witnessed massacre; father and brother killed; sister raped while prisoner. (2)
Raped. (3)	Severely beaten by civilians; left home because of continued threats. (2)
Raped repeatedly. (2)	Escaped with pregnant wife from two villages under attack; baby born with palsy. (2)
Separated from husband and son; forced to leave home. (1)	Father taken (presumably killed); soldier pointed gun at his head and pulled trigger several times (presumably unloaded); village women raped. (2)
Gang sexual assault of victim and daughter-in-law in their home. (1)	Imprisoned (length undetermined); suffered beatings and torture. (1)
Husband killed; witnessed murder of family members and friends; home burned, children repeatedly threatened with mock executions. Moved to six different locations over one year period. (1)	Imprisoned (length undetermined); suffered beatings and sexual assault. (1)
Witnessed death of husband, other family members and friends; imprisoned three days and threatened with mock executions. (1)	Imprisoned (length undetermined); witnessed beatings. (2)
Separated from husband and son for several weeks; witnessed burning of home and killing of neighbours; held hostage for two days and threatened with death. (1)	Imprisoned (length undetermined); beaten and witnessed killings. (1)
Witnessed killing of husband, family and friends, as well as destruction of home and village; hid for three weeks; separated from son; threatened with rape. (2)	Held two months in detention centre; witnessed slaughter of 150 fellow prisoners. (2)
Witnessed burning of home and destruction of village; held in detention centre for six months; aware of rape of other captives; husband's whereabouts unknown. (2)	Held in detention camp for two months; little food and water; saw many prisoners die; friend decapitated and his head thrown to other prisoners; wife missing. (1)
Gang raped by four men on one occasion with resulting pregnancy and medical complications;	Imprisoned (length undetermined); during which he endured forced labour, beatings and having to

whereabouts of parents and other family unknown. (2)

Witnessed destruction of village; imprisoned in "women's house" for five months; beaten; husband's whereabouts unknown. (2)

Separated from husband; home burned; neighbours murdered; beaten and shot in pelvis, requiring four surgeries and resulting in inability to walk. (1)

Village occupied; neighbours killed; home burned; family held in detention camp; beaten on several occasions; raped by two men on one occasion. (1)

Home burned; husband and children missing; neighbours killed; raped by two men on one occasion; beaten on several occasions. (1)

In hiding for three months while village occupied, then held in detention camp; suffered gunshot and chemical wounds; beaten; witnessed killings. (1)

Raped on two occasions; life threatened. (1)

Raped on two occasions, once in front of her two daughters who were also raped; village destroyed. (2)

Imprisoned for 18 days; made to strip to underwear, beaten with truncheons and kicked during interrogations; gang raped by four guards, forced fellatio. (1)

Village occupied and residents harassed; escaped with immediate family, rest of village massacred later, including relatives and children. (2)

Husband and father abducted, separated for one and a half years; neighbours killed. (2)
Found mutilated bodies of brother and sister-in-law; grandchildren forced to kiss floor by their

walk through a mine field. Witnessed burning of home and murders. (1)

Imprisoned for six months during which time he was beaten and psychologically abused. Witnessed home being burned and killings. Family's whereabouts unknown. (1)

Imprisoned for 11 days and beaten severely daily. (2)

Witnessed destruction of village and deaths of neighbours. Captive for 10 days and beaten. Whereabouts of family unknown. (2)

Imprisoned for six months, beaten daily, witnessed tortures and killings; forced to eat two kilos of salt; family whereabouts unknown. (2)

Witnessed destruction of home and mass killings including three children murdered. (1)

Home burned, neighbours killed. Imprisoned for one month; suffered physical and emotional abuse. (1)

Detention camp for six months, where repeatedly physically tortured; home burned; witnessed killings. (1)

Imprisoned for six months during which he was tortured daily, life was threatened, witnessed killings, and was starved. (1)

Forced to work for occupiers of village for several months; severely beaten on multiple occasions. Witnessed beatings and killings. (1)

Imprisoned for 4 months; severely beaten on several occasions. (2)

Imprisoned (length undetermined); witnessed execution of prisoners by chain saw; repeatedly beaten;

Serbian teachers. (1)

Held for two days, raped once; captors played Russian roulette with her; husband and son-in-law killed. (2)

Victim and baby moved from village to village; husband missing; raped 6-10 times with knife held at throat, child's life threatened if victim did not submit. (2)

Raped in house by two residents of village. (2)

shot in arm; knifed. (unk)

Witnessed killing of women and children during invasion of town. (1)

Imprisoned (length undetermined); suffered beatings. (1)

Imprisoned (length undetermined); suffered beatings, torture and mock executions. (1)

Imprisoned (length undetermined); beaten by guards and civilians; suffered sexual torture. (1)

Witnessed beatings, torture and burning of houses. (1)

Witnessed beatings, torture and burning of houses. (1)

Son executed; other family members died. (1)

Suffered torture, beatings, and stabbing; witnessed penile amputation. (2)

Imprisoned for three months during which he was tortured and witnessed killings. (1)

Survived massacre in mine field; Suffered beatings. (1)

Held two months in detention camp; repeatedly beaten, starved; prisoners forced to bite each others genitals; many prisoners died. (1)

3. Diagnoses of Witnesses Interviewed*

<u>DIAGNOSIS/Female</u>		<u>DIAGNOSIS/Male</u>	
PTSD	20	PTSD	24
PTSD/Symptoms only	7	PTSD/Symptoms only	2
Major depression		Major depression	
Unranked	4	Unranked	0
Mild	0	Mild	1
Moderate	1	Moderate	2
Severe	0	Severe	1
Anxiety Disorder	1	Anxiety Disorder	1
Adjustment Disorder		Adjustment Disorder	
With depressed mood	1	With depressed mood	1
With mixed features	0	With mixed features	1
Bereavement	8	Bereavement	5
Dissociative Disorder	1	Dissociative Disorder	0
Somatoform Disorder	1	Somatoform Disorder	1
Alcohol Abuse	0	Alcohol Abuse	2
No diagnosis	1	No diagnosis	13
Insufficient information	5	Insufficient information	0

* Some have more than one diagnosis

The DSM-IV criteria for these disorders is found in Appendix II.

Appendix I

262. From 3 to 7 March, Dr. Hardy accompanied Professor Bassiouni to BiH. In Sarajevo Professor Bassiouni and his team met with President Izetbegović and various members of his cabinet and advisors, and later with the State War Crimes Commission. Professor Bassiouni and team also met formally with State War Crimes Commissions in Zenica and Tuzla, and with the U.N. military command in Kiseljak. A number of informal meetings with U.N. workers, military personnel, clergy and other individuals also took place. Of special relevance to the work of the mental health team were meetings in Sarajevo and Tuzla with physicians actively involved in treating civilian war casualties.

263. In Sarajevo, Professor Bassiouni and team met with the Director of the Koševo hospital and delivered medications and medical supplies donated by mental health team members and others. After that meeting Dr. Hardy toured the pediatric clinic and met with the director of the psychiatric clinic at the hospital. At the pediatric clinic Dr. Hardy saw a nine year old boy who was unable to walk. An extensive medical examination disclosed no physiological explanation for his condition. Ultimately, his treating physicians determined that the boy, who had lost several close family members during the siege of Sarajevo, developed a psychogenic paralysis in an unconscious effort to secure hospitalization at Koševo, the only place where he was able to experience a relative degree of safety. Dr. Hardy asked the age of the youngest patient treated for a war-related psychiatric disturbance. He was told of a six month old child who, having experienced the sound of artillery shelling, would for months thereafter begin screaming and develop full-body muscle contractions upon hearing any unexpected noise no louder than a door closing. [N.B. These are signs of increased arousal which are associated with the diagnosis of Post Traumatic Stress Disorder].

264. At the psychiatric clinic, Dr. Hardy learned that all beds and most chairs in the unit were occupied by patients suffering from war related conditions, usually PTSD or Major Depression. The clinic director stated that he had worked continuously seven days a week for over two years, with the exception of a few days the previous year when he was himself disabled by physical injury. The clinic director stated that when hostilities began the Serbian clinicians left (approximately one-half of the hospital staff), and indicated that all of the remaining staff throughout the hospital were seriously overworked. He said the hospital had suffered approximately 300 shellings since the siege began. Most disturbingly, he said that as a consequence of these circumstances, five physician staff members of the hospital had committed suicide within the last two years.

265. At Tuzla, Professor Bassiouni and his team met with Dr. Kreitmayer, a gynecologist and member of the local War Crimes Commission. Dr. Kreitmayer said she had seen 760 cases of raped women at her clinic, and other cases of physical abuse and torture arising from the present conflict. She said the youngest rape victim was five years old, and the oldest was 81. Dr. Kreitmayer said she documented 70 cases of PTSD, and "lots of" cases of somatic disorders. Later the Bassiouni team met with the psychiatrist from Dr. Kreitmayer's clinic. She related various cases with which she had dealt, told of the taunting which often accompanied the rapes (e.g. "Where is your Alija now?"), and mentioned a village where all of the women (approximately 50) had been raped by the aggressors. The team members agreed that one of the remarkable aspects of this interview was the obvious extent to which the psychiatrist had herself been psychologically traumatized by her experiences in treating the victims of war crimes.

Appendix II 22/

I. CRITERIA FOR MAJOR DEPRESSIVE EPISODE 23/

A. Five (or more) of the following symptoms have been present during the same two-week period and represent a change from previous functioning; at least one of the symptoms is either (1) depressed mood or (2) loss of interest or pleasure.

Note: Do not include symptoms that are clearly due to a general medical condition, or mood-incongruent delusions or hallucinations.

1. depressed mood most of the day, nearly every day, as indicated by either subjective report (e.g., feels sad or empty) or observation made by others (e.g., appears tearful). **Note:** In children and adolescents, can be irritable mood.

2. markedly diminished interest or pleasure in all, or almost all, activities most of the day, nearly every day (as indicated by either subjective account or observation made by others)

3. significant weight loss when not dieting or weight gain (e.g., a change of more than 5% of body weight in a month), or decrease or increase in appetite nearly every day. **Note:** In children, consider failure to make expected weight gains.

4. insomnia or hypersomnia nearly every day

5. psychomotor agitation or retardation nearly every day (observable by others, not merely subjective feelings of restlessness or being slowed down)

6. fatigue or loss of energy nearly every day

7. feelings of worthlessness or excessive or inappropriate guilt (which may be delusional) nearly every day (not merely self-reproach or guilt about being sick)

8. diminished ability to think or concentrate, or indecisiveness, nearly every day (either by subjective account or as observed by others)

9. recurrent thoughts of death (not just fear of dying), recurrent suicidal ideation without a specific plan, or a suicide attempt or a specific plan for committing suicide

B. The symptoms do not meet criteria for a Mixed Episode[]. 24/

C. The symptoms cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.

D. The symptoms are not due to the direct physiological effects of a substance (e.g., a drug of abuse, a medication) or a general medical condition (e.g., hypothyroidism).

E. The symptoms are not better accounted for by Bereavement, i.e., after the loss of a loved one, the symptoms persist for longer than two months or are characterized by marked functional impairment, morbid preoccupation with worthlessness, suicidal ideation, psychotic symptoms, or psychomotor retardation.

II. BEREAVEMENT 25/

This category can be used when the focus of clinical attention is a reaction to the death of a loved one. As part of their reaction to the loss, some grieving individuals present with symptoms characteristic of a Major Depressive Episode (e.g., feelings of sadness and associated symptoms such as insomnia, poor appetite, and weight loss). The bereaved individual typically regards the depressed mood as "normal", although the person may seek professional help for relief of associated symptoms such as insomnia or anorexia. The duration and expression of "normal" bereavement vary considerably among different cultural groups. The diagnosis of Major Depressive Disorder is generally not given unless the symptoms are still present 2 months after the loss. However, the presence of certain symptoms that are not characteristic of a "normal" grief reaction may be helpful in differentiating bereavement from a Major Depressive Episode. These include 1) guilt about things other than actions taken or not taken by the survivor at the time of death; 2) thoughts of death other than the survivor feeling that he or she would be better off dead or should have died with the deceased person; 3) morbid preoccupation with worthlessness; 4) marked psychomotor retardation; 5) prolonged and marked functional impairment; and 6) hallucinatory experiences other than thinking that he or she hears the voice of, or transiently sees the image of, the deceased person.

III. DIAGNOSTIC CRITERIA FOR 300.12 DISSOCIATIVE AMNESIA 26/

- A. The predominant disturbance is one or more episodes of inability to recall important personal information, usually of a traumatic or stressful nature, that is too extensive to be explained by ordinary forgetfulness.
- B. The disturbance does not occur exclusively during the course of Dissociative Identity Disorder, Dissociative Fugue, Posttraumatic Stress Disorder, Acute Stress Disorder, or Somatization Disorder and is not due to the direct physiological effects of a substance (e.g., a drug of abuse, a medication) or a neurological or other general medical condition (e.g., Amnesic Disorder Due to Head Trauma).
- C. The symptoms cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.

IV. DIAGNOSTIC CRITERIA FOR ADJUSTMENT DISORDERS 27/

- A. The development of emotional or behavioral symptoms in response to an identifiable stressor(s) occurring within 3 months of the onset of the stressor(s).
- B. These symptoms or behaviors are clinically significant as evidenced by either of the following:
 - 1. marked distress that is in excess of what would be expected from exposure to the stressor
 - 2. significant impairment in social or occupational (academic) functioning
- B. The stress-related disturbance does not meet the criteria for another specific Axis I disorder and is not merely an exacerbation of a preexisting Axis I or Axis II disorder.

D. The symptoms do not represent Bereavement.

E. Once the stressor (or its consequences) has terminated, the symptoms do not persist for more than an additional 6 months.

Specify if:

Acute: if the disturbance lasts less than 6 months

Chronic: if the disturbance lasts for 6 months or longer

Adjustment Disorders are coded based on the subtype, which is selected according to the predominant symptoms. The specific stressor(s) can be specified on Axis IV.

309.0	With Depressed Mood
309.24	With Anxiety
309.28	With Mixed Anxiety and Depressed Mood
309.3	With Disturbance of Conduct
309.4	With Mixed Disturbance of Emotions and Conduct
309.9	Unspecified

V. DIAGNOSTIC CRITERIA FOR 300.81 SOMATIZATION DISORDER 28/

A. A history of many physical complaints beginning before age 30 years that occur over a period of several years and result in treatment being sought or significant impairment in social, occupational, or other important areas of functioning.

B. Each of the following criteria must have been met, with individual symptoms occurring at any time during the course of the disturbance:

1. four pain symptoms: a history of pain related to at least four different sites or functions (e.g., head, abdomen, back, joints, extremities chest, rectum, during menstruation, during sexual intercourse, or during urination)

2. two gastrointestinal symptoms: a history of at least two gastrointestinal symptoms other than pain (e.g., nausea, bloating, vomiting other than during pregnancy, diarrhea, or intolerance of several different foods)

3. one sexual symptom: a history of at least one sexual or reproductive symptom other than pain (e.g., sexual indifference, erectile or ejaculatory dysfunction, irregular menses, excessive menstrual bleeding, vomiting throughout pregnancy)

4. one pseudoneurological symptom: a history of at least one symptom or deficit suggesting a neurological condition not limited to pain (conversion symptoms such as impaired coordination or balance, paralysis or localized weakness, difficulty swallowing or lump in throat, aphonia, urinary retention hallucinations, loss of touch or pain sensation, double vision, blindness, deafness, seizures; dissociative symptoms such as amnesia; or loss of consciousness other than fainting)

C. Either 1. or 2.:

1. after appropriate investigation, each of the symptoms in Criterion B cannot be fully explained by a known general medical condition or the direct

effects of a substance (e.g., a drug of abuse, a medication)

2. when there is a related general medical condition, the physical complaints or resulting social or occupational impairment are in excess of what would be expected from the history, physical examination, or laboratory findings

D. The symptoms are not intentionally produced or feigned (as in Factitious Disorder or Malingering).

VI. DIAGNOSTIC CRITERIA FOR 300.02 GENERALIZED ANXIETY DISORDER 29/

A. Excessive anxiety and worry (apprehensive expectation), occurring more days than not for at least six months, about a number of events or activities (such as work or school performance).

B. The person finds it difficult to control the worry.

C. The anxiety and worry are associated with three (or more) of the following six symptoms (with at least some symptoms present for more days than not for the past six months). **Note:** Only one item is required in children.

1. restlessness or feeling keyed up or on edge

2. being easily fatigued

3. difficulty concentrating or mind going blank

4. irritability

5. muscle tension

6. sleep disturbance (difficulty falling or staying asleep, or restless unsatisfying sleep)

D. The focus of the anxiety and worry is not confined to features of an Axis I disorder, e.g., the anxiety or worry is not about having a Panic Attack (as in Panic Disorder), being embarrassed in public (as in Social Phobia), being contaminated (as in Obsessive-Compulsive Disorder), being away from home or close relatives (as in Separation Anxiety Disorder), gaining weight (as in Anorexia Nervosa), having multiple physical complaints (as in Somatization Disorder) or having a serious illness (as in Hypochondriasis), and the anxiety and worry do not occur exclusively during Posttraumatic Stress Disorder.

E. The anxiety, worry, or physical symptoms cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.

F. The disturbance is not due to the direct physiological effects of a substance (e.g., a drug of abuse, a medication) or a general medical condition (e.g., hyperthyroidism) and does not occur exclusively during a Mood Disorder, a Psychotic Disorder, or a Pervasive Developmental Disorder.

VII. DIAGNOSTIC CRITERIA FOR 309.81 POSTTRAUMATIC STRESS DISORDER 30/

A. The person has been exposed to a traumatic event in which both of the

following were present:

1. the person experienced, witnessed, or was confronted with an event or events that involved actual or threatened death or serious injury, or a threat to the physical integrity of self or others

2. the person's response involved intense fear, helplessness, or horror. **Note:** in children, this may be expressed instead by disorganized or agitated behavior

B. The traumatic event is persistently reexperienced in one (or more) of the following ways:

1. recurrent and intrusive distressing recollections of the event, including images, thoughts or perceptions. **Note:** in young children, repetitive play may occur in which themes or aspects of the trauma are expressed.

2. recurrent distressing dreams of the event. **Note:** In children, there may be frightening dreams without recognizable content.

3. acting or feeling as if the traumatic event were recurring (includes a sense of reliving the experience, illusions, hallucinations, and dissociative flashback episodes, including those that occur on awakening or when intoxicated). **Note:** In young children, trauma-specific reenactment may occur.

4. intense psychological distress at exposure to internal or external cues that symbolize or resemble an aspect of the traumatic event

C. Persistent avoidance of stimuli associated with the trauma and numbing of general responsiveness (not present before the trauma), as indicated by three (or more) of the following:

1. efforts to avoid thoughts, feelings, or conversations associated with the trauma

2. efforts to avoid activities, places, or people that arouse recollections of the trauma

3. inability to recall an important aspect of the trauma

4. markedly diminished interest or participation in significant activities

5. feeling of detachment or estrangement from others

6. restricted range of affect (e.g., unable to have loving feelings)

7. sense of a foreshortened future (e.g., does not expect to have a career, marriage, children, or a normal life span)

D. Persistent symptoms of increased arousal (not present before the trauma), as indicated by two (or more) of the following:

1. difficulty falling or staying asleep

2. irritability or outbursts of anger

3. difficulty concentrating

4. hypervigilance

5. exaggerated startle response

E. Duration of the disturbance (symptoms in Criteria B, C, and D) is more than one month.

F. The disturbance causes clinically significant distress or impairment in social, occupational, or other important areas of functioning.

Specify if:

Acute: if duration of symptoms is less than three months

Chronic: if duration of symptoms is three months or more

Specify if:

With Delayed Onset: if onset of symptoms is at least six months after the stressor

Notes

1/ UN Doc S/25274 [10 February 1992], at Annex I; First Interim Report at paragraphs 65 and 66.

2/ Phase I was intended to involve interviews conducted in all the states of the former Yugoslavia (except for Slovenia, which is part of phase II). Phase II involves interviews conducted in states hosting refugees outside the area.

3/ Including those by innumerable journalists in addition to NGOs such as Amnesty International, Equality Now, Helsinki Watch, the World Council of Churches and intergovernmental organisations such as the European Community (as it then was). 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 (E/CN.4/1993/50, 10 February 1993). See also the Special Rapporteur's most recent report (E/CN.4/1994/47) and the Report of the Secretary General on rape and the abuse of women in the territory of the former Yugoslavia (E/CN.4/1994/5).

4/ Sixth Periodic Report: UN Doc E/CN.4/1994/110, at para. 54.

5/ This dissemination approach finds echoes in that used by the Truth Commission for El Salvador in an ultra-sensitive political climate to invite potential victim-witnesses to give information regarding grave acts of violence (a major difference with the current project is its use of the mass media). The Interviews Coordinator directly observed this while acting as a human rights monitor in ONUSAL. Seven thousand statements were received in the Truth Commission's offices as a result of their dissemination campaign; see From Madness to Hope: The Twelve Year War in El Salvador, 1992/1993, at 41 of the original Spanish text.

6/ When teams were to be based outside Zagreb, the Interviews Co-ordinator set up contacts with NGOs, etc., in the area in advance of the team's arrival. A meeting with all the relevant local actors was set up for the first day of the team's work to introduce the interviewing team and to build on the earlier contacts made to arrange interviews. For this initial meeting, the teams were accompanied by the Interviews Coordinator, Mr. Osorio or Ms. Maja Dra novi (who both have extensive experience in this type of field work) to assist them in this initial period. In addition, to allow the teams time to settle in before they undertook their own scheduling for the succeeding days, interviews for the first few days would sometimes be scheduled there by the Interviews Co-ordinator (through contacts in Zagreb).

7/ Where it was obvious that this was repeatedly happening with a team outside Zagreb, after discussions with the teams involved (who were probably becoming a little frustrated) the Interviews Coordinator would invite them to return to Zagreb where they would join the scheduling programme of the Interviews Coordinator.

8/ It goes without saying that most contact persons use the term "massacre" very loosely to cover everything such as a shell hitting a town to the witness' relative being killed in battle.

9/ This should serve as a reminder of the depth of the suffering of

Notes (continued)

these victim-witnesses and of the need for utmost concern in working with them.

10/ This is discussed elsewhere, Memorandum from the Interviews Co-ordinator to the Chairman of the Commission of Experts of 21 March 1994.

11/ Video-taping of witnesses is a particularly sensitive issue in the context of rape victims, and for this additional reason this procedure not be adopted.

12/ Statement by the President made at a briefing to members of Diplomatic Missions, at the end of the Second Session 17 January to 11 February 1994, IT 29; See Rules of Procedure and Evidence IT/32, 14 March 1994.

13/ These camps were actually located in FRY, in the region of Vojvodina. However, since the population of these camps was primarily from Croatia, they are discussed in this section.

14/ These paragraphs are drawn from the Memorandum of the Investigation Coordinator to the Chairman of the Commission of Experts of 10 January 1994.

15/ See, id.

16/ Article 7(3) of the Statute of the International Tribunal, invokes the responsibility of superiors where:

". . . if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof."

17/ The case of Omarska is an interesting one in this context because international journalists obtained permission to visit the camp from the highest levels of the Bosnian Serb leadership. The journalists exposed the horror of the camp and effectively forced its closure. The circumstances of this access given to international journalists should be investigated as it may (or may not) be evidence of a lack of knowledge by superiors of the nature of the camp (otherwise, the argument goes, why would access be granted to the journalists).

18/ In particular, it does not contain contacts for BiH nor for FRY.

19/ Major Bob Moquin (Canada), Zagreb, 28 February 1994, during the briefings for the project participants.

20/ See Memoranda from the Interviews Co-ordinator to the Chairman of the Commission regarding the inherent limits of the Plan of Action dated 10 January 1994; as well as 13 February 1994. Although it should be noted that because of the sheer scale of the project, with 223 interviews carried out, it was possible to achieve some focus, for example, regarding the 19 women interviewed from the Kotor Varoš area.

21/ Although the Interviews Coordinator is not yet aware of how this will function.

22/ This appendix is taken verbatim from Diagnostic and Statistical Manual of Mental Disorders (Fourth ed. American Psychiatric Association ed., 1994).

23/ Id. at 227.

24/ See, id. at 335.

25/ Id. at 684-85.

26/ Id. at 481.

27/ Id. at 626-27.

28/ Id. at 449-50.

29/ Id.

30/ Id. at 427-29.